

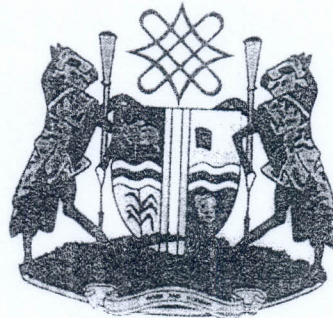


**A LAW TO PROVIDE FOR THE DEVELOPMENT
AND REGULATION OF THE KADUNA STATE
WATER SECTOR AND OTHER MATTERS
CONNECTED THEREWITH**

Comprising:

- 1. Kaduna State Water Supply and Sanitation Law, 2016**
- 2. Rural Water Supply and Sanitation Law, 2016**
- 3. Water Services Regulatory Commission Law, 2016**

**A LAW TO PROVIDE FOR THE DEVELOPMENT AND REGULATION
OF THE KADUNA STATE WATER SECTOR AND OTHER MATTERS
CONNECTED THEREWITH**



Kaduna State of Nigeria

Law No. 11..... 2016

(May 25, 2016)

Date of Commencement

BE IT ENACTED by the House of Assembly of Kaduna State as follows:

Enactment

**PART I
PRELIMINARY**

1. This Law may be cited as the Kaduna State Water Supply and Sanitation Law, 2016.

Short title

2. This Law shall come into operation on the 25th day of May..... 2016.

Commencement

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

Interpretation

"Abstraction" in relation to water contained in any source of supply, means the doing of anything whereby any of that water is removed from that source of supply, whether temporarily or permanently, including anything whereby the water is so removed for the purpose of being transferred to another source of supply and "abstract" shall be construed accordingly;

"Appropriate Local Government" means any Local Government Council having jurisdiction over a specific area for the purpose of this Law;

"Authorised Officer" means any member of staff of any institution established pursuant to this Law duly authorised in writing by such institution, and shall include an officer of the Water Consumers' Association or Water Sanitation and Hygiene Committee;

"Basic Water Supply" means the prescribed minimum standard of water supply services necessary for the reliable supply of a sufficient quantity and quality of water to households, including informal households, to support life and hygiene, as specified from time to time by the Commission;

"Board" means the board of any of the institutions created under this Law;

"Chairman" means the chairman of any of the boards established pursuant to the relevant sections of this Law;

"Commission" means the Kaduna State Water Services Regulatory Commission

"Constitution" means the Constitution of the Federal Republic of Nigeria;

"Consumer" means any person who is supplied with water and includes any person who applied to be supplied with water from any waterworks or any person who otherwise uses water and is liable for the payment of water rates, rents or charges but does not deliver or resell the service to others including an end user in an informal settlement;

"Contravention" includes a failure to comply;

"Distribution system" means any operator's networks or mains, pipes, pumping stations and service reservoirs through which water is conveyed to customers;

"Domestic Supply" means water from any waterworks used in any household for drinking, washing, cooking, or for baths or any other purpose of domestic life;

"Drain" means any pipe or channel etc, conveying only surface water or subsoil water or both and which is below ground level;

"Essential Service" includes hospitals, fire services, orphanages, public schools and other consumers as may be prescribed by the Commission;

"Emergency Situation" means any situation declared as such by the Governor or as may be declared by the head of the bodies or institutions created under this Law in the exercise of the functions and duties of such bodies or institution;

"Federal Ministry" means the relevant ministry established by the Federal Government.

"Financial Year" means the period prescribed as such in the financial regulations and laws of the State;

"Fire Authority" means any authority or body of firemen duly constituted, organized or established under any enactment or law by the Federal, State or local Government.

"Functions" includes objectives and duties;

"Federal Government" means the Government of the Federal Republic of Nigeria;

"Gazette" means the official gazette of the Kaduna State Government;

"Government" means the Government of Kaduna State;

"Governor" means the Governor of Kaduna State;

"Ground Water" means water from underground sources;

"Information" includes anything contained in any record, estimate or returns;

"Leakage" means the loss of water from the water service provider distribution system or from parts of service pipes for which customers are responsible;

"Manhole" means any chamber constructed on a closed drain so as to provide access thereto for inspection and cleaning;

"Meter" includes any appliance used for measuring ascertaining or regulating the volume of water taken, used, discharged from any waterworks by means of any service;

"Metered Supply" means the supply of water by means of a service where the water supply is measured by meter;

"Member" means a member of any of the boards created under this Law and shall include the chairman;

"State Ministry or Ministry" means the ministry established by the Kaduna State Government;

"National Water Laws and Policies" means all applicable federal water laws and regulations, the National Water Policy and guidelines prescribed by federal ministries;

"National Water Policy" means the policy of the federal government on water supply, sanitation and hygiene and water resources as may be formulated approved and adopted from time to time;

"Occupier" in relation to premises means the person in occupation of the whole or of any part of such premises, but does not include a lodger or squatter;

"Owner" includes the person for the time being receiving the rent of the tenement in respect of which the water is used whether on his own account or as agent or trustee of any other person or who would receive the rent if such tenement were to be left to a tenant and includes the holder of a tenement from the Governor whether underlease, license or otherwise;

"Permit" shall mean the certificate to be issued by the Commission stating the information that may be required as the Commission shall determine;

"Person" means an individual, corporate entity, limited liability company, partnership duly registered under the Companies and Allied Matters Act, or a natural person as defined under the Interpretation Act;

"Pollution" means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water;

"Premises" means land with buildings or a distinct or separate holding or tenancy or any wharf or pier, or any tract of land used for any purpose;

"Prescribed" means prescribed by regulation;

"Private Sector Participant" means a corporate entity, limited liability company, partnership or individual that provides any service or undertakes any activity in the water and sanitation services sector either by agreement or licence from Government who has not been prohibited from undertaking such activity by regulations prescribed by the Commission;

"Private Sector Participation Agreement" means an agreement between a public sector agency or body created in this Law and a private sector participant to undertake any activity for the delivery of water or sanitation services on behalf of such public agency or body in accordance with the provisions of this Law or any other relevant law.

"Records" include computer records and other records kept otherwise than in a document;

"Relevant Authority" means any governmental ministry or any other body, which is competent to address matters within its powers;

"Relevant State Ministry" means the relevant ministry of the State including the Ministry of Water Resources, Ministry of Health, or the Ministry of Environment, or other ministry as applicable;

"State" means Kaduna State;

"State Government" means the Government of Kaduna State;

"State Information System" means the system for the collection of information pertaining to water services to be created and maintained in accordance with this Law;

"State Water Agencies" means the Kaduna State Water Corporation, Kaduna State Small Towns Water and Sanitation Agency, the Rural Water Supply and Sanitation Agency, wastewater and sewerage management authority;

"State Water Laws and Policies" means this Law, all other relevant laws, all regulations including orders and guidelines issued by the Commission pursuant to this Law, and all Water Supply and Sanitation Policies in the State;

"State-Wide Water Services Development Plan" means the State-Wide Water Sector Development Plan including the aggregate investment plan and created by the Ministry and approved by the State Executive Council in accordance with this Law;

"Substance" includes microorganisms and any natural or artificial substance or other matter, whether it is in solid or liquid form of a gas or vapour;

"Tariffs" means the charges for water services and or water related services set in accordance with this Law;

"Treated Water" means water treated for domestic purposes;

"Water Services" means the abstraction, conveyance, treatment and distribution of potable water; water intended to be converted to potable water or water for commercial use, where such water is provided to consumers or other water service providers, wastewater collection, treatment and disposal, and sanitation services;

"Water Service Intermediary" means a private sector participant who is obliged to provide water services to consumers under terms of a contract where the obligation to provide such water services is incidental to the main object of that contract, including, without limitation under a contract relating to a housing estate or under an employment contract with a farm, mine or other industry;

"Water Services Provider" means the State water agencies acting in that capacity and any other Person who provides water services to consumers or other water service providers

with or without the responsibility to collect any Tariffs that may be due and includes a Water Services Intermediary;

“Water Service Regulatory Functions” means the prescribing of rules, orders and regulations for the provision of water services, granting of water service provider licences and other functions of the State Water Regulatory Commission in accordance with this Law;

“Water Quality Standards” means the health, environment, and sanitation standards relating to the quality of drinking water consistent with the National Drinking Water Quality Standards developed by the Federal Ministry of Health and the Standards Organisation of Nigeria as may be amended from time to time;

“Waterworks” means a reservoir, dam, well, pump house, borehole, pumping installation, purification work, sewage treatment plant, sewers, access road, dedicated electric power supply, pipeline, meter, fitting or apparatus built, installed or used by a water services provider to provide water services; and

“Water Services Provider Licences” means the licence issued pursuant to this Law granting a person rights to provide water Services within a jurisdiction i.e., the geographic areas specified therein and shall include a permit in accordance with regulations or guidelines issued by the Commission.

4. The general objectives of this Law are to provide for:

Objectives of this Law

- (a) the right of access to basic water supply and basic sanitation necessary to secure sufficient water and an environment not harmful to human health or well-being;
- (b) the setting of standards and norms for service provision and standards for tariffs in respect of water and sanitation services;
- (c) the preparation and adoption of water services development plans by the Ministry responsible for water resources in accordance with this Law;

- (d) a regulatory framework for water services institutions and other water service providers;
- (e) the establishment of State water supply service delivery Agencies, their powers and duties, and of State steering committees;
- (f) the formulation, monitoring and review of the Kaduna State Water Sanitation and Hygiene Policy for the water and sanitation sector;
- (g) coordination of intervention in water and Sanitation delivery by Federal, State and Local Governments as well as other non-Governmental Agencies and bodies;
- (h) the gathering and dissemination of information in a State information system;
- (i) the accountability of water and sanitation services providers;
- (j) the promotion of effective water resource management and conservation particularly for water within the constitutional authority of the State; and
- (k) collaboration of the Sector Institutions with other National and State Agencies in the development of water and sanitation services in accordance with the National Water Policy, the State Water Sector Master Plan and this Law.

5. (1) The principles and implementation responsibilities set out in this section shall be regarded by every ministry, department and agency of government as well as the water service providers, and other non-governmental agencies and organizations as being fundamental to every activity undertaken within the State water and sanitation services sector.

Principles for Water and Sanitation Services Delivery

(2) These principles are as follows:

- (a) water resources within the State are a common good belonging to all residents of the State;

- (b) within the context of an Integrated Water Resources Management approach to managing the water resources, the government recognises water as a social good, an economic good, as well as an environmental good;
- (c) everyone has a right of access to basic water and basic sanitation which right takes precedence over supply for any other uses;
- (d) ensuring the affordability of water supply and sanitation services for the low income and poor sections of the populace by the development of mechanisms to ensure access to basic water and sanitation services through cross subsidies as well as targeted and justifiable government subsidies;
- (e) the government recognises the role of the private sector in water resources and sanitation development, and shall create necessary enablement for the participation of the private sector in the delivery of water and sanitation services;
- (f) publicly owned water and sanitation infrastructure and assets shall be held in trust for the people by the State Government and shall be vested in public water utilities established pursuant to this Law;
- (g) publicly-owned water and sanitation infrastructure assets may be granted to private water service providers for the purpose of service provision in public private partnership arrangements, other than absolute divestitures as may be approved by the State Government;
- (h) the public water utilities shall be managed as commercial enterprises, free from political interference, autonomous in its managerial, financial, technical and personnel functions to ensure effective operation, maintenance and cost recovery;

- (i) water and sanitation management and development shall be based on participatory approach, involving users, planners and policy makers at all levels, and decisions shall be made at the lowest appropriate level in accordance with the provisions of this Law;
- (j) women and men shall be equitably represented in all water and sanitation decision making organs at the State, local, and community levels;
- (k) all water providers in the State shall produce potable water that meets the quality standards issued by the Kaduna State Water Regulatory Commission based on the Nigerian standards for drinking water quality as issued and amended by the Standards Organisation of Nigeria and the Federal Ministry of Health from time to time;
- (l) the State Government shall develop investment plans for the development of water and sanitation infrastructure for the sector and shall make provisions for necessary funds for such investments in accordance with the State water sector development plans, the State development plans and the State economic plans;
- (m) the State Government shall, through the Ministry responsible for water resources, implement the short, medium and long term goals for the sector as articulated in the State Water and Sanitation Policy and Sector Strategy including periodic policy development and review, institutional reform, capacity building, and creation of necessary enabling environment for sector development;
- (n) the State Government shall ensure that the organizational responsibility for policy formulation and sector coordination, water service provision, and sector regulation shall be clearly separated and vested in individual institutions;
- (o) the Commission shall be independent, autonomous, and free from political interference;

- (p) water supply service provision in the State shall be along the lines of supply in urban areas, small towns water and rural water supply for improved access and coverage to all residents of the State;
 - (q) water infrastructure and assets in the urban areas shall be vested in the Kaduna Water Corporation which may engage the private sector for the performance of any of its statutory functions with respect thereto, subject to the approval of the Governor in accordance with this Law;
 - (r) water infrastructure assets in all small towns shall be vested in the Rural Water Supply and Sanitation Agency which may engage the private sector for the performance of any of its statutory functions with respect thereto subject to the approval of the Governor in accordance with this Law;
 - (s) rural communities shall have ownership of water supply and sanitation assets at the rural level, while the Rural Water Supply and Sanitation Agency shall provide technical assistance and advisory services for design, construction, management, and maintenance in accordance with this Law;
 - (t) cost recovery and affordability shall be the focus of water service provision for all water service institutions and providers in the State; and
 - (u) the Ministry responsible for water resources and every water service institution and water service provider shall provide for measures to realise these rights in their water sector development plans as well as in their operations.
- (3) The rights mentioned in this section are subject to the limitations contained in this Law.

PART II
ESTABLISHMENT OF THE KADUNA STATE WATER CORPORATION

6. (1) There is hereby established the Kaduna State Water Corporation. Establishment of Kaduna State Water Corporation
- (2) The Corporation shall:
- (a) be a body corporate with perpetual succession and a Common Seal;
 - (b) have power to sue and be sued in its corporate name; and
 - (c) be capable of holding, purchasing and acquiring property movable and immovable.
 - (d) All existing and new state owned water infrastructures in the urban areas are hereby vested in the Corporation.
7. The objectives of the Corporation shall be to: Objectives of the Corporation
- (a) provide safe, adequate and affordable water supply services to the residents of all urban areas in accordance with this Law;
 - (b) collaborate with the Ministry responsible for water resources to secure efficient use, conservation and protection of water resources including the preparation of development plans for input into the State Water, Sanitation and Hygiene Sector Development Plans; and
 - (c) Implement cost recovery and commercial orientation in service provision and maintain customer focus for service sustainability and efficiency.
8. (1) There is hereby established for the Corporation, a Governing Board which shall consist of: Governing Board and Composition
- (a) a Chairman;
 - (b) the Managing Director

- (c) a representative of the following Ministries not below the rank of a Director -
 - (i) Ministry responsible for Water Resources;
 - (ii) Ministry responsible for Finance; and
 - (iii) Ministry responsible for the Environment;
 - (d) a representative of each of the following bodies who by proven ability and experience in the field related to the functions of the Board are capable of making valuable contributions to the work of the Board:
 - (i) Kaduna State Chapter of the Manufacturers Association of Nigeria;
 - (ii) Consumers Protection Council or other consumer advocacy groups operating in the State;
 - (e) four (4) other persons two (2) of whom shall be women who by reason of their ability, experience or specialized knowledge of water supply or of business management are capable of making useful contributions to the work of the Board;
 - (f) one representative from each of the three Senatorial Districts of the State.
- (2) The Chairman and other members shall be appointed by the Governor and other than the Managing Director shall serve as part-time members.
- (3) A member shall not be made personally liable for any act or omission to do any act, or any default of the Board so long as such act, omission, or default is in the course of the operations of the Board.
- (4) The appointment of the Board shall be made in such a manner as to recognize the diversity of the people of the state.

9. There shall be paid to the members of the Board such remuneration and allowances as the Governor may from time to time determine.

10. Subject to any other terms and conditions as may be stipulated in their letters of appointment, the Chairman and members of the Board shall hold office for a term of four years and may be reappointed for another term only.

Tenure

11. The functions of the Board are as follows:

Functions of the Board

- (a) provide the general policy guidelines relating to the functions and general administration of the Corporation including appointment, promotion and discipline of staff;
- (b) review and approve policies, strategies and procedures to be adopted by the Corporation for the achievement of its objectives;
- (c) appoint, as and when necessary, technical committees comprised of persons with the requisite technical competence from private or public sector to advise the Corporation on such matters as may be determined from time to time;
- (d) make rules and regulations for carrying out the functions of the Corporation;
- (e) to appoint such number of staff and other employees as it may from time to time require either directly from the private sector or by way of deployment from the State Public Service;
- (f) the Board shall determine the salaries and emoluments of the staff and other employees which shall not be lower than that applicable to staff and other employees of the same cadre in the State Civil Service;
- (g) reviewing and approving the Corporation's business plans, budget and performance;
- (h) approving pre-qualified Private Sector Participation Contractors, including revenue mobilization Agents, in accordance with this Law and any other applicable Law;

- (i) monitoring the implementation of the State Water Sanitation and Hygiene Policy as it affects water supply and sanitation in its areas of operation;
 - (j) ensuring compliance with regulations and standards set by the Commission;
 - (k) approving and monitoring the implementation of the Corporation's water services development plan;
 - (l) proposing urban water tariffs for the approval of the Commission;
 - (m) taking all steps to ensure that in the discharge of their duties, the Board does not engage in activities which prejudice, unduly influence, coerce or subvert the normal legal, commercial and financial activities of the Corporation; and
 - (n) undertaking any other business which may be considered necessary by the Board in pursuance of the Corporation's functions as provided in this Law.
12. (1) The Board shall meet for the conduct of its business as often as is necessary and expedient, and subject to this section, may adjourn, close and otherwise regulate its meetings and procedure as it deems fit. Proceedings of the Board
- (2) The Chairman or, in his absence, any member chosen by the members present from among themselves shall preside at the meeting of the Board.
- (3) All decisions of the Board shall be on the basis of simple majority of the members present and voting.
- (4) No act or proceeding of the Board shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Board, except where actions are not supported by a quorum.
- (5) The quorum for the meeting of the Board shall be five (5) and each member present shall have one vote on each question before the Board and, in the event of an

equality of votes, the Chairman shall have a casting vote in addition to a deliberative vote.

13. (1) Where a member of the Board, the Managing Director, a member of Staff of the Agency or any person engaged by the Agency has pecuniary interest or other beneficial interest in, or material to, any matter which is to be considered by the Board, the person shall:

Disclosure

- (a) disclose to the Board the nature of interest in advance before the consideration of the matter;
- (b) neither influence nor seek to influence a decision relating to the matter;
- (c) not take part in the consideration of the matter; and
- (d) withdraw from the meeting as long as the matter is being discussed or considered and neither vote nor otherwise act in consideration of the matter.

(2) Any member who contravenes subsections (1) of this Section commits an offence and is liable to fine of ₦100,000.00 or two years imprisonment or both.

(3) Any interest that accrued to the member for non-disclosure shall abet.

14. (1) Notwithstanding the provisions of Section 10 of this Law, a member shall vacate his office if:

Vacation of Office

- (a) he gives one month notice in writing to the Governor of his intention to resign;
- (b) he is convicted of any crime involving dishonesty or fraud by a court of competent jurisdiction;
- (c) he attains the age of 70 years;
- (d) he attends fewer than 75% of the Board's meetings in a year;
- (e) he is barred from practicing his profession by any professional body to which he belongs;

- (f) he becomes bankrupt;
- (g) he becomes of unsound mind or incapable of carrying out his duties; or
- (h) he is guilty of serious misconduct with relation to his duties as a member of the Board.

15. The functions of the Corporation shall be to:

Functions of the Corporation

- (a) control and manage all water schemes vested in the Corporation;
- (b) develop new water works as the Board may consider necessary for the purpose of providing wholesome, potable water for domestic consumption of the public, and water for commercial, industrial, scientific and other uses;
- (c) ensure that adequate wholesome water is supplied to its consumers in line with National Drinking Water Quality Standards for water quality;
- (d) propose water rates and charges for the approval of the Commission;
- (e) conduct or organize research and training with respect to water;
- (f) develop, maintain and beneficially exploit water resources, both natural and artificial;
- (g) provide data on water supply, sanitation, and hygiene related matters for formulation of policy;
- (h) enter into and monitor compliance with terms of agreements with the Private Sector for the performance of any of the functions that the Corporation may by Law perform subject to the approval of the Governor;
- (i) prepare Water and Sanitation Services Development Plans for the development and maintenance of water supply services infrastructure in its areas of operation, in consultation with the relevant authorities, stakeholders, and consumer groups;
- (j) identify and implement projects for the provision of water services which may be undertaken with private sector participation, after consultation with the relevant authorities and subject to the approval of the Governor;

- (k) establish and implement proper accounting procedures for all assets and liabilities of the Corporation;
- (l) specify the terms and conditions of supply of water to the consumers for the approval of the Commission and in accordance with this Law;
- (m) recommend Regulations to the Commission for the protection and preservation of the assets of the Corporation and water resources of the State;
- (n) promote the rational use of water resources and potable water;
- (o) conduct training and retraining of staff for skills development;
- (p) collect rates and charges for water supply;
- (q) ensure that all waterworks are equipped with functional laboratories and adequate human capacity to monitor the quality of both raw water and treated water supplied to consumers; and
- (r) Carry out any other activities that are expedient or necessary for the effective and efficient performance of its functions under this Law.

16. The Corporation shall, subject to the provisions of this Law, have power for the purpose of carrying out its functions to:

Powers of the Corporation

- (a) own all water services assets and construct new water services assets within its areas of operation;
- (b) collect all rates and charges payable by customers for water supplied by the Corporation, underground water abstraction through boreholes for commercial and industrial purposes, raw water and determine all other fees, subject to the approval of the Commission;
- (c) acquire, purchase, lease, hold, construct, manufacture, maintain or insure any property forming part of the water services infrastructure of the Corporation, whether movable or immovable, required for or in connection with the performance of its functions;
- (d) procure water abstraction rights from the relevant authorities and may assign such rights to private participants and communities;

- (e) lay any water pipe through, across, or under any street or any place laid out or intended as a street.

PROVIDED that, there shall be given notice in writing to the owner or occupier and make good any damage done.

- (f) examine from time to time any surface or underground water forming part of the water resources of the State for the purpose of determining water pollution, if any, exists and its causes and to do likewise in respect of other water bodies by arrangement with the appropriate authority under and in accordance with the provisions of any existing Law in that behalf;
- (g) subject to the issuance of notice to the occupier thereof, at any time between the hours of six o'clock in the morning and six o'clock in the evening, or in case of urgency at any other time, to enter into premises or place upon which any service has been laid or into which any water supply services is supplied so as to:
 - (i) inspect and repair any service and to ascertain whether there is any wastage, leakage, obstruction, illegal connection or damage to any service or meter therein and anything in connection therewith;
 - (ii) ascertain the amount of water taken or used; or
 - (iii) disconnect the supply of water to any premises;
- (h) diminish, withhold, or suspend, stop, turn off or divert the supply of water through or by means of any service or public fountain either wholly or in part whenever the Corporation deems necessary subject to Regulations of the Commission on same;
- (i) accept or acquire and hold any security of any kind in any form whatsoever;
- (j) surrender, transfer or re-convey any security held by the Corporation whether upon exchange for other security or upon discharge;
- (k) make, draw, accept, or endorse negotiable instruments;

- (l) invest money standing to its credit in accordance with the Regulations of the Commission;
- (m) raise financing or borrow money in accordance with State Laws with respect to such matters;
- (n) grant exemptions from any water rate or charge of any premises or class of premises to any person or class of persons; and
- (o) enter into Public-Private Partnership arrangements with the private sector or any other person or body for the purpose of carrying out any of the functions of the Agency under this Law.

ADMINISTRATION AND STAFF OF THE CORPORATION

17. (1) There shall be a Managing Director for the Corporation to be appointed by the Governor. Managing Director
- (2) The Managing Director shall:
- (a) be the Chief Executive and Accounting Officer of the Corporation;
 - (b) be responsible for the implementation of the decisions and policies of the Board of the Corporation as well as the general administration of the Corporation;
 - (c) perform such other duties as the Board of the Corporation and the Governor may from time to time direct.
 - (d) be a person with a professional qualification in either accounting, business administration, law, engineering, the physical sciences related to water, registered with their professional bodies where such bodies exist and shall have held cognate management position for a minimum of ten years in a public or private organization; and

- (e) be appointed pursuant to a Performance Based Contract for a term of four (4) years which may be renewable.
- (3) A report shall be submitted by the Managing Director to the Board on a quarterly basis as an assessment of the performance of the Managing Director which shall also include a proposed action plan which report shall be further submitted by the Board to the Governor.
18. There shall be for the Corporation such Departments as may be necessary for the operation of the Corporation to oversee the functions of the Administration, Finance, Engineering, Water Production and Quality Control and such other as the Board may determine subject to the approval of the Governor. Management of Corporation
19. (1) The Governor shall appoint a Secretary and Legal Adviser to the Corporation who shall assist the Corporation in carrying out its functions under this Law. Secretary and Legal Adviser
- (2) The Secretary shall be a legal practitioner with a minimum of 10 years post-call experience and shall supervise legal and secretarial functions of the Corporation.
20. The Secretary shall perform the following functions: Functions of Secretary
- (a) organize and take minutes of the meetings of the Board;
- (b) keep the seal and records of the Corporation and conduct correspondence of the Board;
- (c) communicate policy decisions at Board meetings to affected Departments;
- (d) render necessary advice on compliance with Laws, rules and regulations affecting the Corporation;
- (e) keep custody of copies of Asset Register, Financial and Annual Reports of the Corporation; and
- (f) perform all other duties as the Board or the Managing Director may from time to time direct.

21. Service in the Corporation shall be approved Service under the provisions of the Pension Law applicable in the State. Staff of the Corporation

FINANCIAL PROVISIONS

22. (1) The funds and resources of the Corporation shall consist of: Funds of the Corporation
- (a) all sums, investments or other property vested in the Corporation by virtue of the provisions of this Law;
 - (b) such sums or other property as may from time to time be advanced by way of loans or grants to the Corporation by any Federal, State, or Local Government, any International Organisation, and private foundation or any person whatsoever;
 - (c) any investments or other property whatsoever acquired by the Corporation;
 - (d) all other sums such as water rates, raw water charges, water services charges, or other property whatsoever which may become payable to or vested in the Corporation under this Law or any other Law and;
 - (e) any money allocated to the Corporation under the State Government budgetary allocation or such other money as may from time to time accrue to the Corporation.
- (2) The Corporation shall ensure that its funds and resources are adequate to meet the operating expenses, depreciation charges, debt servicing requirements and such percentage of its annual capital expenditure requirements as may be determined by the Governor and any shortfall may be provided as a loan by the State Government to the Corporation upon terms as the Governor may determine to ensure that the Corporation continues to provide water supply services to the consumers.

23. The Corporation shall operate Bank Accounts with reputable Banks approved by the Board for its funds and the signatories to the accounts shall be the Managing Director and the Head of Accounts, or in their absence any other persons authorised by the Board. Bank Account
24. (1) The following charges shall be defrayed out of the funds of the Corporation for any financial year: Application of Funds
- (a) the remuneration and allowances of the members of the Board of the Corporation;
 - (b) the salaries, remuneration, fees, allowances and pensions of the staff, employees, agents, technical and other advisers or Consultants of the Corporation;
 - (c) all expenses of the operation and management of the Corporation and its waterworks and other properties including provision for depreciation, wear and tear or renewal of assets;
 - (d) such minor works of a capital nature as the Corporation may deem necessary from time to time;
 - (e) such sums including compensation that may be payable by the Corporation to any person or authority by virtue of the provisions of this Law or any other law;
 - (f) taxes, rates and other levies payable by the Corporation under any Law;
 - (g) interest or loans raised by and on behalf of the Corporation;
 - (h) sums required to be transferred to any sinking fund or otherwise set aside for the purpose of making provision for the capital investments, redemption of investments in the Corporation or other securities or the repayment of other loans; and
 - (i) such other sums as the Board may approve for payment out of the funds of the Corporation in respect of any Financial year.

25. (1) The Corporation shall with the approval of the Governor establish and maintain a Special Reserve Fund in a separate account into which shall be paid the following: Special Reserve Fund
- (a) not more than 5% of the revenue of the Corporation for any financial year;
 - (b) such money as the Governor may from time to time direct from any sources.
- (2) The Special Reserve Fund shall be used for emergency and urgent needs of the Corporation relating to the rendering of urgent and essential services as the Board may from time to time authorize subject to the approval of the Governor:
- PROVIDED** that, where the reserve fund is used to meet State or National water related emergencies, the Government shall make arrangements to replace such amount upon application by the Corporation.
26. (1) The State Government may make to the Corporation the following: Loans and Grants by State Government
- (a) grants of any sums of money or property deemed necessary; and
 - (b) loans upon such terms as to repayment of interest or otherwise as the Government may determine.
- (2) The Government may waive in favour of the Corporation any right or liability to the Government arising from any transaction made pursuant to subsection (1) of this section.
27. (1) The Board shall: Annual Budgets, Accounts and Audit
- (a) cause to be kept proper Accounts in respect of its functions under this Law and other records in relation thereto; and
 - (b) prepare, in respect of each financial year, a statement of accounts in such form as may be required by the financial regulations of the State and best accounting standards.

- (2) The said annual Statement of Accounts shall be a fair and accurate statement of the financial position, and of the results of the operations of the Corporation for the financial year to which it relates.
 - (3) The said annual Accounts shall be audited by an Auditor or Auditors to be appointed annually by the state Auditor General and the remuneration to be paid by the Board of the Corporation to such external Auditors shall be approved by the Governor on the recommendation of the State Auditor-General.
 - (4) As soon as the annual Statement of Account has been audited as aforesaid, the Board of the Corporation shall forward a copy of the said statement of accounts together with a copy of the Report made thereon to:
 - (i) the Commissioner responsible for water resources;
 - (ii) the Commissioner responsible for Finance;
 - (iii) the State Auditor General; and
 - (iv) the chairman of the Board of the Corporation.
28. The Corporation shall prepare and submit to the Governor not later than six months after the end of each year, a report on the activities of the Corporation during the immediate preceding year, and shall include in such report a copy of the audited accounts of the Corporation for that year. Annual Reports
29. The Corporation may accept gifts, grant or donation of land, money or other property from any person upon such terms and conditions acceptable to the Corporation. Power to Accept Gifts
30. The Corporation may from time to time, with the approval of the Governor borrow from Government or multilateral financial institution money for and in connection with the exercise of its functions under this Law. Power to Borrow
31. The Corporation may, subject to the provisions of this Law and in liaison with other Government Agencies invest some of its funds in any security as may from time to time be approved by the Governor.

32. The Corporation may with the approval of the Governor raise capital for the implementation of its developmental plans and programmes through the capital market or by issuing Bonds or other instruments, subject to satisfying the requirements of the Stock Exchange. Power to Raise Capital on Stock Exchange
33. (1) Subject to the provisions of the relevant Law, the Government may guarantee by an undertaking, the payment of the principal and interest of any sum or sums borrowed or Bonds issued by the Corporation. Guarantee on Loans, Instruments, etc by State Government
- (2) Any sum required for the purpose of making good the obligations of the Government under the guarantee shall be charged on the Consolidated Revenue Fund of the State Government.
34. In any action for the recovery of any rate or other moneys (other than fines and penalties) payable or recoverable under this Law, a certificate under the hand of the Corporation that any sum of money is due, and that the defendant is the person liable to pay the same shall, be evidence of such debt and of non-payment thereof. Proof of Moneys Due

WATER SUPPLY, DISTRIBUTION AND CONSUMPTION

35. (1) The Corporation shall ensure efficient, affordable, economical and sustainable access to water services to all consumers within its area of operation subject to the: Corporation's Responsibility to Consumers for Continuous Supply of Water
- (a) availability of resources;
- (b) need for an equitable allocation of resources to all consumers within the Corporation's area of operation;
- (c) need to monitor and ensure access to water services in an equitable manner;
- (d) duty of consumers to pay charges, which must be in accordance with the prescribed norms and standards for tariffs for water services issued by the Commission;

- (e) duty to conserve water resources;
 - (f) nature, topography, zoning and situation of the area in question;
 - (g) right of the Corporation to limit or discontinue the provision of water services if there is a failure to comply with reasonable conditions set for the provision of such services;
 - (h) need to carry out inspections, tests, or repairs and for the making of new connections; and
 - (i) need to effect alterations and modifications to its pipelines and other facilities or general maintenance of the water works subject to Notice as may be determined by Regulations of the Commission.
- (2) The Corporation shall not be under any obligation to pay compensation for loss, damages or inconveniences caused to any consumer through any suspension, failure, discontinuance or a total or partial interruption of the supply of water howsoever caused in furtherance of subsection (1) of this section except in the case of negligence on the part of any employee or agent of the Corporation.
- (3) The Corporation shall take steps to notify the public ahead of time of any interruption in the provision of water services.
36. (1) The Corporation shall from time to time fix rates and scales of charges payable for water supply and other services within its areas of operation in accordance with a methodology for tariff setting approved by the Commission.
- (2) The water rates and charges may be fixed at different rates for different locations and different users as may be approved by the Commission.
- (3) In fixing the rates and charges for water supply and other services, the Corporation shall take into cognisance the

Rates and Scales of Charges

views of the affected consumers who may be affected by such rates and charges.

37. (1) The Corporation may supply water to a premises upon application of the owner or occupier pursuant to any Rules and Regulations issued by the Commission.
- (2) The Corporation may refuse to supply water to any particular premises except by a meter installed and maintained by the Corporation:

Application for Water Supply, Illegal Connections and Bypass

PROVIDED that, the Corporation shall not disconnect any user or fail to connect a potential consumer for the failure of the Corporation to provide such meter.

- (3) Owner or occupier shall have no right to connect, reconnect and or bypass water meter.
38. Subject to the provisions of this Law, the Corporation may purchase water in bulk and may resell such water either in bulk or by distribution to individual consumers, corporate bodies, commercial ventures or other Private water supply providers including table water.

Purchase, Resale and Distribution of Water by Corporation

39. As from the commencement of this Law, no person shall resell water supplied by the Corporation except pursuant to a License or other Agreement with the Corporation for that purpose:

Prohibition of Sale of Water Supplied by Corporation

PROVIDED that, no authority shall be required for the sale of any manufactured goods or other commodities in which water supplied by the Corporation is included such water having been from the Corporation in the first place.

40. (1) The owner or occupier of any premises to which water is supplied by the Corporation shall pay to the Corporation such rates and charges for water supply or other service as may from time to time be determined by the Corporation and approved by the Commission.
- (2) Where any person fails to pay water rates or charges within one month or any other period after service of a notice of default, the Corporation may recover such rates or charges in accordance with regulations issued by the

Payment for Water Rates and Charges

Commission for that purpose or by an action brought before a court of competent jurisdiction.

41. The Corporation shall not be liable for the malfunctioning or safety of any installation or appurtenances in a customer's premises, only by reason of the connection to supply water to the premises unless such damage is due to the negligence of the agent, servant or employee of the Corporation.

Corporation Not Liable for Damaged Installation Works

42. (1) The Corporation shall keep, modify and update annually printed and electronic records of the location of:

Maps of Waterworks

(a) all resource mains, water mains or discharge pipes vested in the Corporation; and

(b) any other underground pipes, other than a service pipe, which are vested in the Corporation.

(2) Any modification of the records by the Corporation pursuant to subsection (1) of this section, shall be made as soon as practicable and the date of such modification and completion of the work resulting in the modification shall be incorporated into the records.

(3) The Corporation shall ensure that the contents of any records kept by it under this section are available, at all reasonable times, for inspection by the public free of charge at any office of the Corporation upon application in writing to the Corporation:

PROVIDED that, where copies of such information are required, the Corporation may charge a reasonable fee for the provision of such copies thereof.

(4) Any information which is required under this section for inspection by the public shall be made available in the form of a map.

CUSTOMER CARE CENTRE

43. There is hereby established for the Corporation, a Customer Care Centre which shall be within the Corporation's Headquarters and its area offices.

Establishment of Care Centre

44. The functions of the Centre shall be to:

Functions of the Care
Centre

- (1) receive and ensure the resolution of complaints from customers and the general public regarding:
 - (a) quality of water;
 - (b) water leakages;
 - (c) damage to properties of the Corporation;
 - (d) water connection charges;
 - (e) Standards of service; and
 - (f) other related matters.
- (2) settle disputes and protect the interests of all customers and the public;
- (3) monitor all matters appearing to the Centre to affect the interests of customers or the public;
- (4) consult with operators on customer-operator relationship;
- (5) make representations in appropriate cases on behalf of a customer or complainant to any Private Sector Operator;
- (6) receive and resolve complaints from Environmental Agencies and Government bodies on water pollution matters;
- (7) forward complaints to the relevant authorities where applicable;

45. (1) No suit shall be instituted in any court against the Corporation, a member of the Corporation, the Managing Director, any staff, or other employee of the Corporation for any act done in pursuance or execution of this Law, or public duties or in respect of any alleged neglect or default in the execution of this Law, duties or authority, unless:
- (a) it is commenced within six months immediately following the act, neglect or default complained; or

Limitation of Action
Against Corporation,
Pre-Action Notice Etc.

(b) in the case of continuation of damage or injury, within six months next after the ceasing thereof.

(2) No suit shall be commenced against the Corporation, the Managing Director or any staff, other employee of the Corporation before the expiration of a period of one month after written notice of intention to commence the suit shall have been served on the Corporation by the intending plaintiff or his agent; and the notice shall clearly and explicitly State the:

(a) cause of action;

(b) particulars of claim;

(c) name and place of the abode of the intending plaintiff; and

(d) relief which he claims.

46. The notice referred to in subsection (2) of Section 45 of this Law, and any summons, notice or other document required or authorized to be served upon the Corporation under the provisions of this Law may be served by delivering the same to the office of the Managing Director or by sending it by registered post and addressed to the Managing Director at the Principal office of the Corporation.

Service of Documents

47. (1) Where any person contravenes any of the provisions of this Law, the Corporation may, without prejudice to the rights of the Corporation to commence proceedings against any defaulter:

Certain Provisions
Relating to Defaulters,
etc

(a) serve a seven (7) days notice in writing on the defaulting occupier or consumer and where after seven (7) days continues, the Corporation shall authorize or cause an officer or employee of the Corporation to disconnect or remove any water fittings from such defaulting occupier or consumer.

(2) Where the defaulting occupier fails to rectify the default complained of, the Corporation may cause repairs, replacement or reconnection of the water fittings and the

Corporation shall recover the cost incurred to effect the repairs.

- (3) On event of illegal connection, reconnection and or bypass of a water meter, the defaulter shall pay a fine of not less than ₦200,000.00 in the case of an organisation and ₦20,000.00 in the case of an individual.

48. (1) Wherever it appears to the Corporation that any land in the urban areas of the State is required for the purpose of any waterworks, the Corporation shall, subject to the Land Use Act, apply to the Governor for approval for its officers or agents to enter upon the land and:

Provision Relating to Acquisition of Land

- (a) survey and take levels of the land
- (b) dig or bore hole under the subsoil; and
- (c) do such other things as are necessary to ascertain whether the land is adapted for such purposes including the conduct of Environmental Impact Assessments (EIA).

PROVIDED that, no such officer, agent, servant or employee of the Corporation shall enter any building or any enclosed court or garden attached to a dwelling house (except with the consent of the occupier) after serving seven (7) days notice of intention to enter.

- (2) Where any entry made under subsection (1) of this section occasions any damages requiring the payment of compensation, the Corporation shall pay compensation based on the assessed value of the damage.

49. (1) Any fire authority may abstract water free of charge from any public fountain, service or waterworks of the Corporation for the purpose of prevention or control of fire.

Abstraction by Fire Authorities

PROVIDED that, water shall not be abstracted by any fire authority for the purpose of testing any fire-fighting appliance except with the consent of the Corporation and such consent should not be unreasonably withheld.

- (2) Any main, pipe, valve, hydrant, service or other waterworks required within the area of operation of the Corporation by any fire authority in the discharge of its functions to prevent and control fire shall be provided by the Corporation.

MISCELLANEOUS PROVISIONS

50. The Governor may give to the Corporation or the Managing Director such directives of a general or specific nature relating to matters of policy with regard to the performance by the Corporation of its functions under this Law and it shall be the duty of the Corporation to comply with the directives or cause them to be complied with. Directives by the Governor
51. Any authority which immediately before the commencement of this Law was charged with any function similar to that of this Corporation by virtue of any Law or instrument shall at the commencement of this Law cease to exercise that particular function. Existing Laws and Instruments

PART III

KADUNA STATE RURAL WATER SUPPLY AND SANITATION AGENCY

ESTABLISHMENT, OBJECTIVES, COMPOSITION, FUNCTIONS, ETC OF THE KADUNA STATE RURAL WATER SUPPLY AND SANITATION AGENCY

52. (1) There is hereby established the Kaduna State Rural Water Supply and Sanitation Agency (RUWASSA). Establishment of Kaduna State Rural Water Supply and Sanitation Agency
- (2) The Agency shall:
- (a) be a body corporate with perpetual succession and a Common Seal;
 - (b) have power to sue and be sued in its corporate name; and
 - (c) be capable of holding, purchasing and acquiring property, movable and immovable.

- (3) All existing and new State owned water infrastructures in all small towns are hereby vested in the Agency.
- (4) All the rights, assets and liabilities which before the commencement of this Law were vested in the UNICEF-Assisted Water and Sanitation Project Kaduna State are hereby transferred and vested in the Agency.
53. (1) There is hereby established for the Kaduna State Rural Water Supply and Sanitation Agency, a Governing Board.
- (2) The Board shall comprise of the following members:
- (a) a Chairman, who shall be the Commissioner responsible for Water Resources;
 - (b) Director General of the Agency;
 - (c) Representatives of the following Ministries, Departments and Agencies not below the rank of a Director; with responsibilities for:
 - (i) Water Resources;
 - (ii) Women Affairs and Social Development;
 - (iii) Local Government matters;
 - (iv) Health and Human Services;
 - (v) Environment and Natural Resources;
 - (vi) Rural and Community Development;
 - (vii) Education, Science and Technology;
 - (viii) the Director responsible for administration in the Agency to serve as Secretary;
 - (d) three (3) persons representing the interest of rural communities in the State, one from each Senatorial District; and

Governing Board and
Composition

- (e) three (3) persons one of whom shall be a woman who by reason of their ability, experience or specialized knowledge of water supply or of business management are capable of making useful contributions to the function of the Board.
- (3) The Chairman and other members of the Board other than ex-officio members shall be appointed by the Governor and other than the Director-General shall serve as part-time members of the Board.
54. There shall be paid to the members of the Board such remuneration, allowances as the Governor may from time to time determine. Remuneration
55. The Chairman and members of the Board shall hold office for a term of four years and may be reappointed for another term of four years. Tenure
56. (1) Notwithstanding the provisions of Section 53 of this Law, a member shall vacate his office: Vacation of Office
- (a) he gives one month notice in writing to the Governor of his intention to resign;
 - (b) he is convicted of any crime involving dishonesty or fraud by a court of competent jurisdiction;
 - (c) he attains the age of 70 years;
 - (d) he attended fewer than 75% of the Board's meetings in a year;
 - (e) he is barred from practicing his profession by any professional body to which he belongs;
 - (f) he becomes bankrupt;
 - (g) he becomes of unsound mind or incapable of carrying out his duties;
 - (h) he is guilty of serious misconduct with relation to his duties as a member of the Board;
 - (i) he is removed by the Governor in the public interest; or

(j) in the case of a person who becomes a member by virtue of the office he holds; ceases to hold that office.

(2) Where a member of the Board ceases to hold office for any reason whatsoever, before expiration of the term for which he is appointed, another person representing the same interest as that member shall be appointed to the Board for the rest of the term.

57. (1) The Board shall meet for the conduct of its business as often as is necessary and expedient, and subject to this section, may adjourn, close and otherwise regulate its meetings and procedure as it deems fit.

Proceedings of the
Board

(2) The Chairman shall preside in all meetings of the Board and in his absence, the members present at the meeting shall nominate one of the members of the Board present to preside.

(3) All decisions of the Board shall be on the basis of simple majority of the members present and voting.

(4) No act or proceeding of the Board shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Board, except where actions are not supported by a quorum.

(5) The quorum for the meeting of the Board shall be five (5) and each member present shall have one vote on each question before the Board and, in the event of an equality of votes, the Chairman shall have a casting vote in addition to a deliberative vote.

(6) For a meeting of the Board to review any previous decision or order taken by the Board, the quorum shall not be less than five (5) members of the Board present when the decision was taken or the Order was made.

(7) The board may make standing order relating to the proceedings of the Board or any of its committees.

(8) The Board shall meet at least once in a quarter of a year or as may be expedient for transactions of business and

such meetings shall be held at such places and times as the Board may determine.

- (9) The Chairman may at anytime call special meetings of the Board and also shall do so on being requested in writing by at least four members of the Board.

58. (1) Where a member of the Board, the Director-General, a member of Staff of the Agency or any person engaged by the Agency has pecuniary interest or other beneficial interest in, or material to, any matter which is to be considered by the Board, the person shall:

Disclosure

- (a) disclose to the Board the nature of interest in advance before the consideration of the matter;
- (b) neither influence nor seek to influence a decision relating to the matter;
- (c) not take part in the consideration of the matter; and
- (d) withdraw from the meeting as long as the matter is being discussed or considered and neither vote nor otherwise act in consideration of the matter.

(2) Any interest that accrued to the member for non-disclosure shall abet.

(3) Any member who contravenes subsections (1) and (2) of this section commits an offence and is liable to fine of ₦100,000.00 or two years imprisonment or both.

(4) If a member referred to in this section takes part in the consideration of a matter in which his private interests are in conflict with his function as a member, the other members may subsequently ratify any such decision or action.

59. The functions of the Agency shall be to:

Functions of the Agency

- (1) design, construct, manage, operate and maintain water supply infrastructure in rural areas and small towns as independent business units and upon completion of

- construction, transfer same to be operated and maintained by duly established Water Consumers' Associations in the area of operation of the scheme either directly or through Private Sector Participation Contracts;
- (2) advise the Water Sanitation and Hygiene Departments of Local Government Areas, the State Government and the Water Consumers' Associations on technical matters in the small towns water supply and sanitation sub-sector;
 - (3) assist Water Consumers' Associations in organizing and managing water supply systems;
 - (4) provide assistance on technical issues like engineering studies, construction, supervision, planning, budgeting, operation and maintenance issues and contracting, to Water Consumers' Associations;
 - (5) advice and transfer knowledge and skills on operation and maintenance of systems to the Water Consumers' Associations;
 - (6) serve as a centre of knowledge for the water supply sector in small towns and rural areas;
 - (7) provide technical and other advisory services to the Water Consumers' Associations in the engagement of private sector operators for the small town water schemes;
 - (8) collate and prepare water supply asset inventory for small towns for the Ministry for input in the State Information System;
 - (9) prepare water supply development plans for all small towns with input from the Water Consumers' Associations and the LGA Water Sanitation and Hygiene Departments and forward same to the Ministry responsible for water resources for input into the State-wide development plans;
 - (10) design, monitor and evaluate implementation of projects for the effective and efficient delivery of water and sanitation services to the consumers in small towns;

- (11) enforce standards and regulations developed by the Commission as may be specifically delegated to the Agency;
- (12) provide and organize training for the Water Sanitation and Hygiene Departments in all local government areas on matters relating to water supply, sanitation and hygiene;
- (13) undertake sanitation and hygiene promotion campaign for the purpose of integration with water supply and sanitation provision in the communities and schools;
- (14) to plan, budget, implement, monitor and evaluate rural water and sanitation activities as per the approved Water and Sanitation Policy;
- (15) to implement strategies for the eradication of guinea-worm and other water-borne diseases;
- (16) the overall coordination of rural water supply and sanitation activities in the State and set standards;
- (17) to provide integrated safe Rural water supply, sanitation and health education programmes;
- (18) the promotion of improved personal and environmental hygiene through community mobilization and public enlightenment;
- (19) to encourage and promote proper fecal waste disposal;
- (20) to undertake initial bacteriological and chemical certificate test of new boreholes in the State to access portability;
- (21) to carry out routine bacteriological and chemical analysis boreholes and water quality surveillance at source level and point of consumption in the State to ensure continuous fitness of the water for drinking;
- (22) to carry out the treatment of bacteriological contaminated boreholes;

- (23) to carry out borehole drilling and connected activities;
- (24) to carry out the assessment of the quality of borehole installation materials with a view to monitoring their impact on water quality;
- (25) to undertake pollution path studies in rural areas to determine the critical contamination points of water collected for domestic use;
- (26) support the Water, Sanitation and Hygiene Department at the Local Government level and encourage demand driven approach in the planning and implementation of the programmes;
- (27) identify and partner with United Nations, multilateral and bilateral funding organizations interested in funding water and sanitation activities;
- (28) lobby and advocate for funding support to the water and sanitation sector in the State;
- (29) to plan, monitor, mobilize resources and coordinate with other agencies within the State and give adequate support for rural water supply and sanitation;
- (30) to prepare the State rural water supply and sanitation rolling plans;
- (31) to implement all rural water supply and sanitation projects and programmes of both the State and Federal Governments;
- (32) to make efforts of ensuring continuous service of rural water supply and sanitation scheme in the respective benefiting communities through the maintenance and repairs of boreholes;
- (33) to make efforts in ensuring that adequate potable water is supplied to rural dwellers regularly;
- (34) to survey, drill, install pumps and control boreholes (both hand pump equipped and motorized) and dig hand pump equipped wells, as the Agency may consider necessary

for the purpose of providing clean potable water for the use of rural dwellers;

- (35) to ensure the maintenance of a databank for all rural water supply and sanitation programmes;
 - (36) to control and manage rural water supply and sanitation undertakings and installation vested or to be vested in the Agency under the provisions of this Law;
 - (37) to encourage community participation;
 - (38) to mobilize and train communities in technical and financial Management of Rural Water Supply and sanitation facilities to ensure Sustainability by introducing the Village Level Operation and Management (VLOM) Concept for hand pump and similar Concept for Sanitation facilities;
 - (39) to mobilize and train Communities towards Community-Led Total Sanitation (CLTS) concept in order to attain Open Defecation Free (ODF) environment;
 - (40) to promote, device, innovate low cost appropriate technology options for communities and assist in choosing the most appropriate option for the Rural Water supply and sanitation facilities; and
 - (41) to coordinate inter-sectoral rural water supply and sanitation linkages and set standards for all the operators in the State.
60. (1) The functions of the Board shall be:
- (a) to advice generally on the water supply and sanitation development;
 - (b) co-ordinate, regulate and monitor the implementation of activity of the Agency;
 - (c) to do such things as are necessary and expedient or as may be assigned to the Agency by the Governor.

Functions and Powers
of the Board

- (2) The Board shall have power to:
- (a) formulate, initiate and provide the general policies and guidelines in regulation to the programmes of the Agency;
 - (b) manage and superintend the affairs of the Agency -
 - (c) subject to the provisions of this Law, make alter and revoke rules and regulations for carrying on the functions of the Agency;
 - (d) provide the general policy guidelines relating to the functions and general administration of the Agency including appointment, promotion and discipline of staff;
 - (e) review and approve policies, strategies and procedures to be adopted by the Agency for the achievement of its objectives;
 - (f) appoint, as and when necessary, technical committees comprised of persons with the requisite technical competence from private or public sector to advise the Agency on such matters as may be determined from time to time;
 - (g) make rules and regulations for carrying out the functions of the Agency;
 - (h) be responsible for making regulations for the appointment, promotion, discipline and transfer of staff of the Agency;
 - (i) fix terms and conditions of service including remunerations, allowances of the employees of the Agency;
 - (j) make recommendations when necessary on any important issues;
 - (k) purchase machinery, equipment, etc. for the effectiveness of the Agency;

- (l) inspect projects, etc. as may be necessary for the purpose of carrying out its functions under this Law; and
 - (m) do such other things as are necessary and expedient in carrying out the provisions of this Law.
- (3) The Governor may give to the Board directives of a general and specific nature as to the exercise and performance of their functions and the Board shall give effect to such directives.

61. (1) The Agency shall have power to:

Powers of the Agency

- (a) enter into any agreement or other arrangements as are necessary, advantageous or expedient for the performance of its functions;
- (b) acquire, purchase, lease, mortgage, hold, construct, manufacture, or maintain any property, movable or immovable, required for or in connection with the performance of its functions;
- (c) do anything necessary for the purpose of advancing the skill of persons employed by the Agency including the provision of facilities for training, education and research;
- (d) to charge fees for its services; and do anything necessary for the purpose of attaining maximum efficiency in its operations;
- (e) hire skilled and semi-skilled personnel to undertake the tasks assigned to them as employees;
- (f) source for and receive financial support from Donors and Financial Institutions for implementing sector programmes;
- (g) create and maintain a data bank for all Small Town and Rural Water Supply and Sanitation facilities in the State;

- (h) collect Tariff and practicing fees set by the Regulatory Commission as revenue from Private Borehole Drilling Firms operating in the State;
 - (i) assess Royalties for collection by Kaduna Internal Revenue Service from the Local Governments as revenue for the State for underground Water abstraction and utilization as set by the Regulatory Commission;
 - (j) enforce the Code of Practice for Water Well Construction as approved by Standards Organization of Nigeria in collaboration with other Ministries, Departments and Agencies and relevant stakeholders;
 - (k) enter into Public-Private Partnership arrangements with the private sector for the purpose of carrying out any of the functions of the Agency under this Law;
 - (l) enter into Agreement with the Water Consumers' Associations for the transfer of operation and maintenance of water supply facilities in the small towns to such Water Consumers' Associations subject to the approval of the Governor;
 - (m) procure water abstraction rights from the relevant authorities and assign such rights to Water Consumers' Associations and private operators;
 - (n) conduct or commission by outsourcing, the examination of relevant water resources in small towns of the State to determine the quality of such water for abstraction for drinking water purposes; and
 - (o) undertake and or supervise the design and construction of new water and sanitation services assets in collaboration with the relevant Water Consumers' Associations.
- (2) The Agency shall exercise such other powers as may be necessary to give effect to the provisions of this Law.

STAFF OF THE AGENCY

62. (1) The Governor shall appoint for the Agency a Director-General who shall: Director-General
- (a) be the Chief Executive Officer and the Chief Accounting Officer of the Agency;
 - (b) be responsible for the day-to-day administration of the Agency;
 - (c) be responsible for the implementation of the decisions and policies of the Governing Board and the general administration of the Agency; and
 - (d) perform such other duties as the Governing Board may from time to time direct.
- (2) The Director General shall be:
- (a) a person with a professional qualification in either business administration, law, engineering, hydrogeology, and or other relevant discipline related to water or sanitation and shall have held cognate management positions for a minimum of 10 years in a public or private organization;
 - (b) appointed by the Governor upon such terms and conditions of service and be paid remunerations as the Governor may determine;
 - (c) in office for a term of four years and may be appointed for another term; and
 - (d) selected through a process of advertisement and evaluation of competencies for the position of Director General.
63. (1) There shall be appointed for the Agency, a Secretary who shall be in charge of administration in the Agency. Secretary
- (2) The Secretary's functions shall include to:
- (a) organize and take minutes of meetings of the Governing Board and Senior Management meetings;

- (b) keep the records of the proceedings of the Board and the Agency and carry out all correspondences relating to the Agency;
- (c) arrange for payment of fees and allowances of members of the Governing Board;
- (d) communicate policy decisions to affected Departments;
- (e) keep custody of copies of Asset Register and Financial and Annual Reports of the Agency; and
- (f) perform all other duties as the Board or the Director General may from time to time direct.

64. (1) The Agency may, with the approval of the Governor, appoint such number of staff and other employees as it may require either directly from the private sector or by way of deployment from the State Public Service to assist in the discharge of its functions under this Law.
- (2) The Agency may, subject to the approval of the Governor, determine generally the terms and conditions of service which shall include -
- (a) conditions for the appointment, promotion, termination and dismissal of staff and employees; or
 - (b) procedure for appeals by staff and employees against dismissal, termination or other disciplinary measures;

Staff of the Agency

PROVIDED that, until such conditions of service are made, any instrument relating to the condition of service in the Public Service of the State shall be applicable, with such modifications as may be necessary to staff and employees of the Agency.

- (3) The Agency shall, subject to the approval of the Governor, determine the remuneration of its staff and employees after consultation with the Department of Establishment and Service matters or any other agency of Government responsible for such matters.

(4) Service in the Agency shall be an approved service under the Pension Law operating in the State.

65. (1) There shall be established for each Local Government Area of the State a Department to oversee matters relating to Water, Sanitation and Hygiene.

Establishment of Water
Sanitation and Hygiene
Departments or Units

(2) The functions of the Department in subsection (1) hereof shall be:

(a) to monitor and sustain the water and sanitation facilities at community level;

(b) to improve and reduce infant mortality rate;

(c) to provide and deliver improved and sustainable water supply and sanitation services;

(d) perform such other relevant functions;

(e) to engage itself and participate fully in the implementation of water and sanitation policies as adopted or enacted by the State and contribute its own share of financial obligations or otherwise;

(f) to be a link between the State and the community and or other donors agencies; and

(g) to supervise, monitor, sustain and ensure functionality and optimal use of water and sanitation facilities put in a place within their area of jurisdiction through community based operation and management systems such as the Village Level Operation and Management concept.

66. (1) There shall be established for each local government area in the State, Community Water, Sanitation and Hygiene Committees.

Establishment of Water
Sanitation and Hygiene
Committees

(2) The functions of the Water Sanitation and Hygiene Committee shall be:

- (a) to operate maintain and manage water and sanitation facilities;
 - (b) to supervise, monitor, co-ordinate and support all activities concerning water provisions in the local government area on day to day basis, to ensure the universal access of safe water supply and sanitation to all communities within its jurisdiction;
 - (c) to rehabilitate rural water supply and sanitation schemes and infrastructures and assist the communities in the operations and maintenance of facilities through capacity building;
 - (d) to ensure the training of Ward Water Supply and Sanitation Community members at community level for maintenance of water supply and sanitation facilities;
 - (e) to undertake the improvement of ward environmental sanitation including the construction of household and community latrines;
 - (f) to participate in planning and implementation of ward water supply and sanitation facilities;
 - (g) to enhance, manage and maintain the water supply and sanitation facilities;
 - (h) to participate in local training for health education, environmental sanitation and protection of water supply sources against contamination; and
 - (i) to perform other related functions.
- (3) The Water Sanitation and Hygiene Committee which shall be registered by the local government council and a certificate issued shall serve as evidence of such registration.

- (4) The Water Sanitation and Hygiene Committee shall comprise of:
- (i) Chairman;
 - (ii) Secretary;
 - (iii) Treasurer;
 - (iv) Financial Secretary;
 - (v) two Ex-officio members;
 - (vi) Artisans;
 - (vii) representative of youth organization; and
 - (viii) representative of community based organisation.

PROVIDED that, at least two of the members in (i) to (viii) shall be women.

67. (1) Local governments shall with the support of the Agency facilitate the establishment of Water Consumers' Associations by communities in small towns to own, operate and manage water schemes serving their immediate community on behalf of water consumers in each small town.
- (2) The objective of the Water Consumers' Association shall be to undertake the operation, maintenance and management of the water supply schemes within its own area either by itself or by engaging a private water operator.
- (3) The Water Consumers' Associations shall be registered as cooperative societies with the relevant State department.
- (4) Subject to any regulations by the Commission with respect to such matters, the Agency upon an application by a Water Consumers' Association for the transfer of water scheme within their community, shall transfer such scheme if it is satisfied that the Water Consumers' Association possesses sufficient capacity to successfully operate the scheme.
- (5) Any transfer made pursuant to subsection (4) of this section shall be by a formal agreement specifying the terms and conditions of such transfer.

Establishment of Water Consumers' Association

- (6) The Water Consumers' Association shall obtain an operating licence from the Commission pursuant to such agreement.

FINANCIAL PROVISIONS

68. (1) The funds and resources of the Agency shall consist of: Funds and Resources
- (a) all sums, investments or other property vested in the Agency by virtue of the provisions of this Law;
 - (b) such sums or other property as may from time to time be advanced by way of loans or grants to the Agency by any Federal, State, or local government, any international organisation, and private foundation or any person whatsoever;
 - (c) any investments or other property whatsoever acquired by the Agency;
 - (d) all other sums such as water rates, water services charges, or otherwise or other property whatsoever which may become payable to or vested in the Agency under this Law or any other law;
 - (e) any money allocated to the Agency under the State Government budgetary allocation or such other money as may from time to time accrue to the Board;
 - (f) any amounts paid to the Agency by the Water Consumers' Association for the operation of the water scheme; and
 - (g) any other sum accruing to the Agency from any other source.
69. The Agency may accept gifts, grant or donation of land, money or other property from any person upon such terms and conditions acceptable to the Agency. Power to Accept Gifts
70. The Agency shall apply its funds to defray the following charges: Management of Funds

- (a) the allowances of the members of the Governing Board of the Agency;
- (b) the salaries, remuneration, fees, allowances, pensions of the staff, employees, agents, technical and other advisers or consultants of the Agency;
- (c) such works of a capital nature as the Agency may deem necessary;
- (d) taxes, rates and other levies payable by the Agency under any Law;
- (e) interest on loans raised by and on behalf of the Agency;
- (f) contribution towards construction of new water and sanitation services assets as may be approved by the Governor; and
- (g) such other expenditure as the Agency may approve for payment out of the funds of the Agency in respect of any financial year.

71. (1) The Governing Board shall:
- (a) cause to be kept proper accounts in respect of its functions under this Law and other records in relation thereto; and
 - (b) prepare, in respect of each financial year, a statement of accounts in such form as may be required by the financial regulations of the State and best accounting standards.
- (2) The said annual statement of accounts shall be a fair and accurate statement of the financial position, and of the results of the operations of the Agency for the financial year to which it relates.
- (3) The said annual accounts shall be audited by an external auditor or auditors to be appointed annually by the State Auditor General and the remuneration to be paid by the Board of the Agency to such external auditors shall be approved by the Governor on the recommendation of the State Auditor-General.

Annual Budgets,
Accounts and Audit

- (4) As soon as the annual statement of account has been audited as aforesaid, the Board of the Agency shall forward a copy of the said statement of accounts together with a copy of the Report made thereon to:
- (i) the Commissioner responsible for water resources;
 - (ii) the Commissioner responsible for finance;
 - (iii) the Commissioner responsible for Local Government matters;
 - (iv) the State Auditor General; and
 - (v) the Chairman of the Board of the Corporation.
72. (1) The Agency shall keep and maintain proper books of accounts and record of all its transactions and activities during each financial year. Annual Reports
- (2) The Agency shall within two months after the end of each financial year cause the account of the Agency relating to the previous year to be audited by the Auditor-General of the State or by any other person authorized in that behalf by him.
- (3) The Agency shall within three months after the end of each financial year submit to the Governor an annual report of its activities for that year and shall include in the report a copy of the audited accounts and the comments of the auditor thereon.
73. The Agency shall not later than 30th September in each year, submit to the Commissioner an estimate of its expenditure and income (including payment to the Agency) for the next succeeding year. Budget Estimates
74. (1) The Agency may from time to time, with the approval of the Governor borrow from any person, government or multilateral financial institution, or by overdraft from banks, or in any other manner, money for and in connection with the exercise of its functions under this Law as the Agency may deem necessary. Power to Borrow

- (2) An approval given for the purposes of this section may be either general or limited to a particular borrowing and any specified conditions.
75. (1) The funds of the Agency for capital projects for the provision of water supply and sanitation facilities shall include contributions in the following ratios - Capital Projects
- (i) The State Government 75%;
 - (ii) The Local Government 22%; and
 - (iii) Communities 3%.
- (2) The community, through the Agency may apply for contributions and support from the Federal Government and donor agencies for necessary funds for their capital projects.
76. (1) No person shall construct a borehole in the State without approval and certification of the Agency. Borehole Construction without Approval of Agency Prohibited
- (2) Any person who contravenes the provision of 76 (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred thousand naira (₦200,000.00) or imprisonment for a term not exceeding six months, or to both.
77. (1) No member of the Board or Committee shall be personally liable for any act or default of the Agency done or omitted to be done in good faith in the course of operations of the Agency.
- (2) (i) The Board may appoint standing or ad hoc committee to perform on behalf of the Board, some of its functions as the Board may determine.
- (ii) A Committee appointed under this paragraph shall consist of such number of persons (not necessarily all members of the Board) as may be determined by the Board shall hold office on Committee in accordance with the terms of his appointment.

- (iii) A decision of a Committee of the Board shall be of no effect until it is confirmed by the Board.
 - (3) (i) The Common Seal of the Agency shall not be used or affixed to any document except in pursuance of resolution duly passed at a meeting of the Board and recorded in the minutes of such meetings;
 - (ii) The Secretary shall have custody of the Common Seal of the Agency and be responsible for fixing the Common Seal into any document;
 - (iii) The fixing of Common Seal shall be authenticated by the signature of the Chairman and Secretary; and
 - (iv) Any document purporting to be a document duly executed under the Common Seal of the Agency shall be received in evidence and shall unless the contrary is proved, be deemed to be so executed.
78. Any authority which immediately before the commencement of this Law was charged with any function similar to that of this Agency by virtue of any law or instrument shall at the commencement of this Law cease to exercise that particular function.
- Existing Laws and Instruments

PART IV
ESTABLISHMENT OF THE KADUNA STATE WATER SERVICES REGULATORY COMMISSION

79. (1) There is hereby established the Kaduna State Water Services Regulatory Commission.
- (2) The Commission shall be a body corporate with perpetual succession and a common seal and shall have power to sue and be sued in its corporate name and to hold property whether movable or immovable.
- Establishment of the Commission

80. (1) The objectives of the Commission shall be to:
- (a) promote, regulate and enforce all State Legislation and Water Policies;
 - (b) create, promote, and preserve efficient industry and market structures;
 - (c) to ensure optimal utilisation of resources for the provision of water services;
 - (d) maximize access to water services, by promoting and facilitating consumer connections to distribution systems in urban areas and small towns;
 - (e) encourage provision of water in rural areas;
 - (f) control wastewater management and discharge;
 - (g) ensure the safety, security, reliability, and quality of service in the production and delivery of water to consumers;
 - (h) make regulations to ensure the availability of the water resources of the State to the generality of the residents of the State by controlling the sinking of boreholes;
 - (i) receive complaints and resolve disputes between consumers and Water service providers;
 - (j) ensure that regulatory decision-making has regard to all relevant health, safety, environmental and social legislations applying to the water sector; and
 - (k) collaborate with sister-States and relevant Federal Agency on water policies.
- (2) To do such other things that are necessary and expedient to the performance of its functions.

81. There is hereby established for the Commission, a Board to be appointed by the Governor which shall consist of the following members subject to confirmation by the State House of Assembly:

Board of the Commission
and composition

- (a) an Executive Chairman, who shall be a holder of a Degree in either Law, Public Administration or Engineering and must have held a senior management position in public or private establishment for at least ten years;
- (b) three (3) members to be appointed by the Governor who are professionals in Water Engineering and related fields;
- (c) three (3) women, one from each of the Senatorial Districts of the State;
- (d) a representative of National Water Resources Institute;
- (e) a representative, not below the rank of a Director from the Ministries and Agencies responsible for:
 - (i) Justice;
 - (ii) Health and Human Services;
 - (iii) Environment and Natural Resources; and
- (f) Secretary to the Commission.

82. (1) Subject to the provisions of this Law, a member shall hold office for a period of five (5) years, and shall be eligible for re-appointment for another term only.

Tenure

(2) The members shall be paid such remunerations and allowances as the Governor may determine from time to time.

83. A person shall not be appointed as a member of the Board, if he:

Disqualifications

- (a) has a pecuniary interest in any water services providers regulated under this Law or any entity which is in competition with or provides similar services to those

supplied by a water services provider regulated under this Law; or

- (b) has:
 - (i) been adjudged or otherwise declared bankrupt; or
 - (ii) if he is of unsound mind; or
 - (iii) been banned from practicing his profession.

84. A member shall vacate his office if he:

Vacation of Office

- (a) gives notice in writing to the Governor of his intention to resign, upon expiration of such notice; or
- (b) has been convicted by a court of competent jurisdiction of any offence involving dishonesty, fraud, or financial impropriety; or
- (c) attends fewer than 75% of the member's meetings in any one year period;
- (d) is incapable of discharging the functions of his office by reason of mental or physical ill-health.

85. (1) The Board shall meet for the conduct of its business as often as is necessary and expedient, and subject to this section, may adjourn, close and otherwise regulate its meetings and procedure as it deems fit.

Meetings

- (2) The Chairman, or in his absence, any member chosen by the members present from among themselves shall preside at the meeting of the Board
- (3) All decisions of the Board shall be on the basis of simple majority of the members present and voting.
- (4) No act or proceeding of the Board shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Board, except where actions are not supported by a quorum.

- (5) The quorum for the meeting of the Board shall be five (5) and each member present shall have one vote on each question before the Board and, in the event of an equality of votes, the Chairman shall have a casting vote in addition to a deliberative vote.
- (6) For a meeting of the Board to review any previous decision or order taken by the Board, the quorum shall not be less than five (5) members of the Board present when the decision was taken or the order was made.
86. (1) Where a member of the Commission, a member of Staff of the Commission or any person engaged by the Commission has pecuniary interest or other beneficial interest in, or material to, any matter which is to be considered by the Agency, the person shall: Disclosure
- (a) disclose to the Board the nature of interest in advance before the consideration of the matter;
 - (b) neither influence nor seek to influence a decision relating to the matter;
 - (c) not take part in the consideration of the matter; and
 - (d) withdraw from the meeting as long as the matter is being discussed or considered and neither vote nor otherwise act in consideration of the matter.
- (2) Any interest that accrued to the member of the Commission, a member of Staff of the Commission or any person engaged by the Commission for non-disclosure shall abet.
- (3) Any member who contravenes subsections (1) and (2) of this section commits an offence and is liable to fine of ₦100,000.00 or two years imprisonment or both.
- (4) If a member referred to in this section takes part in the consideration of a matter in which his private interests are in conflict with his function as a member, the other members may subsequently ratify any such decision or action.

87. (1) There shall be a Secretary who shall be appointed by the Commission and shall: Secretary to the Commission
- (a) be a Public Servant not below the rank of a substantive Director;
 - (b) be the Chief Administrative Officer of the Commission; and
- (2) The Secretary shall, subject to the general direction of the Commission be responsible:
- (a) for the day to day administration of the Commission; and
 - (b) for keeping the books and proper records of proceedings of the Commission.
88. The Commission shall, subject to the approval of the Governor, establish such departments as it deems necessary, which departments shall include Legal Services Department. Departments
89. The Commission shall prepare and submit an estimate of its budget to the Commissioner responsible for Budget matters in accordance with the Kaduna State laws and regulations on such matters. Budgets
90. (1) There is established for the Commission a fund into which all monies accruable to the Commission shall be paid and from which shall be defrayed all expenditure incurred by the Commission. Funds of the Commission
- (2) The funds of the Commission shall consist of:
- (a) fees, charges and other income accruing to the Commission from water service providers, or any other monies, as may accrue to the Commission, whether in the course of its operations or otherwise, excluding any fines or penalties recovered pursuant to this Law;

- (b) a surcharge on tariffs payable by consumers of water services as the Commission may by regulation decide; and
- (c) funds allocated to the Commission by the House of Assembly by an appropriation Law, pursuant to a request by the Commission for additional funds required to meet its reasonable expenditure.
91. (1) The Executive Chairman shall ensure that proper account and other records relating to such account are kept in respect of all Commission activities funds and property including such particular accounts and records as the Commission may require. Accounts and Audit
- (2) The accounts shall be audited in accordance with laws and regulations applicable to such matters in Kaduna State.
- (3) Any staff or employee or agent of the Commission who fails to comply with a requirement of an auditor in terms of subsection (2) commits an offence and is liable on conviction to a fine of ₦100,000.00 or 2 years imprisonment or both.
92. The Commission shall submit an annual report of its activities to the Governor. Annual Reports
93. (1) The Executive Chairman, members, staff of the Commission shall not be personally liable for any loss or damage sustained by any person as a result of the bona fide exercise or performance of any function which, by or in terms of this Law, is conferred or imposed upon such person. Immunity of members and staff of the Commission
- (2) No execution or attachment of process shall be issued against any property vested in the Commission except with the prior consent of the Attorney-General.
94. (1) Subject to subsection (2) of this section, the Commission may in writing delegate any power vested in it under this Law, and may impose separate or concurrent duties with respect to enforcement of any regulations or orders made Delegation of Powers

by it in a particular area on any water services provider or a local government authority.

- (2) Notwithstanding anything contained in subsection (1) of this section, the Commission shall not delegate the power:
 - (a) to make regulations; or
 - (b) to issue or cancel water services provider licences and permits.

95. (1) The Commission may appoint Advisory Committees to advise it on the exercise of the water services regulatory functions contained in this Law.
- (2) The Commission may enter into arrangements with private sector experts or consultants to advise on or to undertake the performance of any water sector regulatory functions.
- (3) Any private sector expert or consultant appointed under this section shall be appointed by an open and competitive bidding, in accordance with the Public-Private Partnership and Procurement Laws in the State.

Advisory Support and Outsourcing

SPECIAL REGULATORY FUNCTIONS OF THE COMMISSION

96. The Commission, in addition to any other functions imposed on it by this Law shall perform the following regulatory functions for the provision of water services in the State:
- (a) advise the State Government on water supply, wastewater and sewage matters;
 - (b) regulate wastewater and sewage activities in the State and enforce compliance with its regulations in respect thereof and any other provisions under this Law or any other law;
 - (c) licence water service providers;

Water Services Regulatory Functions

- (d) develop sector guidelines on the technical and financial management of water services by water service providers;
- (e) make regulations prescribing all matters which by this Law are required or permitted to be prescribed or which, in the opinion of the Commission, are necessary or convenient to be prescribed for carrying out or giving effect to this Law, including:
 - (i) the administration of the affairs of the Commission, including, inter alia, the holding of meetings, hearings and proceedings, arbitration and mediation proceedings, the conduct of inquiries and investigations, the handling of information, and generally the conduct of its business;
 - (ii) the procedure for issuing licences;
 - (iii) the determination of the standards for the provision of water services including water quality standards in accordance with the National Drinking Water Quality Standards and the construction of boreholes;
 - (iv) the method and manner by which the tariffs that may be charged by water service providers for their services will be determined including a metering scheme for certain large volume consumers, to the extent practicable and cost-effective;
 - (v) the duties, powers, rights, and obligations of a water services provider;
 - (vi) the resources, procurement policies of, and entry into Private Sector Participation Agreement by, the water service providers, including, as may be applicable, the review and approval of same subject to State laws and regulations on same;
 - (vii) the development and approval of the water sector development plans in accordance with this Law;

- (viii) procedures for monitoring compliance with this Law and any other applicable laws and policies on water;
- (ix) guidelines to eliminate illegal connections, unregulated or illegal use of water services;
- (x) guidelines for monitoring the sinking of boreholes and issuing of permits for same, and other activities impacting access to water including prescribing fees for such monitoring as well as for penalties for contravention;
- (xi) practices, procedures and reporting requirements for monitoring and enforcing this Law including establishment of fines and penalties; and
- (xii) regulations for connection and disconnection of consumers from water services.

97. (1) In the discharge of its regulatory functions under this Law, including the making of regulations and of any decision or determination, the Commission shall:

Discharge of Functions

- (a) consult with water service providers, relevant stakeholders and consumer associations;
- (b) give to such persons an opportunity to make submissions to and to be heard by the Commission;
- (c) have regard to the evidence or facts adduced at any hearing and to matters contained in any submissions;
- (d) give reasons in writing for every decision;
- (e) ensure that decisions are accessible to the public at reasonable times and places; and

(2) The Commission may make interim orders pending the final disposition of a matter before it.

LICENCE

98. (1) No person shall operate as a water service provider unless such person: Licence to Operate as
Water Services Provider
- (a) holds a licence issued by the Commission; or
 - (b) is exempted from the requirement to obtain a licence in respect of the provision of the relevant water services.
- (2) Notwithstanding the provisions of subsection (1) of this section, any person, who at the commencement of this Law, was acting as a Water Services Provider without a licence, may continue to do so within a period not exceeding six (6) months within which he must obtain a licence.
- (3) The Commission may issue an interim licence to any person as specified under this Law for a period not exceeding three (3) months, or such shorter period as it may considered appropriate.
- (4) Any person who contravenes any of the provisions of this Law on obtaining the required licence commits an offence and is liable on conviction to a term of imprisonment not exceeding two (2) years or a fine of ₦100,000.00 or both, and thereafter ₦5,000.00 per day until the default is abated.
- (5) The Commission shall have the power to order any person who contravenes any of the provisions of subsection (2) of this section, to cease operations, and to make such other orders, including an order to another water service provider to disconnect facilities as may be necessary to prevent the continuation or reoccurrence of the contravention.
99. A water services provider shall not, except as provided under this Law, transfer its licence by whatever means or nature of transaction, without the written consent of the Commission first sought and obtained: Limitations on Transfer
of Licence

100. (1) An application for a licence shall be made to the Commission in the form and manner prescribed by the Commission, and shall be accompanied by the prescribed fee and such information or documents as may be required by the Commission.
- (2) Within thirty days of applying for a licence under this section, the applicant shall cause a notice of such application to be published in two (2) national dailies circulating within the area in which the applicant intends to provide its services and the applicant shall attach a copy of evidence of publication.
- (3) The notice shall state a period of fourteen (14) days within which objections or representation in connection with the application may be made to the Commission by any member of the public and no licence shall be issued until the period of objection has lapsed.
- (4) Where the Commission is satisfied that the applicant has complied with all requirements for the issuance of licence, he shall within thirty (30) days be issued with a licence.
101. (1) A licence shall be issued subject to such terms and conditions as may be prescribed by this Law and a Regulation by the Commission.
- (2) A licence shall be valid for five (5) years and may be renewable after every five (5) years subject to payment of appropriate fees.
102. The Commission shall have power to make regulation for standards, tariffs, complaints, investigations, procedure for private sector participation and other matters as are necessary to carry into effect the provisions of this Law.
103. (1) Any person who is aggrieved by the decision of the Commission:
- (a) not to issue a licence;
- (b) a refusal by the Commission to renew a licence;
- Application for Licence
- Terms and Condition of Licence
- Power to Make Regulations for Standards, Tariffs etc
- Review of Decisions by the Commission

- (c) the revocation of a licence;
 - (d) such other actions by the Commission;
- (2) If the applicant relies on new facts or changed circumstances that could not, with due diligence, have become known to the applicant while the matter was being considered by the Commission, may within fourteen (14) days of the delivery of the decision, apply to the Commission for re-consideration of the matter or review of the decision of the Commission.
- (3) Any disputes or differences arising between licensees or users in respect of activities carried out under this Law may at first instance be referred to an arbitrator mutually agreed by both parties.

PRIVATE SECTOR PARTICIPATION AGREEMENTS

104. (1) All Private Sector Participation Agreements to perform any functions or services or to provide facilities in the Water Supply and Sanitation Services Sector shall be subject to this Law, the Kaduna State Public Procurement Authority Law, the Regulations of the Commission and any other relevant Law in the State.
- (2) The procurement of a Private Sector Participation Agreement shall be carried out in accordance with all applicable laws and policies, including the following provisions:
- (a) except as otherwise authorized by the Commission, Private Sector Participation Agreements shall be procured by open and competitive bidding, subject to bidding and award guidelines, including adequate technical requirements;
 - (b) The scope of the project or activities, the subject of the Private Sector Participation Agreements, including the design, construction, maintenance or operation of new water services facilities or the modernisation, rehabilitation, expansion, management or operation of existing water

Private Sector Participation Agreements

services facilities, shall conform with the State Water Sector Development Plans as approved by the State Executive Council;

- (c) Any award of contract pursuant to this section shall be consistent with the bidding and award guidelines contained in the Procurement Law of the State and any other relevant Laws, circulars, Regulations and guidelines relating to the tendering of public contracts and private sector investment on infrastructure; and
 - (d) The Commission shall approve Private Sector Participation Agreement only if the Agreement complies with this Law, the Water Services Development Plan and the State-Wide Development Plan and any prescribed procedures for award of the Private Sector Participation Agreement.
- (3) The Commission may develop further provisions for the procedure for award of Private Sector Participation Agreements which may include compulsory provisions to be included in a Private Sector Participation Agreement.
- (4) Upon the conclusion of a Private Sector Participation Agreement or Joint Venture Agreement, the service provider shall within fourteen days of the signing of the Agreement supply a copy thereof to the Commission.

GENERAL PROVISIONS WITH RESPECT TO THE COMMISSION

105. No approval given under this Law and nothing in this Law shall relieve any water service provider or any other person from complying with any other Law relating to the management or Regulation of the environment or water resources or with any other applicable State or Federal water Laws or policies including, where required, any obligation on a water services provider to obtain a licence or permit to abstract water to be used in providing the Water Services.

Compliance with other
Laws

106. (1) Any Person authorised in writing by the Commission may:

- (a) subject to the provisions of subsection (3) of this section, at any reasonable time and without prior notice, enter any property and inspect any water services facilities in order to ascertain whether the activities undertaken therein are carried out in compliance with this Law or any regulation made pursuant to this Law;
 - (b) after reasonable notice to the owner or occupier of any property, enter the property with the necessary vehicles, equipment and material for its work:
 - (i) to remove or demolish any water service facility belonging to or operated by the water services provider concerned;
 - (ii) to establish the suitability of any water source or site for the construction of a water services work;
 - (iii) search, excavate, bore or carry on any activity necessary for the recovery of measurement of water; and
 - (c) after reasonable notice to the owner or occupier of any property, enter the property in order to have access to another property lawfully.
- (2) Any Person entering any property shall identify himself and present his authorisation.
- (3) Where it is necessary to do so for the enforcement of this Law, a private residence or business premises may only be entered upon notice and between the hours of 8.00 a.m. and 5 p.m.
- (4) The service areas, and existing rights and obligations of any Water Services Provider operating under a Private Sector Participation Agreement pre-existing this Law remain as set out in the Private Sector Participation Agreement.

PART V
OFFENCES AND PENALTIES

107. (1) No person shall construct any waterworks in the State without obtaining a license or other authorisation from the Commission. Illegal Construction of Water Works
- (2) No person shall construct any structure within the waterworks premises, unless authorised by the Commission and subject to the provisions of Kaduna Urban Planning and Development Agency Law.
- (3) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine of ₦200,000.00 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.
- (4) The provisions of subsections (1) and (2) of this section shall not apply to a person who constructs a well having a depth not exceeding 6 metres within his premises for his domestic use.
108. Any person who: Offences Relating to Water Diversion, Pollution, etc.
- (a) wilfully damages any water works, public fountain or service; or
- (b) unlawfully draws, diverts or takes water from any source or from any stream by which any waterworks is supplied; or
- (c) makes an unauthorized opening or closes any valve, sluice or manhole of any waterworks; or
- (d) pollutes any water or water source; or
- (e) allows or causes any foul liquid or gas or other noxious or toxic or injurious substance or matter to be discharged into any water source or any facility of any State owned or private water facilities commits an offence and shall be liable on conviction to a fine not less than the sum of

₦500,000.00 or to imprisonment for a term not exceeding ten (10) years or to both such fine and imprisonment and to a further penalty of ₦10,000.00 for each day that the act or omission that constitutes the offence continues.

109. Any person who alters, causes or permits to be altered any pipeline, fittings or fountains of any waterworks leading to wastage of treated water without the consent of any treated water supply utility, commits an offence and shall be liable on conviction to a fine of ₦200,000.00 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.
- Offences Relating to Wastage
110. Any person who alters, causes or permits to be altered, any pipeline, fittings, meters of any waterworks with the intent to –
- Offences Relating to Fraudulent Measurements
- (a) avoid the accurate measurement or register of water by means of any Meter;
 - (b) obtain a greater supply of water than he is entitled, or to avoid payment for such supply; or
 - (c) wilfully or negligently damages, alters, causes or permits to be damaged or altered any meter, commits an offence and shall be liable on conviction to a fine of ₦200,000.00 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.
111. (1) Any person who puts, allows to be put or to remain, or to accumulate on any tenement owned or occupied by him or his servant or agent, any foul material or substance in such manner or place that it causes nuisance or may fall or be washed or be carried into or obstructs any water works of any water supply utility, commits an offence and shall be liable on conviction to a fine of ₦200,000.00 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment to a further penalty of ₦10,000.00 for each day that the act or omission that constitutes the offence continues.
- Offences Relating to Nuisance
- (2) Any person who allows any material or substance or any nuisance to remain after notice for the cleanup or removal or remediation has been served on him by the Commission, the Ministry responsible for water resources

or any other relevant State Agency shall, in addition to the penalty specified in subsection (1) of this section, be liable to a further penalty of ₦5,000.00 for each day that the act or omission that constitutes the offence.

112. Any person who obstructs or assaults any Staff, officer or employee of the Government bodies established pursuant to this Law or any other person authorized by such Government bodies in the course of carrying into effect any of the provisions of this Law commits an offence and shall be liable on conviction to a fine of ₦300,000.00 or imprisonment for a term not exceeding 3 years or to both such fine or imprisonment. Obstruction of the Staff of Relevant Government Bodies
113. Any person, including staff of any government bodies established under this law, who, not being lawfully authorized to carry out any function under this Law and who under any guise or cover holds out himself as having been authorized to enforce any part of this Law commits an offence and shall be liable on conviction to a fine ₦200,000.00 or to imprisonment for a term not exceeding 12 months or both such fine and imprisonment. Offences of Impersonation
114. Any person who conspires with, procures, instigates, aids, or facilitates another person to do anything or act prohibited under any of the provision of this Law, commits an offence and shall be liable under the relevant provisions of this Law relating to such offence and shall be punished as if he committed the offence himself. Conspiracy
115. (1) No person shall: Unauthorised Activities in Relation to Water Supply Facilities
- (a) bathe in any part of any reservoir; or
 - (b) wash or throw clothes, materials or things into any reservoir; or
 - (c) wash or cause any horse, dog, goat, pig or any other animal to enter any reservoir; or
 - (d) wrongfully open or close any lock, valve sluice or manhole belonging to or installed by the water supply utility.
- (2) A person who contravenes any of the provisions of subsection(1) of this section commits an offence and is

liable on conviction to a fine of ₦20,000.00 or to imprisonment for 12 months or to both the fine and imprisonment.

PART VI
MISCELLANEOUS AND TRANSITIONAL PROVISIONS

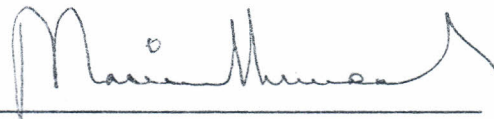
116. (1) The Kaduna State Water Board Law, No. 6, Laws of Kaduna State 2004 and the Kaduna State Rural Water Supply and Sanitation Agency Law, 2015 are hereby repealed and accordingly, the Kaduna State Water Board and Kaduna State Rural Water Supply and Sanitation Agency existing immediately before the commencement of this Law are hereby dissolved. Repeals, Savings, etc
- (2) The statutory functions, rights, obligations and liabilities of the Water Board as they relate to the supply of water in the State existing before the commencement of this Law, under any contract or instrument, whether in Law or in equity, shall by virtue of this Law and without further assurance, is hereby vested in the relevant Bodies and Agencies established under this Law.
- (3) Any such contract or instrument mentioned in subsection (2) of this section, shall be of the same force and effect against or in favour of the Corporation or any of the Agencies established by this Law as the case may be and shall be enforceable against it, instead of the Water Board existing before the commencement of this Law, the Corporation or the agencies established by this Law had been named therein or had been a party thereto.
- (4) The Corporation and the agencies established by this Law shall be subject to all obligations and liabilities to which the Water Board existing before the commencement of this Law was subject, and all persons shall have the same rights, powers and remedies against the Corporation and the agencies established by this Law as they had against the previous Water Board.
- (5) Any proceedings or cause of action pending or existing immediately before the commencement of this Law, by or against the Water Board before the commencement of this Law in respect of any right, interest, obligation or

liability may be continued or as the case may be, commenced by or against the Corporation or the relevant agency and any determination of a court, tribunal or other authority or person may be enforced by or against the Corporation or the agencies established by this Law to the same extent that such proceedings or cause of action or determination might have been continued, commenced or enforced against the Kaduna State Water Board.

(5) Any person:

- (a) who immediately before the coming into force of this Law was the holder of any office in Kaduna State Water Board or was a staff in the Kaduna State Water Board before the commencement of this Law shall, on the commencement of this Law and without further assurance, continue in office and be deemed to have been appointed to his office by the Corporation established under this Law;
- (b) whose services are not required by the Corporation upon the conduct of a staff needs assessment for the effective performance of its functions in accordance with this Law shall be redeployed to the State Civil Service.

DATED AT KADUNA this 25th day of May 2016.



Malam Nasir Ahmad el-Rufa'i,
Governor, Kaduna State.

EXPLANATORY NOTE


(This note does not form part of this Law and has no legal effect).

The purpose of this Law is to provide for the development and regulation of the Kaduna State Water Sector, the establishment of Kaduna State Water Corporation,

the Kaduna State Rural Water Supply and Sanitation Agency and the Kaduna State Water Services Regulatory Commission and other matters connected therewith.

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

HON. AMINU ABDULLAHI SHAGALI
(Speaker)



UMMA ALIYU HIKIMA Esq.
(Clerk to the Legislature)