

WATER RESOURCES ACT

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SCHEDULE

Water sources declared as affecting more than one State

WATER RESOURCES ACT

An Act to promote the optimum planning, development and use of the Nigeria's water resources and other matters connected therewith.

[1993 No. 101.]

[23rd August, 1993]

[Commencement.]

1. Vesting of rights and control of water in the Federal Government

(I) The right to the use and control of all surface and groundwater and of any water-course affecting more than one State as described in the Schedule to this Act, together with the bed and banks thereof, are by virtue of this Act and without further assurance vested in the Government of the Federation for the purpose of-

[Schedule.]

- (a) promoting the optimum planning, development and use of Nigeria's water resources;
 - (b) ensuring the co-ordination of such activities as are likely to influence the quality, quantity, distribution, use and management of water;
 - (c) ensuring the application of appropriate standards and techniques for the investigation, use, control, protection, management and administration of water resources; and
 - (d) facilitating technical assistance and rehabilitation for water supplies.
- (2) The provisions of subsection (1) of this section, shall not be construed as infringing or constituting a compulsory acquisition of any right over, or interest in property.

2. Rights to take and use of water

Notwithstanding the provisions of section 1 of this Act-

(a) any person-

- (i) may take water without charge for his domestic purpose or for watering his livestock from any watercourse to which the public has free access;
or
- (ii) may use water for the purpose of fishing or for navigation to the extent that such use is not inconsistent with any other law for the time being in force; or
- (iii) who has a statutory or customary right of occupancy to any land, may take and use water from the underground water source or if abutting on the bank of any watercourse, from that watercourse, without charge for domestic purposes, for watering livestock and for personal irrigation schemes.

3. Acquisition for rights to use or take water

Any person or any public authority may acquire a right to use or take water from any watercourse or any groundwater described in the Schedule to this Act for any purpose in accordance with the provisions of this Act and any regulations made pursuant thereto. [Schedule.]

4. Control of groundwater

Notwithstanding the provisions of section 2 of this Act, the Minister shall have power to-

- (a) define the places from which or the manner in which and the times at which such water may be taken or used;
- (b) fix, in times of actual or anticipated shortage of water, the amount which may be taken by any person for such purposes;
- (c) prohibit temporarily or permanently, the taking or use of water from any source for such purposes, when in his opinion, the taking or use of such water would be hazardous to health;
- (d) revoke a right to use or take water when such a right is likely to override the public interest;
- (e) require to be examined or licensed, any person undertaking the work of drilling for water;

(f) regulate the place, depth, manner of construction or mode of operation of any borehole or well; and

(g) define the times at which water may be taken from such borehole or well.

5. Administration of provisions of Act

The Minister shall, in the discharge of his duties under this Act, have regard to the need to make proper provision for-

(a) the adequate supplies of suitable water for-

(i) the watering of animals, irrigation, agricultural purposes, domestic, and non domestic use; and

(ii) the generation of hydro-electric energy for navigation, fisheries and recreation;

(b) the supply of water for the drainage, the safe disposal of sewage, effluent and water-borne wastes and the control and prevention of pollution;

(c) the control and prevention of flooding, soil erosion and damage to watershed areas;

(d) the reclamation of land;

(e) the protection of inland and estuarine fisheries, flora and fauna;

(f) ensuring that the possible consequences of particular development proposals on the environment are properly investigated and considered before each proposal is approved;

(g) the procedures to facilitate and-

(i) ensure the co-ordination of all detailed planning for the investigation, use, control, protection, management and administration of water resources;

(ii) direct the co-ordinated execution of approved plans and projects by public authorities; and

(h) the procedures for technical assistance and rehabilitation and improvement support to public authorities having responsibility for public water supply.

6. Master plan

It shall be the duty of the Minister to draw up from time to time, an up-to-date comprehensive master plan for the development, use, control, protection, management and administration of all water resources and to periodically review in the light of prevailing economic, financial or technological conditions, activities, plans and proposals of public authorities exercising powers relating to water resources.

7. Power to withhold release of fund

The President may direct a Ministry or appropriate agency not to release any fund for a water project that has been included in the master plan prepared by the Minister pursuant to section 6 of this Act.

8. Powers of the Minister

In the discharge of his duties under this Act, the Minister shall have power to-

(a) ask for and obtain from any authority or person, plan or proposals relating to the investigation, use, control, protection, management or administration of water projects;

(b) prohibit the storage, diversion, pumping or use of any water or the construction, maintenance, operation, repair or alteration of any borehole or any hydraulic works;

(c) require information, relating to water-samples or core-samples by any person who constructs, uses, alters, operates, maintains or repairs any bore-hole or any hydraulic works, or who has a statutory or customary right of occupancy to any area of land on which such borehole or hydraulic work is situated or who is in actual occupation of such land and in such form and at such times as the Minister may require;

(d) prohibit or regulate the carrying out of any activities on land or water which are likely to interfere with the quantity or quality of any water in any water-course or groundwater;

(e) require any person who has a statutory or customary right of occupancy to, or is in actual occupation of any land, to construct and maintain on such land such works for the conservation of land or water resources as are specified by the Minister;

(j) authorise, control or undertake construction, operation, maintenance, repair or alteration of such hydraulic works as may be specified by the Minister;

(g) supply or sell raw water to any person or public authority on such terms or conditions as the Minister may determine.

9. Unlawful diversion of water, etc.

(1) As from the commencement of this Act, the diversion, storage, pumping or use on a commercial scale of any water or the construction, maintenance, operation, repair of any borehole or any hydraulic works shall be carried out only in accordance with a licence issued pursuant to this Act or regulations made thereunder.

(2) A person in breach of the provisions of subsection (1) of this section commits an offence under this Act.

10. Application for licence

An application for the grant of a licence for the purposes mentioned in section 9 of this Act shall be made to the Minister in such form and manner and shall contain or be accompanied by such information and documents as the Minister may, from time to time, prescribe.

11. Issuing of licence

The Minister shall, before issuing a licence, consider the allocation of usable water in the watercourse or groundwater in the particular area, the anticipated shortage of water and may-

(a) refuse to issue a licence for carrying out of any activity on water which in his opinion is likely to interfere with the quantity or quality of water in a watercourse or groundwater; or

(b) cancel or modify any licence for the diversion and use of water for the purpose of accommodating the needs of another user of water to which that licence relates; or

(c) modify, suspend or cancel any licence granted under this Act on account of non-use of a licence for such terms as he may determine.

12. Power to order removal of hydraulic work

The Minister may require any person who has a statutory or customary right of occupancy over any land served by any hydraulic works, which has been constructed, maintained, operated, repaired or altered without, or in breach of the provisions of any licence, either to remove such hydraulic works or to modify its construction, operation or maintenance within a specified time.

13. Licence fee

The Minister shall have power to impose a fee at such rates as may be determined on the issue of a licence to-

(a) divert, store, pump, use or impound raw water for any purposes other than the purposes referred to in section 2 of this Act; or

(b) any person or public authority seeking to construct, operate, maintain, repair or alter any hydraulic works in or adjacent to any water source.

14. Power to impose fees, rates and charges

The Minister may by regulations or otherwise, and subject to such terms and conditions as he may prescribe, authorise any authority to impose charges in connection with the provision of any service prescribed pursuant to this Act or regulations made thereunder including any charge by way of contribution to the costs of any works associated with the provision of such services paid for from public funds.

15. Power to fix and levy rates

(1) The Minister may, by regulations or otherwise, fix the maximum rates which may be levied in connection with the abstraction and use of water and may authorise any authority to assess, levy and recover any rate so prescribed.

(2) A water abstraction rate levied under this section, shall not be levied in respect of water abstracted from a water-related work paid for from public funds if the charges are levied on such water for the recovery of the cost of the works made pursuant to section 14 of this Act.

16. Recovery of unpaid money

Whenever any charge or rate imposed or levied pursuant to this Act remains unpaid for a period of thirty days from the due date thereof the Minister may-

(a) issue proceedings in any court of competent jurisdiction for its recovery together with any costs incurred in connection therewith; and

(b) suspend any licence to which the unpaid charges or rates relates until such time as they are paid or recovered.

17. Delegation of power

The Minister may delegate in writing to any person such of his powers or functions under this Act as he may deem appropriate, but the delegation effected under this section shall not prevent the exercise by the Minister of the power so delegated.

18. Penalties

(1) Any person who contravenes or fails to comply with any provisions of this Act, or any regulation made thereunder, commits an offence and is liable upon conviction to a fine not exceeding ₦2,000 or to a term of imprisonment not exceeding six months or to both such fine and imprisonment, and, in the case of a continuing offence to an additional fine not exceeding ₦ 100 for every day or part of a day that the offence continues.

(2) Where an offence under this Act has been committed by a body corporate or firm or other association of individuals, a person who at the time of the commission of the offence was any officer thereof or was purporting to act in such capacity, is severally guilty of that offence and liable to be prosecuted against and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

19. Regulations

The Minister may make regulations generally for the due administration of the provisions of this Act.

20. Interpretation

In this Act, unless the context otherwise requires-

"authority" means any person or body appointed or constituted to exercise any power or functions or to whom any power has been delegated pursuant to this Act or any regulations made thereunder;

"bed and bank" with reference to any watercourse as defined in this Act includes the land usually or occasionally inundated by the water thereof, together with such soil, rock or any other material immediately adjacent thereto which in the opinion of the Minister is necessary to support the proper maintenance thereof but does not include any land beyond the above mentioned land, soil, rock or other materials, which is occasionally covered by the flood waters of such watercourse;

"bank" means the relatively steep portions of the first mentioned land;

"bed" means the relatively flat land;

"bore" means a bore, well, gallery, drive or excavation or any artificially constructed or improved underground cavity;

"charge" includes any fee, rate, or charge imposed, levied or made pursuant to this Act;

"domestic use" means the use for drinking, washing, bathing, cooling, gardening or for any other domestic purpose in any residential premises utilised for non-profit motives;

"environment" includes all aspects of the surroundings of man whether affecting him as an individual or in his social and aesthetic factors of those surroundings;

"groundwater" means any water occurring in or obtained from any geological structure or formation or artificial landfill, permeated or capable of being permeated occasionally with water and includes any matter dissolved or suspended in such water;

"non-domestic use" means the use of water from any waterworks for profit or gain;

"Minister" means the Minister charged with responsibility for matters relating to water resources;

"pollution" means any direct or indirect alteration of the physical, thermal, chemical, biological or radioactive properties of any water or groundwater so as to render such water or groundwater less fit for any beneficial purpose for which it is, or may reasonably be used, or to cause a condition which is hazardous or potentially hazardous to public health, safety, welfare to animals, birds, wildlife, fish or aquatic life, or to plants;

"public authority" includes the Minister or any member of the civil service of the Federation, State or Local Government or of any Commission, Authority or Statutory Corporation established by the Government of the Federation, State or Local Government;

"public use" means any non-domestic or agricultural use from any waterworks provided through any fountain, standpipe, valve, tap or appliance used by the public;

"small irrigation schemes" means irrigation infrastructural development covering not more than thirty hectares;

"watercourse" includes any river, creek, stream, spring, lake, lagoon, swamp, marsh or any other course for water in which water flows or is contained either usually or occasionally and includes any natural channel artificially improved, or any artificial channel artificially improved, or any artificial channel of work which has changed the course of

boundaries of any river, creek, stream, watercourse, spring, lake, lagoon, swamp, marsh or any other course for water;

"waterworks" means reservoir, dam, tank, cistern, tunnel, treatment plant, conduit, main, pipe, fountain, valve, pump, engine or other source of supply and such structures or appliances as are used or constructed for the storage, conveyance, supply, measurement or regulation of water.

21. Short title

This Act may be cited as the Water Resources Act.

SCHEDULE

[Sections 1 and 3.]

Water sources declared as affecting more than one State

All water, whether surface or underground, from time to time, contained within or flowing or percolating through such sources and tributaries and catchment areas thereof.

SOURCE I

The River Niger from the border between the Federal Republic of Nigeria and the Niger Republic to the outlet of the Kainji reservoir, including-

- (a) the Sakata Rima River from the border with the Federal Republic of Nigeria;
- (b) all the tributaries of the River Niger crossing the border to the Benin Republic;
- and
- (c) the Sokoto sedimentary (Western) hydro-geological area.

SOURCE 2

The River Niger from the outlet of the Kainji reservoir to the point of confluence of the River Niger and of the Benue River, including-

- (a) the Kaduna River with the tributaries;
- (b) the Gurara River;
- (c) all tributaries of the River Niger crossing the border to the Benin Republic;
- (d) the Upper Niger Sedimentary (Niger) hydro-geological area.

SOURCE 3

The Benue River from the border between the Federal Republic of Nigeria and the Republic of Cameroons to the point of confluence of the Benue River and the River Niger, including-

- (a) the Gongola River;
- (b) the Pai-yul River;
- (c) the Wase River;
- (d) the Shemankar River;

(e) the Dep River;
(f) the Mada Ri ver
(g) all the tributaries of the Benue River crossing the international border to the Republic of Cameroons; and

(h) the Benue Sedimentary (Benue) hydro-geological area.

SOURCE 4

The River Niger from the confluence thereof and of the Benue River, including the Delta of the River Niger and all water tributaries or inlluent thereto or diffluent therefrom, including-

(a) the Anambra River;
(b) the Imo River;
(c) the Akwa-Ibom River; and
(d) the Aboine River.

SOURCES

All watercourses directly or indirectly influent to the Lagoon and other littoral lagoons and watercourse from the border with the Republic of Benin to the mouth of the Forcados River, including-

(a) the Oshun River;
(b) the Ogun River;
(c) the Shasha River;
(d) the Owena River; and
(e) the Ogun/Oshun sedimentary (South-Western) hydro-geological area.

SOURCE6

All watercourses rising or situated in the Federal Republic of Nigeria which are directly or indirectly inlluent to the Lake Chad, including the Chad Sedimentary (North-Eastern) hydro-geological area.

SOURCE7

The Cross River from the boundary between the Federal Republic of Nigeria and the Republic of Cameroons and all water tributaries or influent thereto or diffluent therefrom, including the Cross River Sedimentary (South-Eastern) hydro-geological area.

SUBSIDIARY LEGISLATION

No Subsidiary Legislation