

# **Kwara Investment Promotion Agency Law, 2020**

I assent this **18<sup>th</sup>** day of **NOVEMBER** 2020



**A. AGU**  
ABDULRAHMAN ABDULRAZAQ  
Governor,  
Kwara State of Nigeria.

Kwara State of Nigeria

Law No. of 2020

## **ARRANGEMENT OF SECTIONS**

### **PART I - ESTABLISHMENT, INCORPORATION, FUNCTIONS AND POWERS OF THE AGENCY**

1. Establishment and Incorporation of the Agency.
2. Objectives of the Agency.
3. Functions of the Agency.
4. Powers of the Agency.
5. Project Development and Implementation.

### **PART II - GOVERNING BOARD OF THE SERVICE**

6. Establishment and composition of the Governing Board.
7. Powers of the Board.
8. Directives by the Governor.
9. Functions of the Board.
10. Departments of the Agency.
11. Tenure of Board members.
12. Cessation of office.
13. Removal from office and vacancy.
14. Remuneration of Board members.
15. Meeting of the Board.
16. Standing and Ad-hoc Committees.
17. Power to co-opt.
18. Validity of Proceedings.
19. Quorum.

20. Disclosure of interest by Board members.
21. Voting.

### PART III - MANAGEMENT AND STAFF OF THE AGENCY

22. Office of the Director-General.
23. Functions of the Director-General.
24. Secession of office of the Director-General.
25. Administrative Secretary of the Agency and functions.
26. Legal Officer of the Agency and functions.
27. Staff of the Agency.
28. Staff Regulations.

### PART IV - FINANCIAL PROVISIONS

29. Fund of the Agency.
30. Annual Estimates and Accounts.
31. Annual Report.

### PART V - GENERAL PROVISIONS

32. Gifts and Donations.
33. Regulations.
34. Limitation of suits.
35. Common Seal.
36. Savings.
37. Repeal.
38. Interpretation.
39. Citation.

A LAW TO ESTABLISH THE KWARA INVESTMENT PROMOTION AGENCY AND TO REPEAL THE KWARA STATE PUBLIC PRIVATE PARTNERSHIP BUREAU LAW,2015 AND FOR OTHER CONNECTED MATTERS.

( )

Date of Commencements.

The Kwara State House of Assembly enacts:

PART I

ESTABLISHMENT, INCORPORATION, FUNCTIONS AND POWERS OF THE AGENCY

1. (1) There is established the Kwara Investment Promotion Agency (in this Law referred to as the "Agency").

Establishment and Incorporation of the Agency.

(2) The Agency –

- (a) shall be a body corporate with perpetual succession and a Common seal;
- (b) may sue or be sued in its own name; and
- (c) may acquire, hold or dispose of any property or interest in property, movable or immovable for the purpose of carrying out its functions under this Law.

2. The objectives of the Agency are to initiate, promote, facilitate, coordinate and create a conducive environment for investments and development in the State through Greenfield, Brownfield, Public-Private Partnership, initiative, concessions, commercialisation of State-owned assets, Build, Operate and Transfer, and such other responsibilities as may be determined by the Governor.

Objectives of the Agency.

3. The functions of the Agency are to –
- (a) co-ordinate and monitor all investment promotion activities to which this Law applies;
  - (b) initiate and support measures which shall enhance the investment climate in the State for both indigenes and non-indigene investors;
  - (c) advise and assist the Government in creating an attractive and competitive climate for business that will lead to robust economic activities in the State;
  - (d) monitor the implementation, execution and delivery of projects as contained in agreements between the Government and respective investors;
  - (e) initiate, organize and participate in promotional activities, such as exhibitions, conferences and seminars for the stimulation of investments in the State;
  - (f) source on behalf of the Government, finance for investment from multilateral and bilateral development partners as well as private investors, both domestic and foreign through Public-Private Partnerships and other financial arrangements, and where appropriate, act as lead negotiator in transactions with private investors that ensure the needs of the State and those of its citizens are well represented;
  - (g) advise and conduct risk or benefit assessment that will assist the Government in decision making and the implementation of all projects and programmes pursuant to the State Investment Promotion Strategy;

- (h) assist the State in building capacity for investment project identification, evaluation, planning, execution and management;
- (i) maintain liaison between investors and Ministries, Departments and Agencies, institutional lenders and other authorities concerned with investments;
- (j) advise and assist in the establishment of a framework for monitoring and evaluating the progress of the State's strategic economic investment programmes and projects for effective implementation;
- (k) articulate clear growth and development strategies for providing needed support and appropriate incentives to grow the local private sector and enlarge the economic base of the State in line with the priorities of the State;
- (l) develop a database of reputable prospective and potential investors both in Nigeria and abroad with a view to reaching out to them when opportunities arise;
- (m) advise and assist the Government in developing and maintaining a comprehensive and reliable database on investment opportunities for effective planning especially in areas where the State has demonstrable comparative and competitive advantages;
- (n) plan well-researched investment promotion activities including tours and road shows aimed at promoting specific investment projects in areas where the State has demonstrable comparative and competitive advantages;
- (o) act as the State's lead negotiator for all Public-Private Partnership models including Build-Operate-Transfer, Concession, Privatization Transactions even when they are

into such other contracts as it may deem necessary to facilitate its functions under this Law;

- (b) procure, within its budgetary limit, any property or service it may require for the effective discharge of its functions under this Law and to dispose of any such property or terminate any such service;
- (c) request the Head of any Ministry, Department or Agency of the Government to furnish it with any document, explanation or other information it may require for the due execution of its functions under this Law;
- (d) regulate its own proceedings;
- (e) Insure its property against all forms of risk; and
- (f) do such other things as are necessary or expedient for the performance of its functions under this Law.

5. (1) In Project development and implementation the following provisions shall apply –

Project development and implementation.

- (a) All solicited or unsolicited projects wherein the private sector is expected to perform a service, deliver an infrastructure, asset, or supply materials to any Ministry, Department, or Agency of the State for profit must be reviewed and executed in partnership with the Agency.
- (b) When requested by a Ministry, Department and Agency, or instructed by the Governor, the Agency shall:
  - (i) Support MDAs in the conceptualization and development of project ideas and business cases;
  - (ii) Provide transaction advisory on non-PPP;

- (iii) Assist in vetting potential partners for non-PPP projects regarding their financial and technical capacity projects; and
  - (iv) Assist in periodic review of infrastructure and service delivery efforts.
- (c). The Agency shall earn fees on services provided for successfully completed PPP and non-PPP projects, i.e. after financial close, which it advises and provides technical support on, subject to the Governor's approval and negotiations with the respective Ministry, Department and Agency.

## PART II

### GOVERNING BOARD OF THE AGENCY

6. (1) There is established for the Agency a Governing Board (in this Law referred to as "the Board") consisting of –

- (a) a Chairman who shall have a personal knowledge in Project Financing, Investment Banking and Engineering or other cognate experience of at least 15 years.
- (b) the Director-General of the Agency;
- (c) the Administrative Secretary;
- (d) the Legal Officer of the Agency;
- (e) three members one each from the three Senatorial Districts in the State, at least one of whom shall be a woman with recognized qualifications and professional registration in Finance, Law, Economic Planning, Investment Promotion, policy, or other related areas of

Establishment  
and composition  
of the Governing  
Board.

expertise with a minimum of seven years cognate experience;

(f) one representative from each of the following Ministries/Agencies not below the rank of a Director who shall be ex-officio members –

(i) Office of the Secretary to the State Government,

(ii) Ministry of Finance and Planning

(iii) Ministry of Environment,

(iv) Ministry of Works, Transport and Housing,

(v) Ministry of Agriculture and Rural Development,

(vi) Ministry of Enterprise,

(vii) Kwara State Internal Revenue Service (KW-IRS),

and

(viii) Kwara Chamber of Commerce, Industry, Mines and Agriculture (KWACCIMA);

(g) all members of the Board must be indigenes of Kwara.

(2) All members shall be part-time except the Director General, Administrative Secretary and Legal officer;

7. The Board shall have power to –

Powers of  
the Board.

(1) do all things which by this Law or any other enactment or administrative directive are required or permitted to be done by the Board;

(2) delegate its power to any member or official and authorize any such member to perform any of its functions of the Agency, subject to any limitation imposed by law;



- (3) from time to time, borrow, by way of overdraft or otherwise, such sums as it may require for the effective discharge of its functions under this Law;
- (4) appoint, promote and discipline the Staff of the Agency as may appear to it necessary or expedient;
- (5) consider the resignation or withdrawal of appointment of Staff of the Agency;

8. Subject to the provision of this Law, the Governor may give to the Agency and Governing Board such directives that is general or specific in nature relating to particular functions and it shall be the duty of the Agency and the Governing Board to comply with such directives.

Directives by  
the Governor.

9. The functions of the Board are to –

Functions of  
the Board.

- (a) promote policies and transparent procedures that will enable the Government to work with potential investors and business partners to develop the natural resources base and assets of the State;
- (b) determine the appropriate institutional framework for investment promotion in the State and determine the engagement of consultants, specialists and/or advisers for PPP related projects;
- (c) supervise the activities of the Agency and liaise with the Governor on all issues pertaining to policy formulation, evaluation of operational guidelines and other required statutory provisions of the Agency;
- (d) articulate clear growth strategies for providing needed support and appropriate incentives to grow the local

private sector and enlarge the economic base of the State in line with the priorities of the State;

- (e) develop and implement a comprehensive strategy and action plan to attract and facilitate new investment in the State;
- (f) recruit and appoint the personnel needed in accordance with the terms of the Scheme submitted and approved in line with provisions of Section 23 (c); and
- (g) do other such things as may be relevant to its functions.

10. Subject to the approval of the Governor, the Agency shall comprise of such number of Departments as may be required to exercise its powers and discharge its duties and functions under this Law.

Departments of  
the Agency.

11. The members of the Board shall –

Tenure of Board  
members.

- (a) be persons of proven integrity; and
- (b) other than ex-officio members be appointed by the Governor and shall hold office for 4 years and may be re-appointed for another term of 4 years.

12. The office of a member shall become vacant if –

Cessation of  
Office.

- (a) his tenure of office elapses;
- (b) he resigns by notice in writing to the Governor;
- (c) he dies; and
- (d) he is removed from office by the Governor in public interest.

13. (1) A member may at any time be removed from office by the Governor on the occurrence of any of the following –

Removal from office  
and vacancy.

- (a) if he becomes bankrupt;
- (b) if he is convicted of a felony or any offence involving dishonesty or fraud;
- (c) if he becomes of unsound mind or is incapable of carrying out his duties;
- (d) if he is found guilty by a competent court or tribunal of Serious Misconduct in relation to his duties;

- (e) if he allows his financial or fiduciary interests to come in conflict with the operations of the Agency;
- (f) if in the case of a person possessed of professional qualification, he is disqualified or suspended, other than his own request, from practicing his profession;
- (g) if he has been absent from three consecutive meetings of the Board without the permission of –
  - (i) the Chairman, in the case of a member, and
  - (ii) the Governor, in the case of the Chairman; or
- (h) if in the opinion of the Governor, it is in the interest of the Agency or public that the member be relieved of his membership.

(2) Where an office becomes vacant, the Governor shall appoint a fit and proper person for the remainder of the term of office and the successor shall represent same interest.

14. There shall be paid to every member of the Board, not being ex-officio member such remuneration, allowances and benefits as may be determined by the Revenue Mobilization, Allocation and Fiscal Commission (RMAFC).

Remuneration of Board members.

15. (1) The Board shall meet every two months, or as considered expedient, for effective discharge of its functions.

Meetings of the Board.

(2) The Chairman shall preside at every meeting of the Board and in his absence, the members present shall appoint one of them to preside.

16. (1) The Board may appoint such number of Standing or Ad-hoc Committees as it thinks fit to consider and report on any matter with which the Agency is concerned.

Standing and ad-hoc committees.

(2) Every Committee appointed under sub-section (1) shall be presided over by a member of the Board and shall be made up of persons, not necessarily members of the Board as the Board may determine in each case.

17. Whenever in the opinion of the Board it is expedient or desirable to obtain the service or advice of any person on any matter under consideration by the Board, the Board may co-opt such persons at such meeting of the Board as may be requested and such person shall have the

Power to co-opt.

right and privileges of a member, except that he shall not be entitled to vote on any question or be counted towards a quorum.

18. The validity of any proceedings of the Board or its Committee shall not be adversely affected by –

Validity of proceedings.

- (a) any vacancy in the membership of the Board; or
- (b) any reason that a person not entitled to do so, took part in the proceeding.

19. The quorum at a meeting of the Board shall be nine members of the Board.

Quorum.

20. (1) A member of the Board who is in any way directly or indirectly interested in a transaction or project of the Agency shall disclose the nature of his interest at a meeting of the Board, and such disclosure shall be recorded in the minute book of the Agency, and the member shall not take part in any deliberation or decision of the Board with respect to that transaction or project.

Disclosure of interest by members of the Board.

(2) For sub-section (1) a general notice given at a meeting of the Board by a member to the effect that he is associated with any trade or business or he is a member of a specified company or firm and is to be regarded as interested in any transaction or project of the Agency concerning that trade, business, company or firm shall be regarded as sufficient disclosure of his interest in relation to that transaction or project for avoidance of conflict of interest.

(3) A member of the Board may not attend in person a meeting of the Board in order to make a disclosure which he is required to make under this section if he takes reasonable steps to ensure that the disclosure is made by a notice which is brought up and read at the meeting.

21. (1) All questions at a meeting of the Board shall be determined by a majority of vote of members present.

Voting

(2) At any meeting of the Board, each member shall have a vote and if there is equality of votes, the presiding Chairman shall have a second or casting vote.

## PART III

### MANAGEMENT AND STAFF OF THE AGENCY

22. (1) The Governor shall appoint a Director General as the Chief Executive and Accounting Officer of the Agency subject to the approval of two thirds majority of the House of Assembly.

Office of the  
Director General

(2) The Director-General shall be responsible for the day to day administration of the Agency.

(3) The Director-General shall hold office for a term of four years renewable for another term of four years only.

(4) The Director-General shall be a person with not less than 15 years cognate experience in investment promotion, finance and economic planning or other related activities, with at least 5 years' experience in managerial capacity and registered with the appropriate professional body.

(5) The Director-General shall be paid such remuneration and allowances as may be determined by the Revenue Mobilization, Allocation and Fiscal Commission (RMAFC).

23. (1) The Director-General shall perform the following functions –

Functions of the  
Director-General.

- (a) annually prepare the draft business plan of the Agency for the ensuing financial year and submit the plan to the Board for approval;
- (b) submit within three months of his appointment the draft organizational plan of the Agency, inclusive of key performance indicators for each division, to the Board for approval;

- (c) recommend to the Board a Scheme containing the proposed personnel requirement, remuneration of the personnel of the Agency and their conditions of service based on the approved organizational plan;
- (d) attend meetings of the Board and keep the Board informed on a regular basis of the performance of the Agency; and
- (e) ensure compliance with measures approved by the Board with respect to good governance.

(2) In preparing the organizational plan of the Agency, the Director-General shall ensure that the Agency is structured into Divisions, Departments or Sections to comprehensively cover all its functions following sound organizational practice.

24. Notwithstanding the provisions of section 22(2), the Director General shall cease to hold office if –

- (a) he resigns his appointment by notice under his hand addressed to the Governor;
- (b) he becomes of unsound mind;
- (c) he becomes incapable of carrying on the functions of his office either arising from infirmity of mind or body;
- (d) he is convicted of felony or of any offence involving dishonesty or corruption;
- (e) he becomes bankrupt or make compromise with his creditors;
- (f) the Governor is satisfied that it is not in the interest of the Agency or of the public for the person to continue in office and the Governor removes him from office; or

Seccession of o  
of the Director  
General.

- (g) he has been found guilty of a breach of the code of conduct or other serious misconduct in relation to his duties.

25. (1) There shall be an Administrative Secretary of the Agency deployed from the pool, who shall be an Administrative Officer not below grade level 14.

Administrative Secretary and functions.

(2) The Administrative Secretary shall be the Secretary of the board and shall be responsible for –

- (a) the administrative functions of the Agency and of the Board's Secretariat;
- (b) keeping the books and proper records of the proceedings of the Board;
- (c) conveying decisions of the Board to its members;
- (d) issuing notices of meetings of the Board; and
- (e) carrying out such other duties as the Board may direct.

26. (1) There shall be deployed a State Counsel from the Ministry of Justice not below grade level 14 who shall be the Legal Officer of the Agency.

Legal Officer and functions..

(2) The Legal officer shall be responsible for the legal functions of the Agency.

27. (1) The Board may specifically delegate to the Director-General, the power to appoint such categories of staff of the Agency as the Board may from time to time specify.

Staff of the Agency.

(2) The staff of the Agency shall be public servants in the service of Kwara State.

(3) The Service shall grant Pension and Gratuities in accordance with the Pension Law of the State.

(4) The Agency may engage Consultants and Advisers in areas where it has technical deficiency.

28. (1) The Agency may make Staff Regulations relating generally to the conditions of service of its employees.

Staff Regulations.

(2) Pending the publication of the Staff Regulations described in sub-section (1) the employment of the staff of the Agency shall be governed by the terms and conditions generally applicable to officers in the Public Service of the State.

(3) Staff Regulations issued by the Agency under Sub-section (1) shall not have effect until approved by the Board and published in the Gazette

#### PART IV

#### FINANCIAL PROVISIONS

29. (1) The Agency shall establish and maintain a fund which shall consist of –

Fund of the Agency.

- (a) such sums as may be appropriated by the State House of Assembly by way of annual subvention;
- (b) all other sums accruing to the Agency by way of grants, gifts, testamentary dispositions, endowments, bequest and donations made to the Agency;
- (c) income from any investment or other property acquired by or vested in the Agency;
- (d) a percentage as stipulated by the Governor and appropriated by the State House of Assembly of not more than five percent (5%) of all related revenues collected in the preceding financial year which sum



- shall be deployed to pay part of the capital and recurrent expenditures of the Agency; and
- (e) such other sums as may accrue from time to time to the Agency.

30. (1) The Agency shall, not later than 30<sup>th</sup> June in each year, submit to the Governor an estimate of its expenditure and income (including estimates of expected payments into the Fund) during the succeeding year.

Annual Estimates  
and Accounts.

(2) The Agency shall keep proper accounts in a form which conforms to International Public Sector Accounting Standard, and proper records in relation thereto and the accounts shall be audited as provided in subsection (3).

(3) The accounts of the Agency shall be audited at the end of each financial year by external auditors appointed by the Agency from a list of auditors provided by the Auditor-General of the State in accordance with the Financial Regulations and the fees of the Auditors and the expenses for the audit generally shall be paid from the fund.

31. The Agency shall, not later than 30<sup>th</sup> June in each year, submit its Annual Report to the Governor which shall include details of the activities of the Agency and its administration during the preceding year and the audited accounts of the Agency.

Annual Report.

## PART V

### GENERAL PROVISIONS

32. (1) The Agency may accept any gift, technical assistance, grant or donation of land, money or other property on such terms and

Gifts and  
donations

conditions if any, as may be specified by the person or organisation making the gift as may be acceptable to the Agency.

(2) The Agency shall not accept any gift if the conditions attached by the person or organisation offering the gift are inconsistent with the objectives and functions of the Agency under this law.

33. (1) The Agency may subject to the approval of the Governor by an Order published in the Gazette make regulations for the effective operation of this Law and the due administration thereof.

Regulations.

(2) The Agency shall have power to review charges for services rendered from time to time which shall be published in the Gazette and charges shall be inconsonance with other related laws.

34. (1) No suit shall be commenced against the Agency before the expiration of a period of 30 days after written Notice of Intention to commence the suit shall have been served upon it by the intending claimant or his agent and the notice shall clearly and explicitly state-

Limitation of suits.

- (a) the cause of action;
- (b) the particulars of claim;
- (c) the name and place of abode of the intending claimant;  
and
- (d) the relief which he claims.

(2) No Member or staff of the Agency shall be sued in his personal capacity for any act done or omitted to be done in the lawful performance of his duties under this Law.

35. (1) The fixing of the Seal of the Agency shall be authenticated by the signature of the Director-General and the Legal officer or such other member authorized generally or specifically by the Board.

Common seal

(2) Any contract or instrument, which if made by a person not being a body corporate, would not be required to be made under seal, may be executed on behalf of the Agency by the Director General or by any other person generally or specially authorized by the Board.

(3) Any document purporting to be a contract, instrument or other document signed or sealed on behalf of the Agency shall be received in evidence and, unless the contrary is provided, be presumed without further proof to have been so signed or sealed.

36. The Kwara State Public-Private Partnership Bureau Law No. 7 of 2015, is hereby repealed.

Repeal.

37. In this Law, unless the context otherwise requires:

Interpretation.

"Agency" means the Kwara Investment Promotion Agency established under Section 1;

"Board" means the Board of the Agency;

"Chairman" means the Chairman of the Board of the Agency;

"Committee" means the Committee established by the Board;

"Director-General" means the Chief Executive and Accounting Officer of the Agency;

"Federal Government" means the Federal Government of Nigeria;

"Gazette" means Kwara State Government Official Gazette;

"Government" means the Government of Kwara State;

"Governor" means the Governor of Kwara State;

"MDAs" means Ministries, Departments, and Agencies of Kwara State;

"member" means member of the Governing Board and includes the Chairman;

"PPP" means Public-Private Partnership;

"State" means the Kwara state of Nigeria;

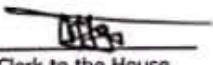
"The fund" means the fund established for the Agency pursuant of section 29, hereof.

38. This Law may be cited as the Kwara Investment Promotion Agency Law, 2020.

Citation

---

This printed impression has been carefully compared by me with the Bill which was passed by the Kwara State House of Assembly and found by me to be a true and correctly printed copy of the said Bill.

  
Clerk to the House