

CHAPTER K48 - KWARA STATE RURAL WATER SUPPLY AND SANITATION AGENCY LAW

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SCHEDULE

KWARA STATE RURAL WATER SUPPLY AND SANITATION AGENCY LAW

A Law to establish a Rural Water Supply and Sanitation Agency for the State and for other connected purposes.

[No. 2 of 2006.]

[Date of commencement: 28th March, 2006]

PART I

Establishment, Incorporation of the Agency and Composition, Functions and Powers of the Board

1. Establishment of the Agency

There is hereby established for the State a body to be known as the Kwara State Rural Water Supply and Sanitation Agency (hereinafter referred to as "the Agency").

2. Incorporation of the Agency

The Agency shall—

- (a) be a body corporate with perpetual succession, having a common seal;
- (b) have power to sue and be sued in its corporate name; and
- (c) be capable of holding, purchasing, acquiring and disposing of property, movable and immovable for the purpose of carrying out its functions under this Law.

3. Transfer of assets and liabilities

All the rights, assets and liabilities which before the commencement of this Law were vested in the UNICEF-Assisted Water Supply and Sanitation Project in the State and the Kwara State Rural Water Supply Agency are hereby transferred to and shall, without any further assurance, vest in the Agency.

4. Board of the Agency

(1) There is hereby established for the Agency a Governing Board (hereinafter referred to as "the Board").

(2) The Board shall consist of—

- (a) a Chairman;
- (b) the General Manager;
- (c) three persons representing the interests of rural communities in the State, one from each Senatorial District;
- (d) a representative of the Ministry of—
 - (i) Rural Development,
 - (ii) Water Resources,
 - (iii) Local Government and Chieftaincy Affairs,

(iv) Environment and Tourism; and

(v) Health.

(e) the Secretary to the Agency, who shall be the Secretary.

(3) The Ministry of Rural Development shall be the Superintending Ministry.

5. Appointment and remuneration of members

Members of the Board other than *ex officio* members shall be—

(a) appointed by the Governor; and

(b) be paid such remuneration whether by way of salaries, fees or allowances as the Governor may determine or may direct from time to time.

6. Tenure of office

A member (not being an *ex officio* member) shall hold office for four years and may be re-appointed for another term of four years.

7. Vacation of office

The office of a member shall become vacant if—

(a) his tenure of office has elapsed;

(b) he, by notice in writing addressed to the Governor resigns his office;

(c) he is removed from office by the Governor; or

(d) he dies whilst holding such office.

8. Removal from office etc.

(1) Notwithstanding the provisions of sections 5 and 6 of this Law, a member may at any time be removed from office by the Governor on the occurrence of any of the

following—

- (a) he becomes bankrupt, suspends payment or compounds with his creditors;
- (b) he is convicted for a felony or any offence involving dishonesty or fraud;
- (c) he becomes of unsound mind or is incapable of carrying out his duties;
- (d) he is guilty of serious misconduct in relation to his duties; or
- (e) in the case of a person possessed of professional qualification, he is disqualified or suspended, other than at his own request, from practicing his profession in any part of the world by any order of a competent authority made in respect of that member.

(2) Where a member of the Board ceases to hold office for any reason whatsoever, before the 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 remaining term.

9. Application of the schedule

The supplementary provisions of the Schedule to this Law shall have effect with respect to the proceedings of the Board and other matters therein mentioned.

10. Functions and powers of the Board

- (1) The functions of the Board shall be—
 - (a) to make decisions for the Agency;
 - (b) to advise generally on the rural water supply and sanitation development;
 - (c) co-ordinate, regulate and monitor the implementation of the activities of the Agency;

- (d) to regulate the discharge of functions of the Agency under this Law and as may be assigned to the Agency by the Governor; and
 - (e) carry out such other functions as are necessary and expedient.
- (2) The Board shall have power to—
- (a) formulate, initiate and provide the general policies and guidelines in relation 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) fix terms and conditions of service including remunerations, allowances of the employees of the Agency;
 - (e) make recommendations when necessary on any important issue;
 - (f) purchase machinery, equipment, etc. for the effectiveness of the Agency;
 - (g) inspect projects, etc. as may be necessary for the purpose of carrying out its functions under this Law; and
 - (h) do such other things as are necessary and expedient.

11. Direction by the Governor

The Governor may give to the Board directives of a general and specific character as to the exercise and performance of their functions and the Board shall give effect to such directives.

12. Objects of the Agency

The Agency shall sustain water system development in the rural sub-sector of the State by—

- (a) securing for the present and future generations as well as for domestic, farming and animal husbandry, an efficient use of potable water;
- (b) providing to rural dwellers of the State sufficient potable water for their health and well being;
- (c) increasing access to safe drinking water;
- (d) increasing access to sanitary means of excreta disposal; and
- (e) doing such other necessary things in relation to water supply and sanitation.

PART II

Functions and Powers of the Agency

13. Functions of the Agency

(1) The functions of the Agency shall be—

- (a) to plan, budget, implement, monitor and evaluate rural water and sanitation activities;
- (b) to implement strategies for the eradication of guinea-worm and other water-borne diseases;
- (c) the overall co-ordination of water and sanitation activities in the State.
- (d) to provide integrated safe water supply, sanitation and health education programmes;
- (e) the promotion of improved personal and environmental hygiene through community mobilisation and public enlightenment;
- (f) to encourage and promote proper waste disposal;

- (g) to undertake initial bacteriological and chemical certificate tests of new boreholes in the State to access potability;
- (h) to carry out routine bacteriological and chemical analysis of boreholes in the State to ensure continuous fitness of the water for drinking;
- (i) to carry out the treatment of bacteriological contaminated boreholes;
- (j) to carry out borehole drilling and connected activities;
- (k) to carry out the assessment of the quality of borehole installation materials with a view to monitoring their impact on water quality;
- (l) to undertake pollution path studies in rural areas to determine the critical contamination points of water collected for domestic use;
- (m) support the Water and Environmental Sanitation Department at the Local Government level;
- (n) identify and partner with United Nations, multilateral and bilateral funding organisations interested in funding water and sanitation activities; and
- (o) lobby and advocate for funding support to the water and sanitation sector in the State.

(2) Other functions of the Agency shall be—

- (a) to plan, monitor, mobilise resources and co-ordinate with other agencies within the State and give adequate support for rural water supply and sanitation;
- (b) to prepare the State Rural Water Supply and Sanitation rolling plans;
- (c) to implement all rural water supply and sanitation projects and programmes of both the State and Federal Governments;
- (d) to make efforts in ensuring continuous service of rural water supply

and sanitation schemes in the respective benefiting communities through the maintenance and repairs of boreholes;

- (e) to make efforts in ensuring that adequate potable water is supplied to rural dwellers regularly;
- (f) to survey, drill, install pumps and control boreholes (both hand pump equipped and motorised) 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;
- (g) to ensure the maintenance of a data bank for all rural water supply and sanitation programmes;
- (h) to control and manage rural water supply and sanitation undertakings and installations vested or to be vested in the Agency under the provisions of this Law;
- (i) to provide regular training and technical support;
- (j) to organise the conduct of comprehensive research for the purpose of the Agency from time to time on matters relating to its functions under this Law and to submit the result of such research to the Commissioner for the utilisation of the same by him in the formulation of policy relating to the rural water supply and sanitation usage in the State; and
- (k) to encourage community participation.

14. Power of the Agency

Subject to the provisions of this Law, the Agency shall have powers—

- (a) to enter into any agreement or other arrangements as are necessary, advantageous or expedient for the performance of its functions;
- (b) to 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 and to sell, dispose of or otherwise deal with such property or any part thereof;

- (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) accept or acquire, hold, transfer or re-transfer any security of whatever kind;
- (e) if necessary, to charge fees for its services; and do anything necessary for the purpose of attaining maximum efficiency in its operations.

PART III

Administrative Organisation of the Agency

15. The General Manager

(1) There shall be a General Manager for the Agency, who shall be a person with at least 15 years experience in the public service with requisite knowledge and qualification in Engineering or Sciences.

(2) The General Manager shall be the Chief Executive and Accounting Officer of the Agency, and shall have the ultimate responsibility for carrying out the policies, programmes and decisions of the Agency.

(3) The General Manager shall be appointed by the Governor upon such terms and conditions of service as to remuneration or otherwise as the Governor may approve.

(4) The General Manager shall hold office for a period of four years and may be re-appointed for another term of four years and no more.

16. Duties of the General Manager

The General Manager shall, subject to the general direction of the Board—

- (a) be responsible for the day to day administration of the Agency;
- (b) implement the policies, programmes and decisions of the Board in

- accordance with the provisions of this law;
- (c) have control of all employees of the Agency;
- (d) be a confirmatory signatory to the Bank Account of the Agency; and
- (e) perform such other duties as may be prescribed by the Board from time to time.

17. Power of discipline and removal

Power to exercise disciplinary control over the General Manager and to remove him from office shall vest in the Governor and shall also be subject to the provisions of any regulations that may be made under this Law.

18. The Secretary

(1) There shall be a Secretary to the Agency, who shall be appointed by the Governor from the State Civil Service.

19. Duties of the Secretary

The Secretary shall be the Chief Administrative Officer of the Agency and shall—

- (a) keep the books and proper records of the proceedings of the Board;
- (b) be in control of the administration of the Secretariat of the Agency;
- (c) carry out all correspondence relating to the Agency;
- (d) be a signatory to the bank account of the Agency; and
- (e) perform such other duties as may be prescribed by the Board from time to time.

20. Accountant

- (1) There shall be an Accountant for the Agency.
- (2) The Accountant shall—

- (a) maintain accurate accounting records of all financial transactions conducted by the Agency;
- (b) maintain approved imprest account for the Agency;
- (c) be a signatory to the Bank Account of the Agency; and
- (d) perform such other duties that are assigned to him or that are incidental to the discharge of his responsibilities.

21. Internal Auditor

- (1) The Agency shall have an Internal Auditor.
- (2) Subject to the provisions of this Law, the Internal Auditor shall be responsible to the Auditor-General of the State for the performance of his functions.
- (3) As part of his functions under this Law, the Internal Auditor shall—
 - (a) prepare quarterly reports for the review of the management of the Agency;
 - (b) prepare an annual audit report at the end of each financial year; and
 - (c) perform such other duties that are assigned to him or that are incidental to the discharge of his responsibilities.

22. Departments and units of the Agency

- (1) There shall exist in the Agency the following departments and units—
 - (a) Water Supply Department—
 - (i) Geophysics Unit;
 - (ii) Drilling/Maintenance of Borehole Development Unit;

- (iii) Micro-biology and Water Treatment Unit; and
 - (iv) Workshop/Mechanical Unit.
 - (b) Sanitation and Mobilisation Department—
 - (i) Slab and Latrine Construction Unit;
 - (ii) Health Education, Hygiene and Training Unit; and
 - (iii) Community Mobilisation Unit.
 - (c) Administration/Finance Department—
 - (i) Personnel Affairs Unit;
 - (ii) Stores Unit;
 - (iii) Finance/ Account Unit; and
 - (iv) Planning and Statistics Unit.
- (2) Such other departments and units as the need arises.
- (3) The Departments referred to in subsection (1) of this section shall be headed by an appropriate Assistant General Manager.

23. Appointment etc. of other staff

(1) The Agency may appoint and exercise disciplinary control over such other officers, servants and agents as it may consider necessary for the discharge of its functions, and to determine their terms and conditions of service as to remuneration or otherwise.

(2) The exercise of the powers vested in the Agency by subsection (1) shall be subject to the provisions of any regulations or rules that may be made under this Law.

(3) The Agency may employ on transfer or secondment such officers in the public service of the State or of any other State, Local Government or Federal Government

as

may, with the agreement of such officers, be transferred to the service of the Agency in accordance with the procedure applicable to the transfer of such officer.

24. Service in the Agency, to be pensionable

(1) Service in the Agency shall be pensionable service and accordingly, officers and persons employed in the Agency shall be entitled to pensions, gratuities and other retirement benefits as are obtainable in the Public Service of the State.

(2) Nothing in subsection (1) of this section shall prevent the appointment of a person to any office on terms, which preclude the grant of pension and gratuity in respect of that office.

25. Power to make regulations relating to employees of the Board

The Board may, with the approval of the Governor, and subject to the provisions of this Law, make regulations with respect to the appointments, promotions, transfer, dismissal and exercise of disciplinary control over its employees and without prejudice to the generality of the foregoing provisions, make regulations for any of the following matters—

- (a) the qualifications to be required for appointments;
- (b) the method of appointment (including probation and confirmation);
- (c) the form of any agreement to be entered into between the Agency and its employees;
- (d) the terms and conditions of service (including without prejudice to the generality of that expression, the salaries, allowances, the grant of advances, the provisions of quarters, leave and medical treatments);
- (e) the procedures and requirements for promotions;
- (f) the maintenance of discipline (including dismissal and the determination of appointments);
- (g) the transfer of employees between the Agency and the Government of the State, any other State Government, Local Authority or Local Government or any Statutory Corporation; and

- (*d*) such other matters relating to departmental procedures, duties and responsibilities of employees as the Board considers can be best provided for by regulations.

PART IV

Financial Provisions

26. Funds

The funds and resources of the Agency shall consist of—

- (*a*) such sums or properties granted to the Agency by the Federal, State or Local Government, or any person, institution or organisation;
- (*b*) such sums as may be paid to the Agency by way of grants, subsidies, donations, gifts, fees, subscriptions, rents, grants-in-aid, endowments and royalties;
- (*c*) all such sums as may from time to time be granted to the Agency by any person;
- (*d*) all properties and investments acquired by or vested in the Agency and all monies earned or arising there from;
- (*e*) all fares and other sums derived by the Agency from the provisions of its services under this Law; and
- (*f*) any other sums or property accruing to the Agency from any other source.

27. Annual estimates and accounts

The Agency shall not later than 30th September in each year, submit to the Commissioner an estimate of its expenditure and income (including payments to the Agency) for the next succeeding year.

28. Accounts

The Agency shall keep and maintain proper books of account and record all of its transactions and activities during each financial year.

29. Audit

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 authorised in that behalf by him.

30. Annual report

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.

31. Power to accept gift, etc.

The Agency may accept any gift 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 provided that the Agency shall not accept any gift if the conditions attached are inconsistent with the functions of the Agency and the terms of existing Laws.

32. Power to borrow

(1) The Agency may, from time to time, borrow such sums as it may require for the performance of its functions under this Law.

(2) The Agency shall not, without the approval of the Governor borrow money which exceeds, at any time, the amount set by the Governor.

(3) Notwithstanding subsection (1) of this section, where the sum to be borrowed is in foreign currency, the Agency shall not borrow the sum without the prior approval of the Governor.

33. Non-exemption from payment of income tax

The Agency shall not be exempted from the payment of income tax or any income accruing from investments made by the Board for the Agency or otherwise howsoever.

34. Power to acquire land

The Agency may subject to the Land Use Act, acquire any land for discharging its functions.

PART V

Local Government Water and Environmental Sanitation Departments and Committees

35. Establishment of Local Government Water and Environmental Sanitation Departments

(1) There shall be established for each Local Government Area of the State a Local Government Water and Environmental Sanitation Department.

(2) The functions of the Local Government Water and Environmental Sanitation Department shall be—

- (a) to monitor and sustain the water and sanitation facilities at the community level;
- (b) to improve and reduce infant mortality rate;
- (c) to provide and deliver improved and sustainable Water Supply and Sanitation services; and
- (d) to perform such other relevant functions.

36. Establishment of Local Government Water and Environmental Sanitation Committees

(1) There shall be established for each Local Government Area in the State, a Local Government Water and Environmental Sanitation Committee.

(2) The functions of the Local Government Water and Environmental Sanitation Committee shall be—

- (a) to operate, maintain and manage the 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; and
- (d) to ensure the training of Ward Water Supply and Sanitation Committees members at community levels for maintenance of water supply and sanitation facilities.

37. Membership of the Committee

The Committee shall consist of the following—

- (a) Local Government Vice-Chairman who shall be the Chairman of the Committee;
- (b) Supervisory Councillor (Health);
- (c) Head of Department (Health);
- (d) Chairman, Local Government Nigeria Union of Teachers;
- (e) Chairman Local Government Transport Unions;
- (f) representative of—
- (g) Traditional Council;
- (h) Youth;
- (i) Women;
- (j) Kwara State Rural Water and Sanitation Agency; and (g) a Senior

Administrative Officer, as the Secretary.

PART VI

Ward Water Supply and Sanitation Committees

38. Establishment of Ward Water Supply and Sanitation Committee

There shall be established in each ward in the local Government Areas of the State, the Ward Water Supply and Sanitation Committee.

39. Membership of the Committee

The Chairman and members of the Committee shall be appointed by the Local Government Council in which the Ward is located.

40. Functions of the Committee

The functions of the Ward Water Supply and Sanitation Committee shall be—

- (a) to undertake the improvement of Ward Environmental Sanitation including the construction of household and community latrines;
- (b) to participate in the planning and implementation of ward water supply and sanitation facilities;
- (c) to enhance, manage and maintain the water supply and sanitation facilities;
- (d) to participate in local training for health education, environmental sanitation and protection of water supply sources against contamination; and
- (e) to perform other related functions.

PART VII

Miscellaneous

41. Offences and Penalty

(1) No person shall construct a borehole in the State without the approval of the Agency.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred thousand naira or imprisonment for a term not exceeding six month, or to both.

42. Power to make regulations

The Board may make regulations for the better carrying out of the provisions of this Law.

43. Repeal of No. 6 of 1997

The Kwara State Rural Water Supply Agency Law is hereby repealed.

44. Interpretation

In this Law, unless the context otherwise requires—

"**Agency**" means Kwara State Rural Water and Sanitation Agency established by this Law;

"**Board**" means the Board of the Agency;

"**Borehole**" means a deep hole made using a rig or any special equipment, to get water out of the ground;

"**Chairman**" means the Chairman of the Board;

"**Commissioner**" means the State Commissioner charged with the responsibility of Rural Development;

"**Government**" means the Government of the State;

"**Governor**" means the Governor of Kwara State;

"**General Manager**" means the General Manager appointed under section 15

of this Law and includes any person for the time being exercising the functions of the General Manager;

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

"**Ministry**" means the Ministry of Rural Development;

"**Financial year**" means the twelve months ending on the 31st day of December;

"**State**" means the Kwara State of Nigeria;

"**Water Supply**" includes boreholes, wells and other modes of conveying, transmitting or distributing water.

45. Citation

This Law may be cited as the Kwara State Rural Water and Sanitation Agency Law, 2006.

SCHEDULE

[Section 9.]

Supplementary Provisions Relating to the Board

1. Standing orders

The Board may make standing orders regulating the proceedings of the Board or any of its committees.

2. Meetings

(1) The Board shall meet at such time as may be expedient for the transactions of business and such meetings shall be held at such places and times as the Board may determine.

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

(3) At any meeting of the Board the Chairman shall preside but if he is absent, the members present at the meeting shall appoint one of their members to preside at that meeting.

3. Quorum

Five members of the Board (at least three of whom shall be ex officio members) shall constitute a quorum, and the quorum of any Committee of the board shall be determined by the Board.

4. Voting

(1) Every question put before the Board at a meeting shall be decided by a majority of the votes of the members present and voting.

(2) The Chairman and every member shall at any meeting each have a vote, but in the case of an equality of vote, the Chairman may in addition exercise a casting vote.

5. Co-option

Where upon any special occasion the Board desires to obtain the advice of any person on any particular matter, the Board may co-opt such a person as a member for such meetings as may be required, and such person whilst so co-opted shall have all the rights and privileges of a member except that he shall not be entitled to vote on any question.

6. Exemption from liability

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 the operations of the Agency.

7. Vacancy

No act or proceedings of the Board or Committee shall be invalid—

(a) on account of any vacancy among its members;

(b) on account of the appointment of any member having been defective; or

(c) by reason that any person not entitled to do so took part in the proceedings of the Board or the Committee.

8. Committees

(1) The Board may appoint standing or ad hoc Committees to perform, on behalf of the Board, such of its functions as the Board may determine.

(2) 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, and a person other than a member of the Board shall hold office on the Committee in accordance with the terms of his appointment.

(3) A decision of a Committee of the Board shall be of no effect until it is confirmed by the Board.

9. Common seal

(1) 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.

(2) The Secretary shall have custody of the common seal of the Agency and be responsible for fixing the common seal into any document.

(3) The fixing of the common seal shall be authenticated by the signature of the Chairman and the Secretary.

(4) 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.

10. Execution of contract

(1) Any contract or instrument, which would not be required to be under seal if

entered into or executed by a person other than a body corporate, may be entered into or executed on behalf of the Agency by any person generally or specifically authorised by the Board to do so.

(2) The Secretary shall have custody of the common seal of the Agency and be responsible for fixing the common seal into any document.

(3) The fixing of the common seal shall be authenticated by the signature of the Chairman and the Secretary.

(4) Any contract or instrument, which would not be required to be under seal if entered into or executed by a person other than a body corporate, may be entered into or executed on behalf of the Agency by any person generally or specifically authorised by the Board to do so.

(5) 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.

CHAPTER K48

KWARA STATE RURAL WATER SUPPLY AND SANITATION AGENCY LAW

SUBSIDIARY LEGISLATION

No Subsidiary Legislation

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Establishment, Incorporation of the Agency and Composition, Functions and Powers of the Board

1. Establishment of the Agency

There is hereby established for the State a body to be known as the Kwara State Rural Water Supply and Sanitation Agency (hereinafter referred to as "the Agency").

2. Incorporation of the Agency

The Agency shall—

- (a) be a body corporate with perpetual succession, having a common seal;

(b) have power to sue and be sued in its corporate name; and

(c) be capable of holding, purchasing, acquiring and disposing of property, movable and immovable for the purpose of carrying out its functions under this Law.

3. Transfer of assets and liabilities

All the rights, assets and liabilities which before the commencement of this Law were vested in the UNICEF-Assisted Water Supply and Sanitation Project in the State and the Kwara State Rural Water Supply Agency are hereby transferred to and shall, without any further assurance, vest in the Agency.

4. Board of the Agency

(1) There is hereby established for the Agency a Governing Board (hereinafter referred to as "the Board").

(2) The Board shall consist of—

- (a) a Chairman;
- (b) the General Manager;
- (c) three persons representing the interests of rural communities in the State, one from each Senatorial District;
- (d) a representative of the Ministry of—

(i) Rural Development,

(ii) Water Resources,

(iii) Local Government and Chieftaincy Affairs,

(iv) Environment and Tourism; and

(v) Health.

(e) the Secretary to the Agency, who shall be the Secretary.

(3) The Ministry of Rural Development shall be the Superintending Ministry.

5. Appointment and remuneration of members

Members of the Board other than *ex officio* members shall be—

- (a) appointed by the Governor; and
- (b) be paid such remuneration whether by way of salaries, fees or allowances as the Governor may determine or may direct from time to time.

6. Tenure of office

A member (not being an *ex officio* member) shall hold office for four years and may be re-appointed for another term of four years.

7. Vacation of office

The office of a member shall become vacant if—

- (a) his tenure of office has elapsed;
- (b) he, by notice in writing addressed to the Governor resigns his office;
- (c) he is removed from office by the Governor; or
- (d) he dies whilst holding such office.

8. Removal from office etc.

(1) Notwithstanding the provisions of sections 5 and 6 of this Law, a member may at any time be removed from office by the Governor on the occurrence of any of the following—

- (a) he becomes bankrupt, suspends payment or compounds with his creditors;
- (b) he is convicted for a felony or any offence involving dishonesty or fraud;

(c) he becomes of unsound mind or is incapable of carrying out his duties;

(d) he is guilty of serious misconduct in relation to his duties; or

(e) in the case of a person possessed of professional qualification, he is disqualified or suspended, other than at his own request, from practicing his profession in any part of the world by any order of a competent authority made in respect of that member.

(2) Where a member of the Board ceases to hold office for any reason whatsoever, before the 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 remaining term.

9. Application of the schedule

The supplementary provisions of the Schedule to this Law shall have effect with respect to the proceedings of the Board and other matters therein mentioned.

10. Functions and powers of the Board

(1) The functions of the Board shall be—

(a) to make decisions for the Agency;

(b) to advise generally on the rural water supply and sanitation development;

(c) co-ordinate, regulate and monitor the implementation of the activities of the Agency;

(d) to regulate the discharge of functions of the Agency under this Law and as may be assigned to the Agency by the Governor; and

(e) carry out such other functions as are necessary and expedient.

(2) The Board shall have power to—

- (a) formulate, initiate and provide the general policies and guidelines in relation 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) fix terms and conditions of service including remunerations, allowances of the employees of the Agency;
- (e) make recommendations when necessary on any important issue;
- (f) purchase machinery, equipment, etc. for the effectiveness of the Agency;
- (g) inspect projects, etc. as may be necessary for the purpose of carrying out its functions under this Law; and
- (h) do such other things as are necessary and expedient.

11. Direction by the Governor

The Governor may give to the Board directives of a general and specific character as to the exercise and performance of their functions and the Board shall give effect to such directives.

12. Objects of the Agency

The Agency shall sustain water system development in the rural sub-sector of the State by—

- (a) securing for the present and future generations as well as for domestic, farming and animal husbandry, an efficient use of potable water;
- (b) providing to rural dwellers of the State sufficient potable water for their health and well being;

- (c) increasing access to safe drinking water;
- (d) increasing access to sanitary means of excreta disposal; and
- (e) doing such other necessary things in relation to water supply and sanitation.

PART II

Functions and Powers of the Agency

13. Functions of the Agency

(1) The functions of the Agency shall be—

- (a) to plan, budget, implement, monitor and evaluate rural water and sanitation activities;
- (b) to implement strategies for the eradication of guinea-worm and other water-borne diseases;
- (c) the overall co-ordination of water and sanitation activities in the State.
- (d) to provide integrated safe water supply, sanitation and health education programmes;
- (e) the promotion of improved personal and environmental hygiene through community mobilisation and public enlightenment;
- (f) to encourage and promote proper waste disposal;
- (g) to undertake initial bacteriological and chemical certificate tests of new boreholes in the State to access potability;
- (h) to carry out routine bacteriological and chemical analysis of boreholes in the State to ensure continuous fitness of the water for drinking;

- (i) to carry out the treatment of bacteriological contaminated boreholes;
 - (j) to carry out borehole drilling and connected activities;
 - (k) to carry out the assessment of the quality of borehole installation materials with a view to monitoring their impact on water quality;
 - (l) to undertake pollution path studies in rural areas to determine the critical contamination points of water collected for domestic use;
 - (m) support the Water and Environmental Sanitation Department at the Local Government level;
 - (n) identify and partner with United Nations, multilateral and bilateral funding organisations interested in funding water and sanitation activities; and
 - (o) lobby and advocate for funding support to the water and sanitation sector in the State.
- (2) Other functions of the Agency shall be—
 - (a) to plan, monitor, mobilise resources and co-ordinate with other agencies within the State and give adequate support for rural water supply and sanitation;
 - (b) to prepare the State Rural Water Supply and Sanitation rolling plans;
 - (c) to implement all rural water supply and sanitation projects and programmes of both the State and Federal Governments;
 - (d) to make efforts in ensuring continuous service of rural water supply and sanitation schemes in the respective benefiting communities through the maintenance and repairs of boreholes;
 - (e) to make efforts in ensuring that adequate potable water is supplied to rural dwellers regularly;
 - (f) to survey, drill, install pumps and control boreholes (both hand pump

equipped and motorised) 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;

- (g) to ensure the maintenance of a data bank for all rural water supply and sanitation programmes;
- (h) to control and manage rural water supply and sanitation undertakings and installations vested or to be vested in the Agency under the provisions of this Law;
- (i) to provide regular training and technical support;
- (j) to organise the conduct of comprehensive research for the purpose of the Agency from time to time on matters relating to its functions under this Law and to submit the result of such research to the Commissioner for the utilisation of the same by him in the formulation of policy relating to the rural water supply and sanitation usage in the State; and
- (k) to encourage community participation.

14. Power of the Agency

Subject to the provisions of this Law, the Agency shall have powers—

- (a) to enter into any agreement or other arrangements as are necessary, advantageous or expedient for the performance of its functions;
- (b) to 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 and to sell, dispose of or otherwise deal with such property or any part thereof;
- (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) accept or acquire, hold, transfer or re-transfer any security of whatever kind;

- (e) if necessary, to charge fees for its services; and do anything necessary for the purpose of attaining maximum efficiency in its operations.

PART III

Administrative Organisation of the Agency

15. The General Manager

(1) There shall be a General Manager for the Agency, who shall be a person with at least 15 years experience in the public service with requisite knowledge and qualification in Engineering or Sciences.

(2) The General Manager shall be the Chief Executive and Accounting Officer of the Agency, and shall have the ultimate responsibility for carrying out the policies, programmes and decisions of the Agency.

(3) The General Manager shall be appointed by the Governor upon such terms and conditions of service as to remuneration or otherwise as the Governor may approve.

(4) The General Manager shall hold office for a period of four years and may be re-appointed for another term of four years and no more.

16. Duties of the General Manager

The General Manager shall, subject to the general direction of the Board—

- (a) be responsible for the day to day administration of the Agency;
- (b) implement the policies, programmes and decisions of the Board in accordance with the provisions of this law;
- (c) have control of all employees of the Agency;
- (d) be a confirmatory signatory to the Bank Account of the Agency; and
- (e) perform such other duties as may be prescribed by the Board from time to time.

17. Power of discipline and removal

Power to exercise disciplinary control over the General Manager and to remove him from office shall vest in the Governor and shall also be subject to the provisions of any regulations that may be made under this Law.

18. The Secretary

(1) There shall be a Secretary to the Agency, who shall be appointed by the Governor from the State Civil Service.

19. Duties of the Secretary

The Secretary shall be the Chief Administrative Officer of the Agency and shall—

- (a) keep the books and proper records of the proceedings of the Board;
- (b) be in control of the administration of the Secretariat of the Agency;
- (c) carry out all correspondence relating to the Agency;
- (d) be a signatory to the bank account of the Agency; and
- (e) perform such other duties as may be prescribed by the Board from time to time.

20. Accountant

- (1) There shall be an Accountant for the Agency.
- (2) The Accountant shall—
 - (a) maintain accurate accounting records of all financial transactions conducted by the Agency;
 - (b) maintain approved imprest account for the Agency;
 - (c) be a signatory to the Bank Account of the Agency; and

- (d) perform such other duties that are assigned to him or that are incidental to the discharge of his responsibilities.

21. Internal Auditor

- (1) The Agency shall have an Internal Auditor.
- (2) Subject to the provisions of this Law, the Internal Auditor shall be responsible to the Auditor-General of the State for the performance of his functions.
- (3) As part of his functions under this Law, the Internal Auditor shall—
 - (a) prepare quarterly reports for the review of the management of the Agency;
 - (b) prepare an annual audit report at the end of each financial year; and
 - (c) perform such other duties that are assigned to him or that are incidental to the discharge of his responsibilities.

22. Departments and units of the Agency

- (1) There shall exist in the Agency the following departments and units—
 - (a) Water Supply Department—
 - (i) Geophysics Unit;
 - (ii) Drilling/Maintenance of Borehole Development Unit;
 - (iii) Micro-biology and Water Treatment Unit; and
 - (iv) Workshop/Mechanical Unit.
 - (b) Sanitation and Mobilisation Department—

- (i) Slab and Latrine Construction Unit;
 - (ii) Health Education, Hygiene and Training Unit; and
 - (iii) Community Mobilisation Unit.
- (c) Administration/Finance Department—
 - (i) Personnel Affairs Unit;
 - (ii) Stores Unit;
 - (iii) Finance/ Account Unit; and
 - (iv) Planning and Statistics Unit.
- (2) Such other departments and units as the need arises.
- (3) The Departments referred to in subsection (1) of this section shall be headed by an appropriate Assistant General Manager.

23. Appointment etc. of other staff

(1) The Agency may appoint and exercise disciplinary control over such other officers, servants and agents as it may consider necessary for the discharge of its functions, and to determine their terms and conditions of service as to remuneration or otherwise.

(2) The exercise of the powers vested in the Agency by subsection (1) shall be subject to the provisions of any regulations or rules that may be made under this Law.

(3) The Agency may employ on transfer or secondment such officers in the public service of the State or of any other State, Local Government or Federal Government as

may, with the agreement of such officers, be transferred to the service of the Agency in accordance with the procedure applicable to the transfer of such officer.

24. Service in the Agency, to be pensionable

(1) Service in the Agency shall be pensionable service and accordingly, officers and persons employed in the Agency shall be entitled to pensions, gratuities and other retirement benefits as are obtainable in the Public Service of the State.

(2) Nothing in subsection (1) of this section shall prevent the appointment of a person to any office on terms, which preclude the grant of pension and gratuity in respect of that office.

25. Power to make regulations relating to employees of the Board

The Board may, with the approval of the Governor, and subject to the provisions of this Law, make regulations with respect to the appointments, promotions, transfer, dismissal and exercise of disciplinary control over its employees and without prejudice to the generality of the foregoing provisions, make regulations for any of the following matters—

- (a) the qualifications to be required for appointments;
- (b) the method of appointment (including probation and confirmation);
- (c) the form of any agreement to be entered into between the Agency and its employees;
- (d) the terms and conditions of service (including without prejudice to the generality of that expression, the salaries, allowances, the grant of advances, the provisions of quarters, leave and medical treatments);
- (e) the procedures and requirements for promotions;
- (f) the maintenance of discipline (including dismissal and the determination of appointments);
- (g) the transfer of employees between the Agency and the Government of the State, any other State Government, Local Authority or Local Government or any Statutory Corporation; and
- (i) such other matters relating to departmental procedures, duties and responsibilities of employees as the Board considers can be best provided for by regulations.

PART IV

Financial Provisions

26. Funds

The funds and resources of the Agency shall consist of—

- (a) such sums or properties granted to the Agency by the Federal, State or Local Government, or any person, institution or organisation;
- (b) such sums as may be paid to the Agency by way of grants, subsidies, donations, gifts, fees, subscriptions, rents, grants-in-aid, endowments and royalties;
- (c) all such sums as may from time to time be granted to the Agency by any person;
- (d) all properties and investments acquired by or vested in the Agency and all monies earned or arising there from;
- (e) all fares and other sums derived by the Agency from the provisions of its services under this Law; and
- (f) any other sums or property accruing to the Agency from any other source.

27. Annual estimates and accounts

The Agency shall not later than 30th September in each year, submit to the Commissioner an estimate of its expenditure and income (including payments to the Agency) for the next succeeding year.

28. Accounts

The Agency shall keep and maintain proper books of account and record all of its transactions and activities during each financial year.

29. Audit

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 authorised in that behalf by him.

30. Annual report

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.

31. Power to accept gift, etc.

The Agency may accept any gift 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 provided that the Agency shall not accept any gift if the conditions attached are inconsistent with the functions of the Agency and the terms of existing Laws.

32. Power to borrow

(1) The Agency may, from time to time, borrow such sums as it may require for the performance of its functions under this Law.

(2) The Agency shall not, without the approval of the Governor borrow money which exceeds, at any time, the amount set by the Governor.

(3) Notwithstanding subsection (1) of this section, where the sum to be borrowed is in foreign currency, the Agency shall not borrow the sum without the prior approval of the Governor.

33. Non-exemption from payment of income tax

The Agency shall not be exempted from the payment of income tax or any income accruing from investments made by the Board for the Agency or otherwise howsoever.

34. Power to acquire land

The Agency may subject to the Land Use Act, acquire any land for discharging its functions.

*Local Government Water and Environmental Sanitation Departments
and Committees*

35. Establishment of Local Government Water and Environmental Sanitation Departments

(1) There shall be established for each Local Government Area of the State a Local Government Water and Environmental Sanitation Department.

(2) The functions of the Local Government Water and Environmental Sanitation Department shall be—

- (a) to monitor and sustain the water and sanitation facilities at the community level;
- (b) to improve and reduce infant mortality rate;
- (c) to provide and deliver improved and sustainable Water Supply and Sanitation services; and
- (d) to perform such other relevant functions.

36. Establishment of Local Government Water and Environmental Sanitation Committees

(1) There shall be established for each Local Government Area in the State, a Local Government Water and Environmental Sanitation Committee.

(2) The functions of the Local Government Water and Environmental Sanitation Committee shall be—

- (a) to operate, maintain and manage the 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; and

- (d) to ensure the training of Ward Water Supply and Sanitation Committees members at community levels for maintenance of water supply and sanitation facilities.

37. Membership of the Committee

The Committee shall consist of the following—

- (a) Local Government Vice-Chairman who shall be the Chairman of the Committee;
- (b) Supervisory Councillor (Health);
- (c) Head of Department (Health);
- (d) Chairman, Local Government Nigeria Union of Teachers;
- (e) Chairman Local Government Transport Unions;
- (f) representative of—
- (g) Traditional Council;
- (h) Youth;
- (i) Women;
- (j) Kwara State Rural Water and Sanitation Agency; and (g) a Senior Administrative Officer, as the Secretary.

PART VI

Ward Water Supply and Sanitation Committees

38. Establishment of Ward Water Supply and Sanitation Committee

There shall be established in each ward in the local Government Areas of the State, the Ward Water Supply and Sanitation Committee.

39. Membership of the Committee

The Chairman and members of the Committee shall be appointed by the Local Government Council in which the Ward is located.

40. Functions of the Committee

The functions of the Ward Water Supply and Sanitation Committee shall be—

- (a) to undertake the improvement of Ward Environmental Sanitation including the construction of household and community latrines;
- (b) to participate in the planning and implementation of ward water supply and sanitation facilities;
- (c) to enhance, manage and maintain the water supply and sanitation facilities;
- (d) to participate in local training for health education, environmental sanitation and protection of water supply sources against contamination; and
- (e) to perform other related functions.

PART VII

Miscellaneous

41. Offences and Penalty

(1) No person shall construct a borehole in the State without the approval of the Agency.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred thousand naira or imprisonment for a term not exceeding six month, or to both.

42. Power to make regulations

The Board may make regulations for the better carrying out of the provisions of this Law.

43. Repeal of No. 6 of 1997

The Kwara State Rural Water Supply Agency Law is hereby repealed.

44. Interpretation

In this Law, unless the context otherwise requires—

"**Agency**" means Kwara State Rural Water and Sanitation Agency established by this Law;

"**Board**" means the Board of the Agency;

"**Borehole**" means a deep hole made using a rig or any special equipment, to get water out of the ground;

"**Chairman**" means the Chairman of the Board;

"**Commissioner**" means the State Commissioner charged with the responsibility of Rural Development;

"**Government**" means the Government of the State;

"**Governor**" means the Governor of Kwara State;

"**General Manager**" means the General Manager appointed under section 15 of this Law and includes any person for the time being exercising the functions of the General Manager;

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

"**Ministry**" means the Ministry of Rural Development;

"Financial year" means the twelve months ending on the 31st day of December;

"State" means the Kwara State of Nigeria;

"Water Supply" includes boreholes, wells and other modes of conveying, transmitting or distributing water.

45. Citation

This Law may be cited as the Kwara State Rural Water and Sanitation Agency Law, 2006.

SCHEDULE

[Section 9.]

Supplementary Provisions Relating to the Board

1. Standing orders

The Board may make standing orders regulating the proceedings of the Board or any of its committees.

2. Meetings

(1) The Board shall meet at such time as may be expedient for the transactions of business and such meetings shall be held at such places and times as the Board may determine.

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

(3) At any meeting of the Board the Chairman shall preside but if he is absent, the members present at the meeting shall appoint one of their members to preside at that meeting.

3. Quorum

Five members of the Board (at least three of whom shall be ex officio members) shall constitute a quorum, and the quorum of any Committee of the board shall be determined by the Board.

4. Voting

(1) Every question put before the Board at a meeting shall be decided by a majority of the votes of the members present and voting.

(2) The Chairman and every member shall at any meeting each have a vote, but in the case of an equality of vote, the Chairman may in addition exercise a casting vote.

5. Co-option

Where upon any special occasion the Board desires to obtain the advice of any person on any particular matter, the Board may co-opt such a person as a member for such meetings as may be required, and such person whilst so co-opted shall have all the rights and privileges of a member except that he shall not be entitled to vote on any question.

6. Exemption from liability

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 the operations of the Agency.

7. Vacancy

No act or proceedings of the Board or Committee shall be invalid—

(a) on account of any vacancy among its members;

(b) on account of the appointment of any member having been defective; or

(c) by reason that any person not entitled to do so took part in the proceedings of the Board or the Committee.

8. Committees

(1) The Board may appoint standing or ad hoc Committees to perform, on behalf of the Board, such of its functions as the Board may determine.

(2) 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, and a person other than a member of the Board shall hold office on the Committee in accordance with the terms of his appointment.

(3) A decision of a Committee of the Board shall be of no effect until it is confirmed by the Board.

9. Common seal

(1) 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.

(2) The Secretary shall have custody of the common seal of the Agency and be responsible for fixing the common seal into any document.

(3) The fixing of the common seal shall be authenticated by the signature of the Chairman and the Secretary.

(4) 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.

10. Execution of contract

(1) Any contract or instrument, which would not be required to be under seal if entered into or executed by a person other than a body corporate, may be entered into or executed on behalf of the Agency by any person generally or specifically authorised by the Board to do so.

(2) The Secretary shall have custody of the common seal of the Agency and be responsible for fixing the common seal into any document.

(3) The fixing of the common seal shall be authenticated by the signature of the Chairman and the Secretary.

(4) Any contract or instrument, which would not be required to be under seal if entered into or executed by a person other than a body corporate, may be entered into or executed on behalf of the Agency by any person generally or specifically authorised by the Board to do so.

(5) 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.

CHAPTER K48

KWARA STATE RURAL WATER SUPPLY AND SANITATION AGENCY LAW

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
