

**REVISED LAWS OF ENUGU STATE OF  
NIGERIA 2004**

IN FORCE ON  
31<sup>st</sup> DAY OF DECEMBER 2004

*Published under*  
THE REVISED EDITION (LAWS OF ENUGU STATE OF  
NIGERIA) LAW 2004

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VOLUME V

Obtainable from—

HONORABLE ATTORNEY-GENERAL AND COMMISSIONER  
FOR JUSTICE, ENUGU STATE MINIST RY OF JUSTICE, ENUGU,

*Printed by*  
**University of Nigeria Press Limited**  
**Nsukka, Nigeria.**

## **FOREWORD**

The Creation of Enugu State out of the Old Anambra State on the 27<sup>th</sup> day of August, 1991 brought into full focus the compelling need to review, revise and codify the Laws of Enugu State. Section 4 of the States (Creation and Transitional Provisions) (No 2) Decree 1991 ensured that all existing Laws in force in Anambra State on the 27<sup>th</sup> day of August 1991 continued to be applicable to Enugu State, subject to such modifications as may be necessary to bring them into conformity with the said Decree.

At the time of States Creation in 1991, the Government of the then Anambra State had appointed Honourable Justice Alfred Obi -Okoye of blessed memory, to revise its laws up to the 26<sup>th</sup> day of August 1991. The Government of the new Anambra State did not publish the Revised Laws of Anambra State 1991 which came into force on the 26<sup>th</sup> August 1991 until 1996. For some yet unexplained reasons, which may be not unconnected with paucity of funds, the young Enugu State Government failed to take advantage of the said revision but rather, at different times tried to duplicate the efforts already made by embarking on the revision of its Law's. All those efforts until now have been futile.

As I was assuming office in December 2001 as the Attorney-General of the State, the British Government Department for International Development (D.F.I.D) was coming into Enugu as one of its 4 focal States in the Country. After series of meetings, workshops and ultimately a strategic Review of my Ministry carried out by Messrs Atos KPMG consulting, under the aegis of the DFID, the Ministry of Justice in February 2003 received a firm promise from the DFID to co-sponsor the publication of the Laws of Enugu State. The publication of Laws of Enugu State had become topmost on my priority list for obvious reasons. It is on record that since the laws of the then Eastern Nigeria were published in 1963, this part of the Country has not had its Laws codified and published. So many enactments have been out of print and out of reach. Some were not even made available to the public, and in some extreme cases, we have had to contend with different versions of the same piece of legislation being in circulation at the same time. This present effort will I hope, present to the indigenes and residents of Enugu State and all those hoping to do business in Enugu State, an authentic source of the laws of Enugu State.

I must express our gratitude to the House of Assembly of Enugu State for appreciating the need to carry out this project and for expeditiously passing into Law the enabling enactment under which these laws were published, to wit, the Revised

Edition (Laws of Enugu State of Nigeria) Law 2004. Pursuant to this Law. I. with the approval of the Governor of Enugu State, His Excellency, CHIMAROKE O. NNAMANI MD, FACOG, Hon Dsc, appointed a fit and proper legislative counsel with the requisite skills Mr Isaac O Anozic as the Law Revisor, to update, revise, print and publish the Laws of Enugu State in force as at 31<sup>st</sup> day of December 2004.

I am ever so grateful to the Law Revisor for the enthusiasm, commitment and professionalism, which he exhibited throughout the entire exercise. I am also grateful to the Deputy Director and Head of the Civil Litigation Department of the Ministry of Justice. Enugu Mr. Eze O. Eze. and Chukwuemeka N. Igbockwu. Samuel O. Ogbonna. Henry C. Onaga and Mrs. Chiemelie Onaga all Chief Legal Officers in my Ministry and Mr. Osita Ogbu of the Faculty of Law. Enugu State University of Science and Technology. Enugu, all of whom I had constituted into a committee to assist the Law Revisor.

This Foreword cannot be complete without my placing on record the gratitude and appreciation of the Ministry of Justice. Enugu to the British Council, the Managers of the Access to Justice Programme of the DFID and (the DFID itself, for agreeing to sponsor and indeed co-sponsoring the publication of these Laws

The realization of this dream of publishing these Laws only became possible because of the enthusiasm and tacit support of His Excellency. Chimaroke Oghonnia Nnamani. MD FACOG Hon. Dsc. the dynamic and reform-minded Governor of Enugu State. His Excellency did not hesitate in making available to the Ministry the counterpart funding required for the execution of this project. We are ever so grateful to His Excellency.

In conclusion, we hope that with this present exercise, the Laws of Enugu State will be updated and published more regularly and also be easily available to the public. For that we give glory to God.

*Sullivan I. Chime, Esq*

Honourable Attorney-General and

Commissioner for Justice

Enugu.

December 2004

## CHAPTER 108 LOANS LAW

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## CHAPTER 108

### LOANS LAW

A Law to authorize the raising in Nigeria of loans by the Government of Enugu State of Nigeria.

{ 27<sup>th</sup> August 1991 }

## PART 1— PRELIMINARY

1. This Law may be cited as the Loans Law.

Authority in  
raise loan.

2. In this Law—

“Accountant-General” means the Accountant-General of Enugu State;

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“local government body” includes a council established under a written law relating to local government in the state, and a planning authority established under the Town and Country Planning Law;

“Ministry” means the Ministry of Finance incorporated by the Ministry of Finance (incorporation) Law;

“register” means register of stock kept by the Accountant-General for the purpose of this Law;

“registered stock” or “stock” means stock issued under the provisions of this Law;

“State” means Enugu State of Nigeria;

“stock holder” means a person holding registered stock who is entered as the owner thereof in the register.

Charge of loan  
upon revenue  
and assets of  
state .

## PART II— DEVELOPMENT PROGRAMMES LOANS

Power of the  
Ministry to give  
directions in  
respect of the  
loans.

3. (1) The Ministry is hereby authorized to raise a loan or loans in Nigeria not exceeding, in the aggregate, one hundred million naira and such further sum or sums as may be necessary to defray expenses in connection with the raising thereof.

Short Title

Interpretation.

(2) A loan under this section may be raised by borrowing money from or through (he Government of the Federation

(3) Nothing in this Part of this Law shall be construed as affecting the operation of Part III of this Law.

### Application of loans

4. The purposes to which any loan or loans raised under the provisions of this Part of this Law may be applied, shall save in respect of the amount or amounts necessary to defray the expenses in connection with the raising thereof, be limited to meeting in whole or in part, capital expenditure comprising part of a development approved by the Legislature of the State.

5.The principal moneys and interest payable in respect of any such loan or loans raised as aforesaid are hereby charged upon and shall be payable out of the Consolidated Revenue Fund and assets of the State.

6.The Ministry shall, in respect of each loan to be raised under this Part of this Law, specify by directions published in the Enugu State *Gazette*—

- (a) the sum of money to be raised by that loan:
- (b) the rate of interest payable on the loan;
- (c) the rate at which a half-yearly appropriation out of the Consolidated Revenue Fund and assets of the State shall be made as a contribution to the sinking fund established for the purpose of redeeming that loan and the date from which such contributions shall commence
- (d) whether the contributions to the sinking fund should be payable to any trustee or body of trustees, and if so, specifying the name or names of the trustee or body of trustees;
- (e) if the contributions are not payable to a trustee or body of trustees; the method of investment thereof;
- (f) the date or dates of the redemption of the loan.



7. (1) Upon the publication under section 6 of the directions of the Ministry in respect of any loan to be raised under this Law, the Accountant-General may, subject to the provisions of such directions and to such further directions as the Ministry may give in that behalf, make all such arrangements as may be necessary to give effect to the provisions of this Law and of all such directions.

Accounting  
general to  
make  
necessary  
arrangements

(2) Without prejudice to the generality of subsection (I), the Accountant-General may enter into an agreement with the Federal Government for purposes specified in the said subsection.

(8) After the date specified in the direction of the Ministry under section 6 as the date from which contributions to the sinking fund for any loan shall commence, and in each hall year ending with the date specified in those directions for the payment of the half yearly interest on any stock issued m respect of that loan, there shall be appropriated out of the Consolidated Revenue Fund and assets of the State a sum determined in accordance with the rate specified in those directions as the contribution to the sinking fund established for the purpose of redeeming the loan.

Appropriation  
of revenue for  
sinking funds.

(9) The Ministry shall have power to determine whether or not a separate sinking fund is to be established for each loan raised under this Law

Establishment  
of sinking  
funds.

### PART III—LOANS FOR AGRICULTURE, INDUSTRY AND OTHER PURPOSES

10. The Ministry is hereby authorized to issue up to an amount sufficient to produce as nearly as may be, the sum of six million naira, and such further sum as may be necessary to defray the expenses in connection with the issue of the said sum of six million naira, to be appropriated and applied in such amount and on such terms and conditions as the Ministry shall decide for the development of agriculture. the development, regulation and supervision of local industries, the granting of loans to local government bodies and to such other purposes as the Ministry may decide.

Authority to issue  
up to a total  
amount of six  
million naira.

### PART IV, —REGISTERED STOCK FOR LOANS

11.(1) Whenever by any Law, authority is given to raise any sum of money by way of loan for any purpose mentioned in that Law, or whenever it is necessary to raise any sum of money for the purpose of repaying any loan raised by the Ministry under this or any other Law, the

Issue of  
registered  
stock

Ministry may from time to time, raise such sum or part thereof under the provisions of this Law by the creation and issue of registered stock.

(2) Each issue of registered stock under this Law for the purpose of raising any specified sum of money shall be deemed to be stock issued in respect of a separate loan notwithstanding that the sum of money so raised is part only of a sum of money authorized by any other Law to be raised by way of loan.

Register of stock.	12. The Accountant-General shall keep a register in respect of each issue of registered stock under this Law in which all such stock and all transfer of and all dealings in such stock shall be registered and in which shall be entered all matters and things which by this Law are required to be entered in the register.
Liability of Account General respect of issue of registered stock .	13. The Accountant-General shall be hound to pay on behalf of the State to the person registered for the time being as the stock holder die principal su31m represented by that stock and the interest due thereon, in accordance with the provisions of this Law, at the rate and on the dates directed by the Ministry under section 6 or in pursuance of an option to redeem such stock reserved in such directions.
Stock holder	14. For the purposes of this Law, no person shall be entitled to any registered stock unless he is registered as a stock holder in respect thereof.
Registration of first stock holder,	15. No person shall be registered as a first stock holder of any registered stock except upon payment in full of the purchase price of that stock.
Stock certificates.	16. Every stock holder shall be entitled to obtain from the Accountant-General a stock certificate and no stock holder, other than the first stock holder of any stock, shall be entitled to obtain a stock certificate save upon payment of the prescribed fee.
Transfer of registered stock.	17. (1) For the purposes of this Law the title of any stock holder to any registered stock shall not be deemed to be transferred to any other person save upon the execution of an approved instrument of transfer and upon the registration of the transferee as the stock holder under section 18  (2) Interest which has fallen due in respect of any registered stock but which has

not been paid to the stock holder for the time being shall not be deemed to be payable in a transferee of that stock unless the instrument of transfer expressly provided for the payment of the interest to that transferee.

18.(1) No person shall be registered as the transferee of any registered stock except upon surrender to the Accountant-General of the stock certificate and the instrument of transfer relating to that stock and upon payment of the prescribed fee.

Registration of  
transfers of  
stock and liens  
on stock.

(2) The Accountant-General may register a lien on any registered stock in accordance with such provisions as are prescribed by regulations and upon payment of the prescribed fee.

(3) Any such lien which is registered under this Law shall have priority over any lien not so registered.

19. The register shall be closed for a period of twenty-one days immediately preceding each date upon which interest on that stock falls due and on transfer that Block shall be registered during that period.

20.(1) The entries in the register kept under the provisions of this Law shall be conclusive evidence of the facts, matters, particulars and transactions to which those entries relate.

(2) Notwithstanding the provisions of any other written Law, a copy of any entry in the register certified under the hand of the Accountant-general to be true copy of the original entry shall be receivable in evidence in any judicial proceeding.

21. So long as any interest is payable under this Law in respect of any stock, the Ministry shall, in each half-year ending with the date on which the interest on such falls due, appropriate out of the Consolidated Revenue Fund and assets of the State a sum sufficient to meet all interests payable on that date and shall authorize the Accountant-General to pay such interest out of the sum so appropriated.

Appropriation  
revenue for  
payment of  
interest

Payment of  
Interest

22.(1) The interest due on any registered stock shall be payable half-yearly on the dates specified by the directions of the Ministry under section 13.

(2) Where any amount has become payable on any date as interest due on any registered stock, no interest on that amount shall, after that date, be paid or payable by the Accountant-General to any person in any circumstances.

Cessation of liability to pay interest	<p>23. No person shall be entitled to claim interest on any registered stock in respect of any period which has elapsed after the earliest date on which demand could lawfully have been made for the payment of the principal amount due on such stock.</p>
Payments	<p>24. All payments of interest and all payments of the principal amount due on any registered stock shall be made at the Treasury in Enugu:</p> <p>Provided that the Accountant-General or any person authorized by him in that behalf may pay any such interest or principal amount at any other place, whether within or without Nigeria, in pursuance of any arrangement which the Accountant-General may make for that purpose.</p>
Investment of sinking fund	<p>25. (1) All moneys appropriated under section 28 as contributions to the sinking fund established for any loan shall be paid to the Accountant-General, and may then be placed at interest or invested in the purchase of such securities as may from time to time be approved by the Ministry.</p> <p>(2) The Accountant-General may from time to time, with the approval of the Ministry, vary any investment made under subsection (1) or may realize or place at interest or reinvest any moneys invested under subsection (1).</p> <p>(3) The dividends, interest, bonus and other profits of any investment of any part of any sinking fund shall be placed at interest or invested by the Accountant-General so as to form part of that sinking fund in a like manner as moneys appropriated under section 28 as contributions to that sinking fund.</p> <p>(4) In addition, the Ministry may at any time or times, authorize the utilization of the sinking fund or the appropriations for contribution to the sinking fund prescribed under section 28 for the purchase of registered stock or the loan for which the sinking fund was established:</p> <p>(d) on payment of the prescribed fee; consolidate or subdivide such stock and issue to the applicant one or more new stock certificates as may be required.</p>
Indemnity bonds	<p>Indemnify</p> <p>31. Where application is made to the Accountant - General under this Law for the issue of a duplicate stock certificate or for the renewal, consolidation or subdivision of any stock, the Accountant - General may require the applicant, as a condition precedent to the grant of the application, to execute a bond with or without sureties undertaking to indemnify the Accountant- General against the claims of all persons claiming under the original stock</p>

certificate or under the stock so exchanged, renewed, consolidated or subdivided, as the case may be.

Discharge of  
liability of  
Accountant  
General

32. Save as otherwise provided in this Law the liability of the Accountant- General shall—  
(a) in respect of any registered stock redeemed on or after the date on which payment of the principal amount becomes due, be discharged after the lapse of six years from that date;  
(b) in respect of stock in place of which new stock is issued upon a consolidation or subdivision under section 30. be discharged after the lapse of six years from the date of the issue of the new stock.

Signature  
Accountant  
General may  
be printed on  
stock

33. The signature of the Accountant-General may be printed, engraved or impressed by any mechanical process on any stock certificate and a signature so printed, stamped, engraved or impressed shall be as valid as if it had been inscribed in the proper handwriting of the Accountant-General.

Notice of  
trust not  
receivable  
save as  
provided  
Documents  
to be in  
prescribed  
form

34. Save as otherwise provided in or under this Law.no notice of any trust in respect of any registered stock shall be receivable by the Accountant- General,

35. All documents or instruments made or used under the provisions of this Law shall be in such form as may be prescribed

36.(1) No person shall be entitled to inspect, or to receive information derived from, any register, book or other document kept or maintained by or on behalf of the Accountant-General in relation to registered stock, save on payment of such fee and save in such circumstances and on such terms and conditions as may be proscribed, <sup>inspection of register anti documents.</sup>

(2) Nothing in this section shall apply to the State Auditor General, or any person authorized by him, or to the Board of Internal Revenue, or any person authorized by it.

37. (1) The Ministry may make regulations for the purpose of giving effect to the provisions of this Law. <sup>Power to make regulations</sup>

(2) In particular and without prejudice to the generality of the Foregoing power, such regulations may provide for all or any of the following matters—

- (a) the manner in which payment of interest in respect of stock is to be made and acknowledged;
- (b) the issue of duplicate stock certificates;
- (c) the renewal of stock certificates;
- (d) the manner of payment of interest to joint holders of stock;
- (c) the circumstances in which alterations may be made in the register;
- (f) the payment of principal or interest and transfer of stock in the case of persons under a legal disability;
- (g) the disposal of unclaimed interest;
- (h) the conditions subject to which stock may be exchanged, consolidated or subdivided;
- (i) to enable holders of registered stock to be described in the register as trustee and either as trustees of any particular trust or as trustees without qualification and for recognition of powers of attorney granted by holders of stock so described;
- (j) the fees to be paid in respect of anything to be issued or done under the provisions of this Law;
- (k) all matters required by this Law to be prescribed and all matters incidental to or connected with the matters herein before enumerate

(3) Nothing in any regulation made hereunder shall, as between any trustees or as between any trustees and beneficiaries under a trust, be deemed to authorize the trustees to act otherwise than in accordance with the rules of law applying to the trust and the terms of the instrument constituting the trust; and neither the Accountant-General nor any person holding or acquiring any interest in any registered stock, shall by reason only of any entry in the register of stock or of anything many document or instrument relating to registered stock, be affected with notice of any trust or of the fiduciary character of any stock holder or of any fiduciary obligation attaching to the holding of any registered stock.