

FEDERAL CAPITAL TERRITORY WATER BOARD (ESTABLISHMENT ACT) 2017

EXPLANATORY MEMORANDUM

This Act establishes the Federal Capital Territory Water Board charged with the responsibility for providing safe, adequate and affordable water supply services to the residents of the Federal Capital Territory, Abuja.

FEDERAL CAPITAL TERRITORY WATER BOARD (ESTABLISHMENT ACT) 2017

Arrangement of Sections

Section:

1. Establishment, of the Federal Capital Territory Water Board.
2. The Board and its constitution.
3. Remuneration and allowances of members of the Board.
4. Tenure of office of members.
5. Quorum.
6. Vacation of office.
7. Objectives of the Board.
8. Functions of the Board.
9. General powers of the Board.
10. Power to make regulations.
11. The General Manager and Chief Executive Officer (GM).
12. Other management staff.
13. Other staff of the Board.
14. Remuneration of officers.
15. Funds of the Board.
16. Bank account.
17. Application of the Board's revenue.
18. General reserve fund.
19. Loans and grants by the Federal Government.
20. Annual budgets and accounts.
21. Annual reports.

22. Power to accept gifts.
23. Power to borrow money.
24. Investments.
25. Power to raise capital on the Stock Exchange.
26. Guarantee on loans or other instruments of the Board by the Federal Government.
27. Proof of money due.
28. Board's responsibility to consumers for continuous supply of water.
29. Rates and scales of charges.
30. Application for water supply.
31. Purchase, resale and distribution of water by the Board.
32. Prohibition of sale of water supplied by the Board.
33. Payment for water rates and charges.
34. Power to levy general water rate in respect of Area Councils.
35. Board not responsible for installation works or for damage.
36. Entitlement to supply of water without preferential treatment.
37. Responsibility for expenses caused by certain necessary alterations.
38. Maps of waterworks.
39. Establishment of Customer Care Centre.
40. Functions of the centre.
41. Offences relating to water diversion, pollution, etc.
42. Offences relating to wastage.
43. Offences relating to fraudulent measurements.
44. Offences relating to nuisance.
45. Offences relating to bathing, washing, etc.
46. Incitement.

47. Obstruction of staff of the Board.
48. Offences of impersonation.
49. Conspiracy.
50. Limitation of suits against the Board.
51. Service of documents.
52. Restriction on execution against the Board.
53. Indemnity of officers of the board.
54. Certain provisions relating to defaulters.
55. Recovery of loss of money.
56. Appeals against surcharge.
57. Provisions relating to land.
58. Abstraction by fire authorities.
59. Savings, and transfers of liabilities, staff.
60. Interpretation.
61. Citation.

Schedule

FEDERAL CAPITAL TERRITORY WATER BOARD (ESTABLISHMENT) ACT,
2017

A Bill

For

An Act to establish the Federal Capital Territory Water Board to provide safe, adequate and affordable water supply services to the residents of the Federal Capital Territory, Abuja; and related matters.

[]

Commencement

ACTED by the National Assembly of the Federal Republic of Nigeria —

PART I — ESTABLISHMENT, OF THE FEDERAL CAPITAL TERRITORY WATER
BOARD

(1) There is established for the Federal Capital Territory, Abuja (in this Act referred to as “the Territory”), the Federal Capital Territory Water Board (in this Act as referred to “the Board”).

Establishment, of the
Federal Capital
Territory Water Board.

(2) The Board —

- (a) shall be a body corporate with perpetual succession and a common seal;
- (b) may sue and be sued in its corporate name;
- (c) may enter into contracts or partnerships with any person (whether corporate or unincorporated) which, in its opinion, will facilitate the performance of the functions conferred on it by this Act;
- (d) may hold, purchase, acquire, manage and dispose of property, movable and immovable; and
- (e) may train managerial and technical staff effective performance of the functions conferred on it by this Act.

(1) The Board shall consist of —

The Board and its
constitution.

- (a) a chairman who shall serve on parttime basis;
- (b) a General Manager;
- (c) a member nominated by the Nigerian Society of Engineers;

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- (b) a General Manager;
- (c) a member nominated by the Nigerian Society of Engineers;

(d) a Director in charge of the Planning Department of the Federal Capital Development Authority (FCDA);

(e) a representative from –

(i) the Federal Ministry of Water Resources,

(ii) the Consumer Protection Council; and

(iii) a reputable Non-Governmental Organisation.

(2) The members in paragraphs (c) and (e) (i) shall represent public interest, shall have proven ability and experience in the field related to the functions of the Board and shall be capable of making valuable contributions to the objectives and functions of the Board.

(3) The Chairman and other members of the Board shall be appointed by the Minister.

(4) The provisions contained in the Schedule to this Act shall have effect with respect to the proceedings of the Board and the other matters mentioned the Schedule.

Schedule

There shall be paid to the members of the Board such remuneration and allowances as the Minister, may determine.

Remuneration and allowances of members of the Board.

(1) The Chairman and other members of the Board shall hold office —

Tenure of office of members.

(a) for a term of four years in the first instance and may be reappointed for a further term of four years and no more; and

(b) on such terms and conditions as may be stipulated in their letters of appointment.

(2) All members of the Board, except the General Manager, shall serve as part-time members.

The quorum for a meeting of the Board shall be five members, including the Chairman.

Quorum.

(1) Notwithstanding the provisions of section 4 of this Act, a member shall vacate office-

Vacation of office.

(a) three months after the date upon which he gives notice in writing to the Minister of his intention to resign, or on the expiry of such other period of notice as he and the Minister may agree; or

(b) on the date he begins to serve a sentence of imprisonment imposed without the option of a fine -

(i) in Nigeria, in respect of an offence; or

(ii) outside Nigeria, in respect of an offence involving financial impropriety or any conduct which, if committed in Nigeria, would constitute an offence;

- (c) if he attends fewer than 75% of the Board's meetings in a year;
- (d) in the case of members who have professional qualifications, if the member is barred or suspended from his professional body;
- (e) if he becomes bankrupt;
- (f) if he becomes of unsound mind or incapable of discharging his duties; or
- (g) if he is guilty of serious misconduct in relation to his duties as a member of the Board.

(2) A member of the Board may only be removed by the Minister under any of the provisions of section 6 (1) of this Act.

PART II — OBJECTIVES, FUNCTIONS AND POWERS OF THE BOARD

Objectives of the Board.

The objectives of the Board are to —

- (a) provide safe, adequate and affordable water supply services to the residents of the Federal capital Territory; and
- (b) collaborate with the other authorities responsible for water resources management to secure efficient use of water resources for the conservation and protection of the water resources of the Territory and the nation.

Functions of the Board.

The Board shall—

- (a) ensure the supply of adequate and potable water throughout the Territory at reasonable charges;
- (b) manage and maintain all capital works, water services facilities and new water services assets in the Territory either directly or pursuant to PPP Agreements with private participants, or by raising necessary funds from other sources subject to the provisions of this Act;
- (c) prepare for the approval of the Minister, plans for the maintenance and development of water supply services, water service assets and new water services assets in the Territory (referred to as "Development Plans"), pursuant to consultation with the relevant authorities and consumer groups;

- (d) identify and implement projects for the delivery of water supply services which may be undertaken with private sector participation, pursuant to consultation with the relevant authorities, in order to fulfill the water service obligations of the Board;
- (e) manage and maintain existing waterworks within the Territory particularly to the various Area Councils and maintaining limited supervising capacity and intervention over these Area Councils' operations;
- (f) manage and control waterworks for public, domestic, industrial, and general purposes in the Territory;
- (g) verify and monitor PPP Agreements compliance by the private participant;
- (h) establish and implement proper accounting procedures for all the assets and liabilities of the Board;
- (i) undertake from time to time the conduct of research for the purposes of carrying out the functions of the Board;
- (j) submit the result of such research to the Minister for the utilisation of same for the formulation of the policies relating to water supply and water pollution control in the Territory;
- (k) authorise or delegate any officer or employee of the Board to act as agent of the Board for any function, service or facility which may be exercised, performed or provided by the Board under this Act;
- (l) specify the terms and conditions of supply of water to the consumers;
- (m) develop regulations for the protection and preservation of the water services assets and water supply facilities of the Board;
- (n) promote the rational use of water resources and potable water supplied by the Board and develop regulations to prevent wastage;
- (o) take steps to protect the water resources and other assets and facilities of the Board from trespass, pollution and other nuisance by members of the public.
- (p) collect rates and charges for water supplied, distributed, or sold in bulk by the Board, and;

(q) carry out any other activity that is expedient or necessary for the effective and efficient performance of its functions under this Act.

) The Board shall, subject to the provisions of this Act, have powers to —

General powers of the Board.

- (a) own all water services assets within the Territory;
- (b) fix rates and charges payable by customers for water supplied by the Board within the Territory subject to the approval of the Minister,;
- (c) determine fees to be paid for all services of the Board, which fees, including water rates shall conform to the cost of production, maintenance and correlate with consumption;
- (d) determine the manner in which rates shall be paid by the consumers and exercising discretionary powers on whether to stratify the payments of rates according to income and or house types;
- (e) prepare development plans for the maintenance and development of water supply services assets;
- (f) acquire, purchase, lease, hold, maintain or insure any property forming part of the water services assets or new water services assets, whether movable or immovable, required for or in connection with the performance of its functions and sell, lease, concede, dispose of, or otherwise deal with such property or any part subject to the approval of the Minister in instances of sale of asset and may—
 - (i) undertake any land acquisition procedure necessary for the performance of its functions, in accordance with all legislation,
 - (ii) enter into agreement with any person for the management, supply manufacture, maintenance or repair of any water services asset or new water services asset, whether movable or immovable,
 - (iii) procure water abstraction rights from the relevant authorities and may assign such rights to private participants under PPP Agreements;
- (g) maintain and operate water works and all other buildings and works necessary for the discharge of the functions of the Board under this Act;

- (h) protect, maintain and improve all existing natural water courses in consultation with relevant authorities;
- (i) carry any water pipe through, across, or under any street or any place laid out or intended as a street and after giving reasonable notice in writing to the owner or occupier, and making good any damage done;
- (j) abstract water from any lake, river, stream or other natural source forming part of the water resources of the Territory, and to do likewise in respect of other water by arrangement with the appropriate authority under and in accordance with the provisions of any existing law in that behalf;
- (k) access any surface or underground water forming part of the water resources of the Territory for the purpose of determining what, if any pollution exists and its causes and to do likewise in respect of other water by arrangement with the appropriate authority under and in accordance with the provisions of any Act in that behalf;
- (l) control the drilling and operation of boreholes and the abstraction from underground water forming part of the water resources of the Territory in consultation with the Ministry responsible for water resources and making appropriate regulations relating thereto;
- (m) enter upon any land at any time for the purpose of investigating, repairing or removing any water pipe which is the property of the Board;
- (n) maintain stand pipes or public fountains in any street or other public place;
- (o) at any time between the hours of six o'clock in the morning and six o'clock in the evening or, in case of emergency at any other time, enter into any premises or any place upon which any pipe has been laid or into which any water supply service is supplied so as to —
 - (i) inspect any service and to ascertain whether there is any wastage, leakage, obstruction, illegal connection or damage to any service or meter and anything in connection,
 - (ii) ascertain the amount of water taken or used, or
 - (iii) disconnect the supply of water to any premises;

- (p) 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 Board deems necessary;
- (q) enter into agreement with any person for the supply, construction, manufacture, maintenance or repair of any property whether movable or immovable, which is necessary or appropriate for the purpose of the Board;
- (r) do anything for the purpose of advancing the skill of persons employed by the Board or the efficiency of the equipment of the Board or the manner in which the equipment is operated including the provision of facilities for training, education and research;
- (s) accept or acquire and hold any security of any kind in any form;
- (t) delegate the responsibility to provide water services and the operation, management and maintenance of water services assets and new water services assets, to private participants pursuant to project agreements subject to the policy of the Federal Government;
- (u) surrender, transfer or re-convey any security held by the Board whether upon exchange for other security or upon discharge;
- (v) in relation to any security held by the Board, exercise any power, right or privilege in that a private individual would be capable of exercising in like circumstances;
- (w) make, draw, accept or endorse negotiable instruments;
- (x) invest money standing to its credit and not for the time being required for its immediate need, in stocks, shares, debentures or other securities approved by the Minister and sell such stocks, shares, debentures or other securities; and
- (y) insure its property against all forms of risk as to—
 - (i) write off bad debts with the approval of the Minister,
 - (ii) raise financing or borrow money by issuing debenture or any other security or in any other manner in connection with the exercise of its functions subject to the approval of the Minister, and
 - (iii) retain and expend corporate income, as defined under relevant accounting standards, for the purposes of fulfilling its functions under this Act.

(2) The Board shall have power, for the purpose of carrying out its functions, to do all such acts they appear to it to be requisite, advantageous or convenient and may carry on any activity in that behalf either alone or in association with any other person or body.

The Board may, with the approval of the Minister, make regulations with respect to—

Power to make regulations.

- (a) fixing the rate and scale of charges payable for the water supplied by meter or otherwise within the Territory;
- (b) granting exemptions from any water rate or charge of any premises or class of premises to any person or class of persons;
- (c) the amount payable in respect of water supplied to any Government in the Federation or Local Council, institution or institutions, be it public or private, or to any special part of any such institution.
- (d) the amount of rent payable on the Board's meters;
- (e) the method and manner in which water may be taken from public fountains;
- (f) fees payable for services rendered by the Board together with the time and place of payment of such fees;
- (g) the construction, laying, fitting, alteration or readjustment of services and the nature, quality, size and pattern used;
- (h) the forms of all notices required to be given or sent under this Act and the issuing and service of notices;
- (i) the control, whether by prohibition or otherwise of boating on or fishing in any waterwork;
- (j) the prevention of the wrongful opening or closing of any lock, cock, valve, sluice or manhole pertaining to any waterwork;
- (k) the prevention of the commission of an offence or nuisance in or, about any station, works, plant, building or premises of the Board;
- (l) the prevention of illegal tapping of water;
- (m) the prevention of trespass upon or injury to stations, works, plants, buildings or premises pertaining to any waterwork,
- (n) generally regulating the operations of the waterworks and the governance thereof and maintenance of good order;

- (o) generally for the preservation and the conservation of the sources of water in the areas pertaining to the Board's operations;
- (p) the prevention of wastage and leakage of water; and
- (q) licensing procedure for water services operators and other participants in the water sector including informal operators.

PART III — STAFF OF THE BOARD

The Minister shall appoint an officer of the Board to be as the General Manager who shall, subject to the general direction of the Board—

The General Manager and Chief Executive Officer (GM).

- (a) be the Chief Executive and Accounting Officer of the Board (in this Act referred to as “the General Manager” or “GM”);
- (b) be responsible for the general administration and implementation of the decisions and policies of the Board; and
- (c) perform such other duties as the Board may direct.

the performance of his functions, the General Manager may be assisted by the —

Other management staff.

- (a) Assistant General Manager (Administration);
- (b) Assistant General Manager (Finance and Accounts);
- (c) Assistant General Manager (Technical operations);
- (d) Assistant General Manager (Commercial operations);
- (e) Assistant General Manager (Planning);
- (f) the Secretary of the Board who shall be the Legal Adviser to the Board; and
- (g) other officers as the Board may deem necessary in the performance of the functions of the Board.

(1) The Board may appoint directly, or from any Public Service of the Federation, any number of staff and other employees as it may deem necessary to assist the Board in the performance of its functions under this Act.

Other staff of the Board.

(2) The terms and conditions of service of members of staff shall be determined by the Board in accordance with prevailing terms and conditions of service for public enterprises.

(3) Service in the Board shall be approved service under the provision of the Pensions Reform Act and staff and employees of the Board shall be entitled to pensions, gratuities and other retirement benefits as prescribed under the Pensions Reform Act.

Pension Reform Act, No. 4 2014

1) Without prejudice to the provisions of subsection (3) of this section, nothing in this Act shall prevent the appointment of any person to any office on terms which preclude the grant of pension, gratuity or other retirement benefits with respect to that office.

The Board shall determine the remuneration to be paid to its officers and staff and may require any officer to give such security as it is deemed proper for the due operation of his office.

Remuneration of officers.

PART IV — FINANCIAL PROVISIONS

Funds of the Board

1) There is established for the Board a fund into which shall be paid—

- (a) all sums, investments or other property vested in the Board under this Act;
- (b) such sums or other advances, by way of loans or grants to the Board, by the Government;
- (c) such sums or other property as may be advanced by way of loans or grants to the Board by any Government or statutory body in the Territory, the Federal Government or any agency or institution of any Government, any international organisation and private foundation or any person;
- (d) any investment or other property acquired by the Board;
- (e) money earned or arising from any investment or other property acquired by, or vested in, the Board;
- (f) all other sums (whether as water rates, water services charges) or other property which may in any manner become payable to, or vested, in the Board in respect of its powers and duties or of any other incidental matter under this Act or by virtue of the provisions of any other Act;
- (g) any money allocated to the Board under the Federal Government budgetary allocation; or
- (h) such other money as may accrue to the Board.

2) The Board 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 Minister.

The Board shall operate bank accounts for its funds with a reputable bank or banks and the signatories to the accounts shall be either the General Manager or, in his absence, his designated representatives, as the case may be, and the Head of Accounts or, in his absence, his designated representative or any person duly authorised by the Board in that behalf.

Bank account.

The following charges shall be defrayed out of the revenue of the Board for any financial year —

Application of the Board's revenue.

- (a) the remuneration and allowances of the members of the Board and those of any committees of the Board;
- (b) the salaries, remuneration, fees, allowances, pensions and gratuities of the staff, agents, technical and other advisers or consultants of the Board;
- (c) all expenses of working and management of the Board and its waterworks and other properties including proper provision for depreciation, wear and tear or renewal of assets;
- (d) such minor works of a capital nature as the Board may deem necessary;
- (e) such sums including compensation that may be payable by the Board to any person or authority under this Act or any other enactment;
- (f) taxes, rates and other levies payable by the Board under this Act;
- (g) interest or loans raised by and on behalf of the Board;
- (h) sums required to be transferred to any sinking fund or otherwise set aside for the purpose of making provision for the redemption of or other securities or the repayment of other loans; and
- (i) such other sums as the Board may approve for payment out of the Fund of the Board in respect of any financial year.

(1) The Board shall establish and maintain a general reserve fund in a separate account into which account shall be paid the — General reserve fund.

- (a) balance of the revenue of the Board for any financial year;
- (b) such money as the Minister may direct from any source; and
- (c) operating profits as may accrue to the Board in any financial year.

(2) The general reserve funds shall be used for the actualisation of the plans of the Board with respect to the provision of water services delivery as contained in the approved water services development plan.

(1) The Government may give to the Board —

Loans and grants by the Federal Government.

- (a) grants of any sum of money or property it may deem necessary; and

(b) loans upon such terms as to repayment, with interest or otherwise, as the Government may determine.

2) The Government may, if it deems it expedient, waive, in favour of the Board, any right or liability to the Government in respect of any property vested in the Board under this Act.

1) The Board shall, not later than 30th September of each year, submit, for the approval of the Minister, an estimate of its expenditure and income (including payments from the Board's fund) for the next succeeding year.

Annual budgets and accounts.

2) The Board shall keep proper accounts, in conformity with the standard accounting practice, in respect to each year and proper records in relation to those accounts, and shall cause its accounts to be audited, within six months after the end of each year, by auditors appointed from the list and in accordance with guidelines supplied by the Auditor-General for the Federation.

The Board shall prepare and submit to the Minister, not later than six months after the end of each year, a report in such form as the Minister may direct on the activities of the Board during the preceding year, and shall include in such report a copy of the audited accounts of the Board for that year and the auditors' report on the accounts.

Annual reports.

1) The Board may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person or organisation making the gift.

Power to accept gifts.

2) The Board shall not accept gifts if the conditions attached by the person or organisation offering the gifts are inconsistent with the functions of the Board.

1) The Board may, with the approval of the National Assembly, borrow money by overdraft or in any other manner for and in connection with the performance of its functions under this Act as the Board may deem necessary.

Power to borrow money.

2) An approval given for the purposes of this section may be either general or limited to a particular borrowing or otherwise and may be subject to certain conditions.

3) The Board may take loans for purposes of developmental activities as may be approved by the National Assembly.

The Board may, subject to the provisions of this Act and conditions of any trust created in respect of any property, invest all or any of its funds in any security prescribed by the Investments and Securities Act or in such other securities as may be approved by the Minister.

Investments.

Cap. 124, LFN 2004

The Board may, with the approval of the National Assembly, raise capital for the implementation of its developmental plans and programmes through the capital market or by issuing bonds or other instruments, and by satisfying all the necessary requirements of the stock exchange in that regard.

Power to raise capital on the Stock Exchange.

(1) The Government may guarantee, by an undertaking of the Minister of Finance in such manner and on such condition as the Minister may think fit, the payment of the principal

Guarantee on loans or other instruments of the

and interest of any sum or sums borrowed or bonds issued by the Board with the approval of the Minister.

Board by the Federal Government.

- (2) Such sums carrying out as may be required by the Accountant-General of the Federation for the purpose of making good the obligations of the Government under the guarantee shall be charged on the Consolidated Revenue Fund of the Federation.

In an action for the recovery of any rate or other money (other than fines and penalties) payable or recoverable under this Act, a certificate under the hand of the Board in that behalf, that any sum of money is due, and that the defendant is the person liable to pay the same is evidence of such debt and of non-payment, and of the fact that the defendant is the person liable to pay the same.

Proof of money due.

PART V — TECHNICAL PROVISIONS

Water Supply, Distribution and Consumption

- (1) The Board shall maintain a continuous supply of treated water to residents in the Territory, but the Board may —

Board's responsibility to consumers for continuous supply of water.

- (a) suspend the supply of water for such periods as may be necessary for carrying out inspections, tests, or repairs and for the making of new connections;
- (b) suspend or turn off supply for the purpose of effecting alterations and modifications to its pipelines and other facilities or general maintenance of the waterworks;
- (c) suspend or discontinue any supply where the payment of rates, dues or charges in arrears.

- (2) The Board shall not be under any obligation to pay damages or 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.

- (1) The Board, shall from time to time, fix rates and scales of charges payable for water supply and other services within the Territory in accordance with a methodology for tariff setting earlier approved by the Minister which allows for the fixing of economic rates for water supply and other services in order to meet its financial objectives and in accordance with the provisions of this Act.

Rates and scales of charges.

- (2) The water rates and charges may be fixed at different rates for different locations as the Board may deem fit in the circumstances.

- (1) Subject to this Act and any rule or regulation made under this Act, the Board may supply water to any tenement upon application made by the owner or occupier and such application shall be accompanied with payment of fees or rates as the Board may determine.

Application for water supply.

2) The Board may refuse to supply water to any particular premises otherwise than by a meter or device installed and maintained by the Board.

Subject to the provisions of this Act, the Board may purchase water in bulk and may resell such water either in bulk or by distribution to individual consumers.

Purchase, resale and distribution of water by the Board.

As from the commencement of this Act, no person shall resell water supplied by the Board except under to a licence or other agreement entered into with the Board for that purpose:

Prohibition of sale of water supplied by the Board.

Provided that no authority shall be required for the sale of any manufactured goods or other commodities in which water supplied by the Board is included.

1) The owner or occupier of any tenement to which water is supplied by the Board shall pay to the Board such rates and charges for water supply or other services as may determined by the Board.

Payment for water rates and charges.

2) Where any person fails to pay water rates or charges within one month after it has become due, the Board may recover such rates or charges with cost by an application brought before the FCT High court.

The Board shall have power to collect from Area Council such fees as may be agreed in respect of services in common provided for the inhabitants of the respective Area Council.

Power to levy general water rate in respect of Area Councils.

The Board shall not, as a result of conducting any inspection or test of a consumer's pipes, fittings, appliances and apparatus in accordance with this Act or any regulation made under this Act, whether during the progress of the work of installation at the consumer's premises after its completion, be deemed to be responsible for the efficiency or safety of the consumer's pipes, fittings, appliances and apparatus so inspected or tested or arising out of the use or misuse of apparatus by the consumer or any other person other than an employee of the Board.

Board not responsible for installation works or for damage.

Except as otherwise provided by this Act, where a supply of water is provided by the Board any part of an area for private purposes, every person within that part of the area shall, on application to the Board, be entitled to a supply on terms and conditions as the Board may deem fit:

Entitlement to supply of water without preferential treatment.

Provided that in the case of a first time connection adequate water can be made available without detriment to existing supplies to persons or institutions in the area.

1) If a person or Ministry of the Federal Government, a department of the Ministry, or other authority does anything which such person, department or authority is by or under any Act authorised to do and which necessitates an alteration in any part of any waterwork, or of any distribution system vested in, or the property of the Board, the Board shall on reasonable notice being given to it by such person, Ministry, department or authority make such alteration and the expenses incurred, shall be borne by such person, Ministry, department or authority.

Responsibility for expenses caused by certain necessary alterations.

2) In the event of any dispute as to the amount of such expenses, the same may be referred by the person, Ministry, department or authority concerned, or the Board to the Abuja multi-door courthouse.

1) Subject to the provisions of this section, the Board shall keep records of the location of— Maps of waterworks.

(a) every resource main, water main or discharge pipe which is for the time being vested in the Board; and

(b) any other underground work, other than a service pipe, which are for the time being vested in the Board.

) The Board shall ensure that the contents of any records for the time being kept by it under this section are available, at all reasonable times, for inspection by the public free of charge at an office of the Board upon a prior application in writing to the Board.

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

) For the purpose of determining whether a failure to make a modification of any record kept under this section constitutes a breach of the duty imposed under subsection (1), that duty shall be taken to require any modification of the record to be made as soon as reasonably practicable after the completion of the works which make the modification necessary, and, where records kept under this section are modified, the date of the modification and completion of the works making the modification necessary shall be incorporated in the records.

) The Board may charge such amounts as it may determine for the provision of such information to the public.

PART VI— CUSTOMER CARE CENTER

) There is established for the Board, the Customer Care Centre (in this Act referred to as "the Centre") which shall be located within the Board's Headquarters.

Establishment of
Customer Care Centre.

) The Board may also establish customer care centers in its area offices as it deems necessary with a view to bringing its services closer to the consumers.

ie Centre shall —

Functions of the centre.

(a) receive and pursue complaints from consumers regarding:

(i) quality of water,

(ii) water leakages,

(iii) damage to property of the Board,

(iv) water connection charges,

(v) standards of service,; and

(vi) other related matters;

- (b) settle minor disputes and protect the interests of all consumers;
- (c) monitor all matters appearing to the Centre to affect the interests of consumers or potential consumers;
- (d) consult with any operator about matters which affect the interest of consumers or potential consumers to that operator;
- (e) make representations where appropriate on behalf of a consumer or complainant to any private sector operator;
- (f) receive and pursue complaints from environmental agencies and government bodies on pollution matters; and
- (g) forward complaints to the relevant authorities where applicable.

PART VII – OFFENCES AND PENALTIES

A person who –

- (a) willfully or negligently damages any water work, public fountain or service,
- (b) unlawfully draws, diverts or takes water from any source or from any stream by which any water is supplied,
- (c) makes an unauthorised opening or closes any valve, sluice or manhole of any waterwork,
- (d) pollutes any water or water source, or
- (e) allows or causes any foul liquid, gas or other noxious, toxic or injurious substance or matter to be discharged into any water source or any facility of the Board,

Offences relating to water diversion, pollution, etc.

commits an offence and is liable on conviction to –

- (i) In case of an individual, a fine of ₦20,000 or to imprisonment for a term not exceeding one year or both,
- (ii) in case of corporate offenders a fine of ₦250,000.00, and
- (iii) a further penalty of ₦50,000 for each day that the act or omission that constitutes the offence continues.

A person who –

- (a) willfully or negligently misuses, causes or allows to be misused or wasted any water, passing through or into, upon or near tenement; or

Offences relating to wastage.

(b) alters, causes or permits to be altered any pipeline, fitting or fountain or any waterworks without the consent of the Board,

commits an offence and is liable on conviction to a fine of ₦10,000 or to imprisonment for a term not less than six months or both.

person who alters, causes or permits to be altered any pipeline, fitting or fountain or any waterwork 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 avoid payment or such supply, or

(c) willfully or negligently damage, alter, cause or permit to be damaged or altered any meter,

commits an offence and is liable on conviction to a fine of ₦10,000 or to imprisonment for a term not exceeding one month or both.

1) A person who puts, allows to be put or to remain or 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, be washed or be carried into or obstructs any waterwork of the Board, commits an offence and is liable on conviction to a fine of ₦20,000 or to imprisonment for a term not exceeding three months or both.

Offences relating to nuisance.

2) A 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 Board is, in addition to the penalty specified in subsection (1) of this section, liable to a further penalty of ₦5000 for each day that the act or omission that constitutes the offence continues.

A person who –

Offences relating to bathing, washing, etc.

(a) bathes or washes clothes, materials or other things in any part of any waterwork or its appurtenances,

(b) puts, allows or causes to enter into any waterwork any horse, dog, goat, pig or any other domestic animal or any bird or other things, or

(c) makes an unauthorised opening or closes any valve or control, sluice or manhole belonging to any waterwork,

commits an offence and is liable on conviction to a fine of ₦10,000 or imprisonment for a term not exceeding six months or both.

A person who –

Incitement.

(a) incites another person to refuse to pay any water rate or charge due and payable by him; or

(b) incites or assists any person to misrepresent in any way his ratable capacity or any information material to the assessment of or rating upon tenement of which he is the owner or occupier commits an offence and is liable on conviction to a fine of ₦5,000 or imprisonment for a term of one month or both.

A person who obstructs or assaults any staff, officer or employee of the Board or any other person authorised by the Board in the course of carrying into effect any of the provisions of this Act commits an offence and is liable on conviction to a fine ₦5,000 or imprisonment for a term not exceeding one month or both.

Obstruction of staff of Board.

A person who, not being lawfully authorised to carry out any function under this Act by the Board and who under any guise or cover, holds out himself as having been authorised to enforce any part of this Act commits an offence and is liable on conviction to a fine of ₦100,000 or imprisonment for a term of one year.

Offences of impersonation.

A person who conspires with, procures, instigates, aids or facilitates another person to do anything or act prohibited under any of the provisions of this Act, commits an offence and is liable under the relevant provisions of this Act relating to such offence and shall be punished as if he had committed the offence himself.

Conspiracy.

PART VIII – LEGAL PROCEEDINGS

1) Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any member, officer or employee of the Board.

Limitation of suits against the Board.

Cap. P41, LFN, 2004

2) No suit against the Board, a member of the Board, the General Manager or any other officer or employee of the Board for any act done in pursuance or execution of any law, or any public duty or in respect of any alleged neglect or default in the execution of such act, duty or authority, shall lie or be instituted in any court unless –

(a) it is commenced within three months next after the act, neglect or default is complained of; or

(b) in the case of continuation of damage or injury, within three months next after the act, neglect or default has ceased.

A suit shall not be commenced against the Board, the General Manager or any other officer or employee of the Board before the expiration of a period of one month after written notice of intention to commence the suit shall have been served on the Board by the intending plaintiff or agent; and the notice shall clearly state –

(a) the cause of action;

(b) the particulars of claim;

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

(d) the relief claimed.

The notice referred to in section 50 (3) of this Act and any summons, notice or other document required or authorised to be served upon the Board under the provisions of this Act or any other law may be served by delivering the same to the General Manager or by sending it by registered post and addressed to the General Manager at the Headquarters of the Board.

Service of documents.

In any action or suit against the Board, no execution or attachment of process in that nature shall be issued against the Board but any sum of money which may, by judgment of the court, be awarded against the Board shall, subject to any direction given by the court, be paid from the general reserve fund of the Board.

Restriction on execution against the Board.

Every member agent, auditor, officer or employee of the Board shall be indemnified out of the assets of the Board against any liability incurred by him in defending any proceeding, whether civil or criminal if any such proceeding is brought against him in his capacity as a member, agent, auditor, officer or employee.

Indemnity of officers of the board.

PART IX – MISCELLANEOUS PROVISIONS

(1) Where a person contravenes any of the provisions of this Act, the Board may, without prejudice to the rights of the Board to commence proceedings against any defaulter –

Certain provisions relating to defaulters.

(a) serve a notice in writing on the defaulting occupier or consumer;
and

(b) authorise or cause an officer or employee of the Board to enter and alter, disconnect, stop or remove any water fitting belonging to or used by such defaulting occupier or consumer.

(2) Upon the occupier or the consumer remedying the default or contravention referred to in subsection (1) of this section, the Board may cause repairs, replacement and re-connection of the water fitting and the Board shall recover from the defaulter the cost or expenses reasonably incurred to effect the repairs or replacement or re-connection, as the case may be.

(1) Where, upon consideration of any audit report, the Board is satisfied that in respect of its functions under this Act –

Recovery of loss of money.

(a) a sum due to the Board has not been duly brought to account by any person; and

(b) there is loss of money or destruction of any of the property of the Board which has occurred by reason of –

(i) negligence, or

(ii) breach of official duty or other misconduct of any person, the Board may surcharge such money or the value of the property lost or destroyed upon the person whether he is member of staff or an agent of the Board.

- 2) Before exercising any of the powers specified under subsection (1) of this section, the Board may, in writing, authorise any person to conduct an inquiry for the purposes of the section (and to take evidence and examine witnesses by summons), require all such persons as it may deem fit to appear before it at a time and place stated in such notice or summons and produce all such books, records, accounts and other documents and materials as it may consider necessary for the purpose of the inquiry.
- 3) If the Board decides to surcharge any person under subsection (1) of this section, the Board shall cause a notice to be served upon such person.
- 4) Notwithstanding anything to the contrary contained in subsection (1) of the section, no liability to surcharge shall be incurred by any officer, employee or agent of the Board if he can prove to the satisfaction of the Board that he acted in accordance with the terms of a resolution of the Board or of any committee duly set up by the Board under this Act or on the written instructions of any officer, employee or agent of the Board:

Provided that nothing in this subsection shall exempt any person from liability to surcharge within the provisions of this section where it is proved that he knew or ought reasonably to have known that the terms of the resolution or written instructions were not in accordance with provisions of this Act, or rules or directions given under this Act.

- 5) Any amount notified as a surcharge in accordance with subsection (3) of this section shall be due to the Board and may be sued for and recovered in any court of competent jurisdiction at the instance of the Board.

1) A person who is aggrieved by a decision of the Board for a surcharge of any amount exceeding ₦1,000 may, within 30 days of such decision, appeal to the Minister for a review of the decision.

Appeals against surcharge.

2) The Minister may confirm, vary or quash the decision of the Board and give such direction as he may deem fit in each circumstance.

1) Wherever it appears to the Board that any land in the Territory is required for the purpose of any waterwork, the Board shall, subject to the Land Use Act, apply to the Minister for approval for its officers or agents to enter upon the land and –

Provisions relating to land.

Cap L5, LFN, 2004.

(a) survey and take levels of the land

(b) dig a borehole under the subsoil; and

(c) do such other things as are necessary to ascertain whether the land is adapted for such purposes:

Provided that no such officer, agent or employee of the Board shall enter into any building or upon any enclosed court or garden attached to a

dwelling house without giving at least seven days notice of intention to enter and the occupier shall not unreasonably withhold consent as requested.

2) Where any entry made under subsection (1) of this section occasions any damage requiring the payment of compensation, the Board shall pay compensation as it deems fit in the circumstances.

1) Subject to subsection (2) of this section, any fire authority may abstract water from any public fountain, service or waterwork of the Board for the purpose of prevention or control of fire.

Abstraction by fire authorities.

2) Water shall not be abstracted by any fire authority for the purpose of testing any fire fighting appliance except with the consent of the Board and such consent shall not be unreasonably withheld.

3) No charge shall be made for water supplied by the Board under subsection (1) or (2) of this section.

4) Any main, pipe, valve, hydrant, service or other waterwork required within the area of operation of the Board by any fire authority in the performance of its functions to prevent and control fire shall be provided by the Board upon payment by the fire authority, such fees or rates as the Board may determine provided that such main, pipe, valve, hydrant, service or other waterworks shall vest in the Board and be maintained by the Board as the fire authority may require.

5) In this section, "fire authority" means any authority or body of firemen duly constituted, organised or established under any enactment or Act by the Federal or Local Authority.

(1) The statutory functions, rights, obligations and liabilities of the Federal Capital Development Authority (in this Act referred to as "the Authority") as they relate to the supply of water in the Territory existing before the commencement of this Act under any contract or instrument, shall, subject to any contrary directive by the Minister, be vested in the Board established under this Act.

Savings, and transfers of liabilities, staff.

(2) Any contract or instrument mentioned in subsection (1) of this section shall be of the same force and effect against or in favour of the Board established by this Act and shall be enforceable as fully and effectively as if it were the Authority existing before the commencement of this Act.

(3) The Board established by this Act shall be subject to all obligations and liabilities to which the Authority existing before the commencement of this Act was subject before the commencement of this Act and all persons shall have the same rights, powers and remedies against the Board established by this Act as they had against the Authority.

(4) Any proceeding or cause of action pending or existing immediately before the commencement of this Act, by or against the Authority existing before the commencement of this Act in respect of any right, interest, obligation or liability of the Authority may be continued or, as the case may be, commenced by or against the Board and any determination of a court, tribunal or other authority may be enforced by or against the Board established by this Act to the same extent that such proceeding or

cause of action or determination might have been continued, commenced or enforced against the Board.

- (5) Any person who immediately before the coming into force of this Act is the holder of any office in the Authority existing before the commencement of this Act shall, on the commencement of this Act, continue in office and be deemed to have been appointed to his office by the Board established under this Act unless the Authority by which the person was appointed terminates the appointment.

n this Act –

Interpretation.

traction” 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;

propriate Local Authority” means any Local Authority having jurisdiction over a specific area for the purpose of this Act;

authorised officer” means any environmental health officer or any member of staff duly authorised in writing by the Board;

Authority” means the Federal Capital Development Authority established pursuant to the Federal Capital Territory Act;

Board” means the Federal Capital Territory Water Board established under section 1 (1) of this Act;

bulk supply” means water supplied for the purpose of wholesale by the Board or by any other person;

consumer” means any person who is supplied with water and includes any person who applied for and is supplied with water from any waterwork or any person, who otherwise uses water and is liable for the payment of water rates, rents or charges;

domestic supply” means water supplied from any waterwork used in any tenement for drinking, cooking, or for baths or any other purpose of domestic life;

ditch” means any pipe or channel, conveying only surface water or subsoil water or both and the bottom of which is below ground level;

financial year” means every period of 12 months terminating on the 31st day of December;

functions” includes objectives and duties;

General Manager” means the General Manager of the Board appointed under section 2 (1) (b) of this Act;

illegal connection” means any connection to a water pipe without the explicit authorisation of the Board;

"leakage" means the loss of water from the Board or any operators distribution system or from any of service pipes for which consumers are responsible;

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

"meter" includes any device used for measuring, ascertaining or regulating the quantity of water used or used from any waterwork 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;

"Minister" means the Minister of the Federal Capital Territory;

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

"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 who would receive the rent if such tenement were to be let to a tenant and includes the holder of a tenement from the Minister whether under lease, licence or otherwise;

"permit" means the certificate to be issued by the Board stating the information that may be required as the Board shall determine, but does not include the payment of annual charges.

"person" means an individual and includes a limited liability company or an organisation duly incorporated under the Companies and Allied Matters Act 1990;

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

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

"President" means the President and Commander in Chief of the Armed Forces of the Federal Republic of Nigeria.

"Private Sector Participant" means any private entity, whether a natural person, body corporate, partnership, consortium or joint venture entering into a project agreement;

"property" includes buildings and appurtenances, accessories, stores, materials, investments, debts, loans and accounts receivable claims;

"Project Agreement" means an agreement between the Board and a Private Sector Participant entered into by Board through competitive bidding procedures to carry out private sector participation that sets the terms and conditions of such participation, including, without limiting the generality of the foregoing, concessions, leases, management contracts, BOT and BOOT arrangements, technical assistance contracts, consulting services contracts, franchises, bulk water supply and purchase agreements and regulatory agreements;

"public fountain" means any fountain, standpipe, valve, tap of any device used or intended to be used for or in connection with the supply of water to the public from any waterworks, and vested in the Board and which is the property thereof;

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

"relevant authority" means any governmental ministry or agency, or any other body, which is competent to address matters within its power;

"service" means all pipes, valves, cisterns, cocks, fittings, and other devices (excepting any device as herein defined) by or through which water flows or is intended to flow from any waterworks or which are or may be used for the purpose of supplying any tenement from any waterworks, and being the property of the owner or occupier or such tenement;

"street" includes any square, court, highway, road, thorough fare or public passage or place over which the public have a right of way;

"tenement" means any land with or without buildings which is held or occupied as a distinct or separate holding under tenancy or terms of occupation of any description;

"territory" means the Federal Capital Territory, Abuja;

"treated water" means water treated for domestic purposes; and

"waterworks" includes all reservoirs, ponds, boreholes or well, dams, tanks, cisterns, channels, sluices, filter beds, conduits, aqueducts, mains pipes, fountains, sluices used or constructed for storage or conveyance, supply, measurement or regulation of water which belongs to or are vested in the Board.

This Act may be cited as the Federal Capital Territory Water Board (Establishment) Act, 2017. Citation.

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD

Proceedings of the Board

Subject to this Act and section 27 of the Interpretation Act (which provides for decisions of a majority of its members and for the person presiding at any meeting, when a vote is ordered, to have a second or casting vote), the Board may make orders regulating its proceedings or that of any committee.

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

The quorum at a meeting of the Board shall be at least one-third of the total number of members of the Board at the date of the meeting and the quorum of a committee of the Board shall be as determined by the Board.

The Board shall, for the purposes of this Act, meet at least three times in each year and the Chairman shall meet whenever it is summoned by the Chairman, and if required to do so by notice given to him by at least five other members, he shall summon a meeting of the Board to be held within 14 days from the date on which the notice is given.

Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him to the Board for such period as it deems fit, but a person who is a member by virtue of this paragraph is not entitled to vote at any meeting of the Board and shall not count towards a quorum.

A member of the Board who is directly or indirectly interested in any matter being deliberated by the Board, or is interested in a contract made or proposed to be made by the Board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

A disclosure under this paragraph shall be recorded in the minutes of meetings of the Board and the member concerned shall –

- (a) not, after the disclosure, take part in any deliberation or decision of the Board; and
- (b) be excluded for the purpose of constituting a quorum of any meeting of the Board for any deliberation or decision, with regard to the subject matter in respect of which his interest is so disclosed.

Committees

Subject to its standing orders, the Board may set up such number of standing and ad hoc committees as it deems fit to consider and report on any matter with which the Board is concerned.

2) A committee set up under this paragraph shall consist of such number of persons (not necessarily members of the Board as may be determined by the Board), and a person, other than a member of the Board, shall hold office in the committee in accordance with the terms of his appointment and the committee shall be presided over by a member of the Board.

3) -The quorum of any committee set up by the Board shall be determined by the Board.

4) A decision of a committee of Board shall be of no effect until it is confirmed by the Board.

Miscellaneous

The fixing of the seal of the Board shall be authenticated by the signature of the Chairman or any other person generally or specifically authorised by the Board to act for that purpose, and that of the Secretary.

Any contract or instrument, which if made by a person not being a body corporate would not be required to be under seal, may be executed on behalf of the Board by the Secretary or any other person generally or specially authorised by the Board to act for that purpose.

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

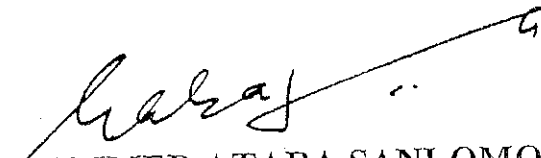
The validity of any proceeding of the Board or of any of its committees shall not be affected

- (a) any vacancy in the membership of the Board or committee; or
- (b) any defect in the appointment of a member of the Board or committee; or
- (c) by reason that any person not entitled to do so took part in the proceedings of the Board or committee.

A member of a committee who has a personal interest in any contract or arrangement entered into or proposed to be considered by the committee shall disclose his interest to the committee and shall not vote on any question relating to the contract or arrangement.

A member of the Board shall not be personally liable for any omission done or made in good faith while engaged in the business of the Board.

I, CERTIFY, IN ACCORDANCE WITH SECTION 2 (1) OF THE ACTS AUTHENTICATION ACT CAP. A2, LAWS OF THE FEDERATION OF NIGERIA 2004, THAT THIS IS A TRUE COPY OF THIS BILL PASSED BY BOTH HOUSES OF THE NATIONAL ASSEMBLY.



MOHAMMED ATABA SANI-OMOLORI
CLERK TO THE NATIONAL ASSEMBLY


14th DAY OF NOVEMBER, 2017

Schedule to the Federal Capital Territory Water Board (Establishment) Bill, 2017

SHORT TITLE OF THE BILL	LONG TITLE OF THE BILL	SUMMARY OF THE CONTENTS OF THE BILL	DATE PASSED BY THE SENATE	DATE PASSED BY THE HOUSE OF REPRESENTATIVES
Federal Capital Territory Water Board (Establishment) Bill, 2017.	An Act to establish the Federal Capital Territory Water Board to provide safe, adequate and affordable water supply services to the residents of the Federal Capital Territory, Abuja; and related matters.	This Bill establishes of the Federal Capital Territory Water Board charged with the responsibility for providing safe, adequate and affordable water supply services to the residents of the Federal Capital Territory, Abuja.	12 th July, 2017	7 th June, 2016

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.


MOHAMMED ATABA SANI-OMOLORI
 Clerk to the National Assembly
 14th Day of November, 2017


MUHAMMADU BUHARI, GCFR
 President of the Federal Republic of Nigeria
 20 Day of November, 2017

I ASSENT

December