

CHAPTER M4 - MOSQUITOES (DESTRUCTION) LAW

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MOSQUITOES (DESTRUCTION) LAW

A Law to provide for the destruction of mosquitoes.

[NN 1963, Cap. 75, KWS LN 1 of 1982, No. 4 of 2006.]

[Date of commencement: 26th April, 1945]

1. Short title and application

- (1) This Law may be cited as the Mosquitoes (Destruction) Law.

[KWS LN 1 of 1982.]

(2) The provisions of this Law shall apply to all property of every description including that belonging to or vested in or maintained by the state or any local government council, and shall be in addition to and not in derogation of any of the provisions of the Public Health Law relating to the

powers and duties of medical officers of health.

[Cap. P14.]

PART I

Preliminary

2. Interpretation

Definitions—

"house" includes dwelling-house, warehouse, office, shop, school and any other building in which persons are employed;

"mosquito" means the insect and includes its eggs, larvae and pupae;

"occupier" means the person in occupation of any premises or having the charge, management or control thereof either on his own account or as agent of another person but does not include a lodger;

"owner" includes the person for the time being receiving the rent of any premises, whether on his own account or as agent or trustee or as receiver, or who would receive the same if such land or house were let to a tenant and includes the state and any local government council;

"premises" includes messuages, buildings, lands, tenements and hereditaments of any description or tenure, vehicles, tents, vans, structures of any kind, drains, ditches and places whether open or enclosed, whether built or not, whether public or private and whether or not maintained under statutory authority and any ship, vessel, small craft, canoe or other boat in a port or on any inland waters;

"sanitary authority" means a medical officer within the meaning of the Public Health Law appointed for any area by the Permanent Secretary and any person appointed as such by the Commissioner under the provisions of section 3;

[Cap. P14.]

"State" means the Kwara State of Nigeria.

PART II

General Provisions

3. Power to appoint sanitary authorities for particular areas

(1) The Commissioner may, by notice in the *State Gazette*, appoint such persons as he may think fit to be sanitary authorities for such areas and for such periods as may be set out in the said notice.

(2) Subject to the provisions of section 18 where a sanitary authority is appointed for any area under the provisions of subsection (1) such sanitary authority shall have and exercise the powers and duties conferred upon a sanitary authority by the provisions of this Law.

4. Entry and inspection by sanitary authority or authorised person

(1) The sanitary authority or any person authorised by him either generally or specially in that behalf in writing may, between the hours of six in the morning and six in the evening, with or without assistants, enter and examine any premises in order to ascertain whether they or anything thereon are in a condition favourable to the propagation or harbouring of mosquitoes and take immediate steps to destroy mosquitoes and may take such action as may be necessary to render any accumulations of water unfit to be breeding places for mosquitoes.

(2) Where any premises are unoccupied such order may be addressed to the owner thereof as if he were the occupier.

5. General power of sanitary authority to order action

(1) The sanitary authority, if as a result of any such examination it appears to him that any premises or anything thereon is favourable to the propagation or harbouring of mosquitoes, may, by order in writing addressed to the owner or occupier of such premises, direct him within a specified time

to take such specified measures with regard to the premises or for the treatment, destruction or removal of anything thereon as may bring them into a condition not favourable to the propagation or harbouring of mosquitoes.

(2) In particular and without prejudice to the generality of the powers aforesaid, the sanitary authority may in such order direct the owner or occupier to drain any land or fill up inequalities in the surface thereof or to construct other works so as to keep the land permanently free from standing water to the extent required by the order, and to refrain from doing such things or keeping such animals may damage work done or increase the cost of maintenance thereof.

6. Prohibition of clearing undergrowth

Where on any land a stream or standing water is afforded shade by undergrowth and other vegetation, no person shall cut down or clear or cause to be cut down or cleared such undergrowth or vegetation without the previous written sanction of the sanitary authority. Any person guilty of an offence under the provisions of this section shall be liable to a fine of two thousand five hundred naira or to six months imprisonment or to both such fine and imprisonment.

7. Power of sanitary authority to order covering of tanks and receptacles

(1) The sanitary authority may, by order in writing, direct the occupier of any premises so to cover within a specified time and continuously covered any specified vessel or receptacle, including any tank, cistern or well, on or appertaining to the premises that mosquitoes shall be unable to enter such vessel or receptacle.

(2) Where any premises are unoccupied such order may be addressed to the owner thereof as if he were the occupier.

8. Power of sanitary authority to take preventive measures

(1) The owner or occupier of any premises shall take such measures

as are reasonably necessary—

- (a) to destroy mosquitoes wherever found;
- (b) to collect and remove empty tins, cans, bottles or other receptacles in which mosquitoes may breed;
- (c) to cut down and remove any grass, bamboo stumps, fern, undergrowth or other vegetation in which mosquitoes are likely to breed or be harboured;
- (d) to bring any water or swamp into a condition not favourable to the propagation or harbouring of mosquitoes;
- (e) to fill with concrete or otherwise treat holes or hollows in trees which hold or are likely to hold water.

(2) The sanitary authority or any person authorised by him either generally or specifically in that behalf in writing may, with the consent of the owner or occupier, and upon such terms as the sanitary authority may think reasonable, take all reasonable measures on behalf of such owner or occupier to carry out the provisions of subsection (1).

(3) If in any prosecution for contravention of any of the provisions of subsection (1) it is proved that eggs, larvae or pupae of the mosquito were found in premises the onus of proof of compliance with all or any of the provisions of subsection (1) shall lie upon the person charged with the contravention.

9. Sanitary authority may perform work and recover costs

(1) If the owner or occupier of any premises on whom an order under the provisions of sections 5 or 7 has been served fails to comply with the terms thereof, the sanitary authority, or any person authorised by him either generally or specially in that behalf in writing, may enter upon or into the said premises with such assistants and things as are necessary and may perform

and do thereon or therein all acts and things required by the said order to be performed or done, and the cost thereof shall be recoverable from the owner or occupier by the sanitary authority.

(2) If the amount of such cost is not paid by the party liable to pay the same within seven days after demand, such amount may be reported to a court and recovered in the same way as if judgment had been obtained in that court for such amount.

(3) Nothing in this section shall affect any liability of any person to prosecution and punishment under the provisions of section 10.

10. Penalty for default

(1) Any owner or occupier of any premises, on whom an order under the provisions of section 5 or 7 has been served, who fails to comply with the terms thereof and any owner or occupier of any premises who contravenes or fails to comply with all or any of the provisions of subsection (1) of section 8 shall be liable, on summary conviction to a fine of one thousand naira or to imprisonment for six months or both such fine and imprisonment.

[No. 4 of 2006.]

(2) No person shall be punishable under the provisions of this section for neglect to comply with any order in respect whereof he has appealed as hereinafter provided unless such order has been confirmed on appeal.

11. Appeal

(1) An owner or occupier of any premises who is of opinion that any order affecting him or anything proposed to be done thereon is unreasonable or unnecessary may appeal to a magistrate and thereupon the execution of the order or the doing of the thing required to be done shall be stayed.

(2) The magistrate may confirm, vary or rescind the order or direct that the thing shall be proceeded with, varied or abandoned, as the case may

be, or make any other order which the sanitary authority is competent to make under this Law, and the decision of the magistrate shall be final.

(3) At the hearing of any appeal the owner, occupier and sanitary authority, as the case may be, shall be entitled to be represented by a legal practitioner.

12. Persons unable to meet necessary expenditure

(1) If it appears to the sanitary authority after due inquiry that any person has not the means to meet the necessary expenses of doing anything required to be done by him under the provisions of this Law such necessary expenses may be met in the prescribed manner.

(2) Any person dissatisfied with a decision of the sanitary authority made under the provisions of this section may appeal to a magistrate whose decision shall be final.

13. No compensation

No person shall be entitled to compensation for any expense incurred or damage occasioned by any order given to or act done in pursuance of this Law or any rule made thereunder unless such damage has been occasioned maliciously or without reasonable cause.

14. Service of orders

(1) When an order is required by the provisions of this Law to be served on the owner or occupier of any premises, such order addressed to the owner or occupier may be served by delivering the same to the owner or occupier or by leaving the same with some male adult member of his family, other than a servant, residing with him or if there is no known owner or occupier of the premises the order may be posted on some conspicuous place thereon.

(2) It shall not be necessary in any such order to name the owner or

occupier if the premises to which the order relates are therein specified.

15. Penalty for obstructing sanitary authority

Any person, who obstructs the sanitary authority or any person authorised by him or any person engaged in carrying out the provisions of this Law in any act authorised by this Law, shall be liable to a fine of one thousand naira or to imprisonment for six months or to both such fine and imprisonment.

[No. 4 of 2006.]

16. Penalty for injuring works executed by sanitary authority

Any person who, without the consent of the sanitary authority, interferes with, injures, destroys or renders useless any works executed or any materials or things placed in, under or upon any premises by or under the orders of the sanitary authority, shall be liable to a fine of one thousand naira or to imprisonment for twelve months or to both such fine and imprisonment. In addition the sanitary authority may recover from such person such sum as may be assessed by the court to cover costs and expenses incurred in re-executing the works or replacing the materials or things so interfered with, injured, destroyed or rendered useless as if the sanitary authority had obtained judgement for that amount in a court of competent jurisdiction.

[No. 4 of 2006.]

17. Premises not to be used in manner deleterious to anti-mosquito works

(1) Where the sanitary authority or any department of Government or any local government council has constructed any works with the object of preventing the breeding of mosquitoes whether before, on or after the date of the commencement of this Law, the owner and the occupier of the premises on which such works stand shall prevent such premises being used in any manner whatsoever that is likely to cause or has caused the deterioration or to lessen the efficiency of such works.

[KWS LN 1 of 1982.]

(2) Where any such premises are used in such a manner as to lessen the full efficiency of such works, the owner and the occupier of such premises shall, subject to subsection (4), be liable to a fine of one thousand naira or to imprisonment for twelve months or to both such fine and imprisonment and the sanitary authority may enter upon the premises and execute any necessary repairs or work thereon and recover from such person such sum as may be assessed by the court to cover such costs and expenses as he thereby incurs as if the sanitary authority had obtained judgment for that amount in a court of competent jurisdiction.

[No. 4 of 2006.]

(3) Before any proceedings are taken under the provisions of this section, written notice shall be given by the sanitary authority or by the local government council to the owner or occupier, as the case may be, specifying what the sanitary authority or local government council requires to be done or not to be done and giving a reasonable time for compliance therewith.

[KWS LN 1 of 1982]

(4) If the owner of such premises is by reason of any legal contract, not being a contract made with an intention to evade liability under the provisions of this section, prevented from entering upon such premises to carry out the duties and obligations mentioned in subsection (1), he shall not be liable to any of the penalties mentioned in subsection (2), unless it can be shown that he has contributed in any way to the refusal or failure of the occupier to carry out such duties and obligations.

18. General direction of Principal Medical Officers

The powers conferred and the duties imposed upon a sanitary authority under the provisions of sections 5 and 7 shall be exercised and performed under and in accordance with the general directions of a Principal Medical

Officer.

19. Power to make regulations

The Governor may make regulations—

- (a) prescribing anything which is to be prescribed; and
- (b) generally for giving effect to the provisions of this Law.

PART III

Anti-malarial Schemes

20. Power of Commissioner to approve scheme

(1) The Commissioner may by written notice in the *State Gazette* declare any area specified in such notice to be an area in respect of which an anti-malarial scheme has been approved by him and particulars of such scheme shall be contained in such notice.

(2) Any owner of premises included in such area may within one month of the publication of such notice serve upon the Permanent Secretary in writing any objections he may have to the inclusion of his premises or any part thereof in the proposed area and the Permanent Secretary shall forward such objections with his comments thereon to the Commissioner whose decision shall be final.

(3) The Commissioner may at any time by subsequent notice in the *State Gazette* cancel any such scheme or extend or otherwise vary the specified area or exclude therefrom any premises previously included therein.

21. Management of an area

(1) Every area in respect of which a scheme has been approved and the work to be done therein shall be in the control of the Permanent Secretary.

(2) The Permanent Secretary may, with all necessary assistants,

workmen, and things, enter upon the area in respect of which a scheme has been approved and there construct such drainage and other works as appear to him to be necessary for the elimination of mosquitoes in that area.

22. Maintenance of such works

(1) When the works have been completed in any area the maintenance of such works may—

- (a) with the agreement of the owners and occupiers of the area be performed by them and their successors in title to the satisfaction of the Permanent Secretary; or
- (b) the Commissioner may direct that a yearly sum be paid by any person being an owner or occupier within that area and such sum may be payable in respect of any building thereon or in respect of any area of land, and such sum shall be credited to the general revenue of the State.

(2) Where any sum is fixed by the Commissioner under the provisions of paragraph (b) of subsection (1) such sum shall be deemed to be a charge upon the buildings or land in respect of which it was imposed and shall be paid by the owner or occupier of such building or land and by all subsequent owners or occupiers.

(3) When the maintenance of such works is to be performed by the owners and occupiers and such works are not maintained to the satisfaction of the Permanent Secretary, the Permanent Secretary, with all necessary assistants, workmen and things, may re-enter the area and do all necessary maintenance work and upon completion of such work shall report to the Commissioner who may thereupon direct that the owners and occupiers shall no longer maintain such works and in substitution therefore impose a yearly sum upon the owners and occupiers under the provisions of paragraph (b) of subsection (1) and the provisions of subsection (2) shall thereupon apply.

(4) The provisions of subsection (3) of this section shall apply in respect of any works executed in the State under the provisions of this Part of this Law by the Federal Government of Nigeria.

[KWS LN 1 of 1982.]

23. Recovery of yearly sums

When an owner or occupier fails to pay any sum due by him under the provisions of section 22 the sum so due may be recovered as a debt due to the Government.

CHAPTER M4

MOSQUITTOES (DESTRUCTION) LAW

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
