

The following Bill, which will in due course be presented to Parliament for enactment, is published for general information.

NIGER DELTA DEVELOPMENT BOARD BILL

MEMORANDUM

Constitutional provision for the Niger Delta Development Board was originally made in section 243 of the Nigeria (Constitution) Orders in Council, 1954 to 1960, but that provision was replaced by section 14 of the Nigeria (Constitution) Order in Council 1960. Under the previous constitutional provision, the Niger Delta Development Board Regulations, 1960, were made.

2. It is now necessary to make comprehensive legislative provisions covering the operations of the Board, and this Bill seeks to do so by repeating, with minor variations, the provisions of the Regulations, and also by providing for a number of other matters which will enable the Board to discharge its functions effectively.

ABUBAKAR TAFAWA BALEWA
Prime Minister

58181/S. 3

NIGER DELTA DEVELOPMENT BOARD

ARRANGEMENT OF CLAUSES

Clause

1. Short title, application and commencement.
2. Interpretation.

PART I—CONSTITUTION OF THE BOARD

3. Establishment, functions and incorporation of the Board.
4. Membership of the Board.
5. Tenure of office.
6. Vacation of office.
7. Appointment of temporary Chairman.
8. Quorum at meetings.
9. Chairman.
10. Secretary.
11. Voting.
12. Validity of act or proceedings.
13. Remuneration of members.

PART II—POWERS OF THE BOARD

14. Common seal.
15. Power to enter into contracts.
16. Power to acquire and hold property.
17. Power to enter land.
18. Compensation for damage.
19. Transfer of property acquired by Government to the Board.

PART III—FINANCIAL PROVISIONS

20. Power to receive funds.
21. Power to borrow money.
22. Investment of moneys.
23. Estimates of revenue and expenditure.
24. Accounts and audit.

PART IV—GENERAL

25. Employment of servants and agents.
26. Discharge of functions of the Board by its servants.
27. Standing orders.
28. Powers of the Minister in relation to the Board.
29. Supply of copies of minutes.
30. Limitation of suits against the Board.
31. Service of documents.
32. Restriction on execution.
33. Representation of the Board at hearing of suits.
34. Annual report and returns.
35. Winding-up provisions.
36. Revocation and validation of past acts, etc.

A BILL
FOR

AN ACT TO MAKE FURTHER PROVISION FOR THE NIGER DELTA DEVELOPMENT BOARD AND FOR OTHER PURPOSES CONNECTED THEREWITH.

[See section 1 (2)]

BE IT ENACTED by the Legislature of the Federation of Nigeria in this present Parliament assembled and by the authority of the same as follows :—

1. (1) This Act may be cited as the Niger Delta Development Board Act, 1961, and shall be of application in the area defined in subsection (6) of section 14 of the Nigeria (Constitution) Order in Council, 1960, as the Niger Delta.

(2) This Act shall be deemed to have come into operation on the 1st day of April, 1961.

Title.
+
Commence-
ment.
Enactment.

Short title,
application
and
commence-
ment.

Interpreta-
tion.

2. (1) In this Act, unless the context otherwise requires,—

“the Board” means the Niger Delta Development Board ;

“the Minister” means the Federal Minister for the time being charged with responsibility in respect of the Board ;

“the Niger Delta” has the same meaning as in subsection (6) of section 14 of the Constitution Order ;

“suit” means a civil proceeding commenced by writ of summons or in such other manner as may be prescribed by rules of court and includes action but does not include a criminal proceeding.

(2) References in this Act to any other Act shall, unless the context otherwise requires, be read and construed as references to the Nigeria (Constitution) Order in Council, 1960.

PART I—CONSTITUTION OF THE BOARD

Establish-
ment,
functions
and
incorpora-
tion of the
Board.

3. (1) For the purposes of this Act there shall continue to be a Board known as the Niger Delta Development Board which shall be a body corporate with perpetual succession and a common seal and shall have the powers conferred upon it by this Act or any other Act.

(2) The Board, in the exercise of its powers, may hold land and sue and be sued in its corporate name.

Membership
of the Board.

4. In addition to the members to be appointed under any other Act, namely, the Chairman and two members from Western and Eastern Nigeria, the Board shall consist of—

(a) one person appointed by the Western Ijaw Divisional Council to represent the Western Ijaws ; and

(b) to represent the Eastern Ijaws—

(i) three persons, that is to say, one person appointed in respect of each of the three administrative areas of Yenagoa Province, Degema Province and Ogoni Division of Port Harcourt Province by a majority of members of a committee consisting of all the County Councils of the area, present at a meeting of the said committee of which notice shall have been given to the Councils ; and

(ii) one person appointed by a majority of members of a committee consisting of twelve persons, that is to say two representing the Kalabari County Council of Degema Province, two representing all the other County Councils of that Province and four each representing all the County Councils in each of the two other administrative areas of Yenagoa Province and Ogoni Division of Port Harcourt Province, present at a meeting of the committee of which notice shall have been given.

Tenure of
Office.

5. (1) The Chairman and other members of the Board shall hold office for a period of five years from the dates of their respective appointments.

(2) Any member of the Board whose term of office expires under the provision of this section shall be eligible for reappointment.

Vacation of
office.

6. (1) A member of the Board may at any time by resignation under his hand addressed to the Minister resign his membership.

(2) If the Minister is satisfied that the Chairman or any other member of the Board—

(a) has been absent from two consecutive meetings of the Board without permission of the Board ; or

(b) is incapacitated by physical or mental illness ; or

(c) is otherwise unable or unfit to discharge the functions of a member,

the Minister may declare the office of the Chairman or such member vacant and that fact shall be notified in such manner as the Minister thinks fit, and thereupon the office shall become vacant.

7. (1) Subject to the provisions of this Act, the Governor-General may—

(a) appoint a person (in this section referred to as "temporary Chairman") to act in the place of the Chairman during the temporary incapacity from illness or other sufficient cause, or absence from Nigeria of the Chairman ; and

(b) upon the death, resignation or termination of appointment of the Chairman, appoint a person to be temporary Chairman for such period not exceeding one year, as the Governor-General may determine.

(2) A person appointed to be a temporary Chairman shall, while the appointment subsists, be deemed for all purposes of this Act to be the Chairman.

8. The Chairman and three other members of the Board shall form a quorum at any meeting of the Board.

9. (1) The Chairman shall preside at all meetings of the Board and shall be responsible for the administration and the execution of the functions of the Board, but shall comply with such general directions in relation thereto as the Board may see fit to give.

(2) The Chairman may from time to time delegate to the secretary any of the powers conferred upon the Chairman by this Act or any other Act other than the power to preside at meetings of the Board.

10. (1) The secretary of the Board shall be appointed from amongst members of the public service of the Federation.

(2) The secretary shall be the chief officer of the Board.

(3) The secretary shall be responsible for maintaining the records of the meetings of the Board and of any of its decisions, directions, instructions, authorisations and other like matters.

(4) Subject to any general instructions given by the Board, the secretary shall—

(a) exercise supervision and control over the acts of all servants of the Board in matters of executive administration and in matters concerning the accounts and records of the Board ; and

(b) disposed of all questions relating to the service of the servants of the Board and their pay, privileges and allowances.

(5) The Minister may appoint any officer of the Board to act for, and perform the duties of the secretary of the Board during the temporary incapacity from illness or other sufficient cause, or absence from Nigeria of the secretary or in the absence of an appointment of a secretary under subsection (1) of this section.

Appoint-
ment of
temporary
Chairman.

Quorum of
meetings.
Chairman.

Secretary.

(6) A person appointed under subsection (5) of this section to act for and perform the duties of the secretary shall, while the appointment subsists, be deemed for all purposes of this Act to be the secretary.

Voting.

11. (1) All questions at a meeting of the Board shall be determined by a majority of the votes of the members present and voting.

(2) The Chairman shall have an original vote, and also, if upon any question the votes are equally divided, a casting vote.

Validity of act or proceedings.

12. The validity of any act or proceedings of the Board shall not be affected by any vacancy among the members thereof, or by any defect in the appointment of a member thereof, or by reason that some person who was not entitled to do so took part therein.

Remuneration of members.

13. The Board shall pay to the members thereof any remuneration, fees, or allowances for expenses that may be determined by the Minister :

Provided that no remuneration, fees or allowances, except such allowances for expenses as may be expressly authorised by the Minister shall be paid to any person who holds an office of emolument under the Crown otherwise than as a member of the Board or as a member of a body corporate incorporated directly by any legislature in Nigeria.

PART II—POWERS OF THE BOARD

Authentication of affixing common seal.

14. (1) The affixing of the common seal shall be authenticated by the signature of the Chairman or some other member of the Board authorised, either generally or specially, by the Board to act for that purpose and of the secretary or some other person authorised either generally or specially by the Board to act for that purpose.

(2) Every document purporting to be an order or other instrument issued by the Board and to be sealed with the seal of the Board authenticated in the manner provided by this section, or to be signed by the secretary, shall be received in evidence and be deemed to be such order or instrument without further proof, unless the contrary is shown.

Power to enter into contracts.

15. (1) The Board may enter into such contracts as may be necessary or expedient for the discharge of its functions.

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

Power to acquire and hold property.

16. Subject to the provisions of this Act, the Board may acquire and hold any movable and immovable property necessary or expedient for the discharge of its functions, and for such purposes may sell, mortgage, lease, or otherwise alienate or dispose of any property so acquired.

Power to enter land.

17. (1) For the discharge of its functions, the Board shall have power—

(a) to enter upon and survey and carry out investigations on any land in the Niger Delta ;

(b) to dig or bore under the subsoil of such land ;

(c) to clear any area of such land and to set out and mark any traces or boundaries on such land; and

(d) to do all such other acts connected with the aforesaid functions ;

Provided that the Board shall not enter into any building or upon any enclosed court or garden attached to a dwelling-house without previously giving the occupier at least seven days' notice of its intention to do so and such notice may be served either personally, or by delivery of the same at the place of abode of the person to be served, or by affixing the same in a conspicuous part of the premises.

18. (1) In the exercise of the powers conferred by section 17 the Board shall do as little damage as may be, and the Board shall pay compensation for any damage done to any buildings, crops or economic trees.

Compensation for damage.

(2) In case of dispute as to the amount of the compensation payable under this section, the amount of the compensation may be determined by a High Court having jurisdiction in respect of the place where the land is situate.

19. (1) All movable and immovable property supplied to the Board or acquired by the Government of the Federation on behalf of the Board for purposes of the functions of the Board shall, on the coming into operation of this Act, vest in the Board without further assurance than this subsection.

Transfer of property acquired by Government for the Board.

(2) All rights and obligations however created which immediately before the commencement of this Act were subsisting and in force and relate to any contracts entered into by the Government of the Federation on behalf of the Board or affect any property vested in the Board under this section shall, on the commencement of this Act, continue to be in full force and effect against or in favour of the Board as the case may be and be enforceable as fully and effectually as if, instead of the Government, the Board had been named therein or had been a party thereto.

PART III—FINANCIAL PROVISIONS

20. In the exercise of its functions under this Act the Board may—

(a) receive all funds which may from time to time be appropriated by the Legislature of the Federation to the Board and apply and administer such funds in accordance with any terms and conditions which may be attached to the grant thereof and with the provisions of this Act ; and

(b) receive all other moneys which may be obtained by or given to the Board or derived from any source not hereinbefore mentioned, and apply and administer such moneys exclusively in the discharge of its functions and in accordance with any terms and conditions upon which such moneys may have been obtained, given or derived.

Power to receive funds.

21. The Board may, with the consent of, or in accordance with any general authority given by the Minister borrow by way of loan or by way of temporary overdraft such sums as the Board may from time to time require for meeting its obligations and discharging its functions.

Power to borrow money.

22. The Board may from time to time invest all or any portion of the moneys of the Board in such manner as may be approved by the Minister.

Investment of moneys.

Estimates of revenue and expenditure.

23. (1) The Board shall cause to be prepared annually estimates of revenue and recurrent and capital expenditure of the Board for the ensuing financial year, and submit such estimates to the Minister by the 31st day of December of each year.

(2) For the purposes of this section the financial year of the Board shall coincide with that of the Government of the Federation. 5

Accounts and audit.

24. (1) The Board shall keep proper accounts and other records in relation thereto and shall prepare in respect of each financial year a statement of accounts in such form as the Minister may require.

(2) The accounts of the Board shall be audited by the Director of Audit of the Federation. 10

(3) As soon as the accounts of the Board have been audited, the Board shall furnish a copy of the statement of accounts to the Minister, together with a copy of any report made by the Director of Audit of the Federation on the statement or on the accounts of the Board. 15

(4) The Minister shall lay a copy of every such statement of accounts and report before both Houses of Parliament.

PART IV—GENERAL

Employment of servants and agents.

25. For the purposes of this Act and with the approval of the Minister, the Board may employ such servants and agents as the Board may from time to time deem necessary, upon such terms and conditions of service as the Board may determine. 20

Discharge of functions of the Board by its servants.

26. Where powers are conferred or duties imposed by or under this Act or any other Act on the Board, such powers or duties may be exercised or performed by or through any servant or agent of the Board authorised in that behalf by the Board. 25

Standing orders.

27. (1) Subject to the provisions of this Act the Board may from time to time make standing orders for the convening and conduct of its meetings, and for the keeping of minutes and the custody, production and inspection of such minutes. 30

(2) A copy of standing orders when made shall be supplied to the Minister.

Powers of the Minister in relation to the Board.

28. (1) The Minister may, after consultation with the Board, give to the Board directions of a general character as to the discharge by the Board of its functions in relation to matters appearing to the Minister to affect the public interest, and the Board shall give effect to any such directions. 35

(2) The Minister may, after consultation with the Board, give to the Board specific directions for the purposes of remedying any defect which may be disclosed in the general arrangements of the Board for the discharge of its functions under this Act or any other Act, and the Board shall give effect to any such directions. 40

(3) The Board shall afford to the Minister facilities for obtaining information with respect to the property and functions of the Board, and shall furnish him with information with respect thereto and afford to him facilities for the verification of information furnished, in such manner and at such times as he may require. 45

29. The Board shall as and when required supply to the Minister or the Governor of Western Nigeria or the Governor of Eastern Nigeria, as the case may be, copies of the minutes of any meeting of the Board or copies of other documents relating to the exercise of the functions of the Board.

Supply of copies of minutes.

30. (1) No suit against the Board or any servant of the Board for anything done under any Act, or in the exercise of any public duty or authority, or for neglect or default in the administration of any such Act, or in the exercise of any such duty or authority shall lie or be instituted in any court unless it is commenced within twelve months next after the act, neglect or default complained of or in the case of a continuance of damage or injury, within twelve months next after the ceasing thereof.

Limitation of suits against the Board.

(2) No suit shall be commenced against the Board until one month at least after written notice of intention to commence the same shall have been served upon the Board by the intending plaintiff or his agent; and such notice shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.

31. The notice referred to in the last preceding section and any summons, notice or other documents required or authorised to be served upon the Board under the provisions of this Act or any other Act may, unless in any case there is express provision to the contrary, be served by delivering the same at the principal office of the Board or by sending it by registered post addressed to the secretary of the Board.

Service of documents.

32. In any suit against the Board no execution or attachment or process in the nature thereof shall be issued against the Board, but any sums of money which may by the judgment of the court be awarded against the Board shall, subject to any directions given by the court where notice of appeal has been given by the Board in respect of the said judgment, be paid by the Board from the funds of the Board.

Restriction on execution.

33. In any suit the Board may be represented in court as plaintiff or defendant, as the case may be, at any stage of the proceedings by any servant of the Board who shall satisfy the court that he is duly authorised in writing by the Board in that behalf.

Representation of the Board at hearing of suit.

34. (1) Subject to the provisions of this Act or any other Act, the Board shall, as soon as possible after the end of each financial year, report to the Minister and the Governors of both Western and Eastern Nigeria on the activities of the Board during the past financial year.

Annual report and returns.

(2) The Minister shall, as soon as may be after receipt of any annual report, lay a copy of the report before both Houses of Parliament.

(3) In addition to any other requirement under this section, the Board shall furnish to the Minister and to the Governors of both Eastern and Western Nigeria such financial and statistical returns as they may from time to time require.

35 (1) This Act shall cease to have effect on the 1st day of July, 1969 or such later date as may be prescribed by Parliament.

Winding-up provisions.

(2) On the expiry of this Act all movable and immovable property of the Board and the rights and obligations under any contract entered into by the Board and subsisting immediately before such expiry shall be transferred to and vest in the Government of the Federation without further assurance than this subsection.

5

Revocation
of L.N. 57 of
1960, and
validation of
past acts, etc.

36. (1) The Niger Delta Development Board Regulations, 1960, are hereby revoked.

(2) Notwithstanding the provisions of subsection (1) of this section or of any other Act, and for the avoidance of doubts it is hereby declared that all acts, matters and things done or purported to have been done under any of the regulations revoked by this Act shall for all purposes be deemed to have been lawfully made and done and shall have effect accordingly.

10