

CHAPTER K15 - KWARA STATE EMERGENCY MANAGEMENT AGENCY LAW

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SCHEDULE

KWARA STATE EMERGENCY MANAGEMENT AGENCY LAW

A Law to establish the Kwara State Emergency Management Agency, charged with responsibility for disaster management and other matters connected therewith.

[Date of commencement: 27th August,
2007]

PART I

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

1. Establishment of the Agency

There is established a body to be known as the Kwara State Emergency Management Agency (in this Law 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 properties movable and immovable for the purpose of carrying out its functions under this Law.

3. Governing Board of the Agency

There is established for the Agency a Governing Board (in this Law referred to as "the Board").

4. Composition of the Board

(1) The Board shall consist of—

- (a) the Deputy Governor who shall be the Chairman;
- (b) the Secretary to the State Government;
- (c) the Special Adviser to the Governor on Emergency and Relief Matters;
- (d) the General Manager;
- (e) the Secretary of the Agency, who shall be the Secretary;
- (f) one representative of the following—
 - (i) Ministry of Health;
 - (ii) Ministry of Local Government and Chieftaincy Affairs;
 - (iii) the State Environmental Protection Agency;
 - (iv) the Town Planning and Development Authority;
 - (v) the Nigerian Army;
 - (vi) the Federal Airport Authority of Nigeria;
 - (vii) the Nigerian National Petroleum Corporation;
 - (viii) the Federal Road Safety Commission;
 - (ix) the Nigerian Red Cross Society;
 - (x) the Security and Civil Defence Corps;
 - (xi) such voluntary organisations as may be determined from time to time by the Board;
 - (xii) the State Fire Service;
 - (xiii) the Nigeria Police Force; and
- (g) three persons one from each Senatorial District of the State.

(2) The members of the Board shall—

- (a) be persons of proven integrity; and
- (b) other than *ex officio* members be appointed by the Governor and shall hold office for five years.

(3) A member of the Board may be removed by the Governor if he is satisfied that it is not in the interest of the Agency or the interest of the public that the member continues in office.

5. Cessation of membership

(1) Notwithstanding the provisions of section 4 (2) of this Law, a person shall cease to hold office as a member of the Board if—

- (a) he becomes bankrupt, suspends payment or compounds with his creditors;
- (b) he is convicted of a felony or any offence involving dishonesty and fraud;
- (c) he becomes of unsound mind or incapable of carrying out his duties;
- (d) he is guilty of a serious misconduct in relation to his duties;
- (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 by an order of competent authority made in respect of that member;
- (f) he resigns his appointment by a letter addressed to the Governor;
- (g) he dies;
- (h) he has financial or other interests in the operations of the Agency; and
- (i) he has been absent from three consecutive meetings of the Board without the permission of the Chairman.

(2) If 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 Agency for the unexpired term.

6. Remuneration of members

There shall be paid to the members not being *ex officio* members such remuneration or allowances as the Governor may direct.

7. Schedule

The supplementary provisions set out in the Schedule shall have effect with respect

to the proceedings of the Board and other matters contained therein.

8. 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 disaster management and emergency strategies;
- (c) co-ordinate, regulate and monitor the implementation of the activities of the Agency under this Law and as may be assigned to the Agency by the Governor; and
- (d) 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 functions 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) conduct physical inspection of any reported disaster occurrence within the State; and
- (h) do such other things as are necessary and expedient to ensure the efficient performance of the functions of the Agency.

PART II

Functions of the Agency

9. Functions of the Agency

The functions of the Agency shall be—

- (a) to formulate policy on all activities relating to disaster management in the State and coordinate the plans and programmes for efficient and effective response to disasters in the State;
- (b) to co-ordinate and promote research activities relating to disaster management and execute concrete programmes on disaster

prevention in the State;

- (c) to monitor the state of preparedness of all organisations or agencies, which may contribute to disaster management in the State;
- (d) to collate data from relevant agencies so as to enhance forecasting, planning and field operation of disaster management;
- (e) to educate and inform the public on disaster prevention and control measures;
- (f) to appoint and train staff to acquire technical skills in disaster management and prevention;
- (g) to procure and stock essential equipments and relief materials required in case of emergency;
- (h) to co-ordinate and facilitate the provisions of necessary resources for search and rescue and other types of disaster curtailment activities in response to distress calls;
- (i) to control, determine, organise and facilitate the activities and functions of any existing State emergency response organs including the State Fire Service, the ambulance points and others;
- (j) to co-ordinate the activities of all voluntary organisations engaged in emergency relief operations in any part of the State;
- (k) to receive financial and technical aid from national and international organisations and non-governmental agencies for the purpose of disaster management in the State;
- (l) to collect emergency relief supply from local and foreign sources and from international and non-governmental agencies;
- (m) to distribute emergency relief materials to victims of natural or other disasters and assist in rehabilitation of victims where necessary;
- (n) to liaise with the National Emergency Management Agency or such other national and international bodies, where necessary, for the reduction of natural and other disasters;
- (o) to liaise with Local Government Emergency Management Committees established under section 25 of this Law, to assess and monitor, where necessary, the distribution of relief materials to disaster victims;
- (p) to process relief assistance to such States of the Federation as may be determined from time to time;
- (q) to prepare the annual budget for disaster management in the State;
- (r) to produce vulnerable map for the State;
- (s) to determine the priority of all emergency relief operations in any part of the State;

- (*t*) to assess and evaluate the extent of damage suffered by a person, community, etc. and provide reliefs accordingly; and
- (*u*) to perform such other functions which in the opinion of the Agency are required for the purpose of achieving its objectives under this Law.

PART III

Administrative Organisation of the Agency

10. The General Manager of the Agency

(1) There shall be for the Agency a General Manager who shall have adequate knowledge, experience and qualification in the area of disaster management.

(2) The General Manager shall—

- (*a*) be appointed by the Governor;
- (*b*) hold office for a term of five years, upon such terms and conditions as to remuneration, conditions of service as may be specified in his letter of appointment; and
- (*c*) be the Chief Executive and Accounting Officer of the Agency.

(3) Power to exercise disciplinary control over the General Manager shall be on the recommendation of the Board to the Governor.

11. Duties of the General Manager

The General Manager shall—

- (*a*) be responsible for the day to day administration of the Agency;
- (*b*) be responsible for the carrying out of the policies and decisions of the Agency in accordance with the provisions of this Law;
- (*c*) define and assign responsibilities to the staff;
- (*d*) submit quarterly progress report on the activities of the Agency to the Board of the Agency; and
- (*e*) perform such other duties as may be related to his duties and as may be directed from time to time.

12. The Secretary

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

(2) The Secretary shall—

- (a) keep the books and 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; and
- (d) perform such other functions as may be prescribed by the Board.

13. The 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; and
- (c) perform such other duties that may be assigned to him or that are incidental to the discharge of his responsibilities.

14. Other staff of the Agency

(1) The Agency shall—

- (a) employ, engage, appoint such number of employees as may in the opinion of the Agency be required to assist the Agency in the proper and effective conduct of its business upon such terms and conditions of service (including remuneration, allowances, benefits as are in line with the conditions of service obtainable in the Civil Service of the State after consultation with the State Civil Service Commission;
- (b) employ on secondment such officers in the Civil Service of the State or in the service of any Local Government, etc. as may with the agreement of such officers, be seconded to the service of the Agency in accordance with the procedure applicable to the secondment of such officers;
- (c) have power to dismiss such employees as it may consider necessary;

and

- (d) not appoint, engage, employ or dismiss any officers or employee whose salary is equal or in excess of the prescribed salary without the approval in writing of the Governor.

(2) The exercise of the powers vested in the Agency by paragraph (a) of subsection (1) of this section shall be subject to the provisions of any regulation or rule made under this Law.

15. Pension

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

(2) Nothing in subsection (1) 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.

16. Regulations relating to employees

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, transfers, 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 other Government Services; and
- (h) 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

17. Funds and resources of the Agency

(1) 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, institutions or organisations;

- (b) such sums as may be paid to the Agency by way of grants, subventions, donations, gifts, fees, rents, grants-in-aids, endowments and royalties; and
- (c) all other monies or properties accruing to the Agency from other sources approved by the Government and which shall be properly accounted for and reported on.

(2) All sums received by the Agency shall be credited to the funds of the Agency and the Agency shall apply such funds in accordance with this Law or upon such conditions as may be attached to its derivation or appropriations.

(3) 2 % of the ecological fund allocated to the State shall be contributed to the fund of the Agency for the purpose of carrying out its functions under this Law.

PART V

Accounts and Reports

18. Accounts and statement of accounts

(1) The Agency shall keep proper account of revenue and expenditure, payments, receipts, assets and liabilities and shall at the end of each financial year prepare an annual statement of account showing in a fair and accurate manner the financial position of the Agency.

(2) The said annual statement of accounts shall be a fair and accurate statement of the financial position and of the results of the operations of the Agency for the financial year to which it relates.

19. 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.

20. Annual report

The Agency shall prepare and submit to the Governor, not later than three months after the end of each financial year a report on the activities of the Agency during the immediate proceeding year, which report must include a certified copy of the audited accounts and the Auditor-General's report thereon.

21. Annual estimate and expenditure

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

(2) The Agency shall submit a copy of the estimates prepared in subsection (1) of this section to the Governor for his approval and the Governor shall have the power to disallow, reduce or vary any provision under any item in the estimates as he may consider necessary.

22. Power to accept gifts

(1) 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.

(2) The Agency shall not accept any gift if the conditions attached are inconsistent with the functions of the Agency and the terms of any Law.

23. Power to borrow money

(1) The Agency may with the consent of the Governor borrow on such terms and conditions as the Agency may determine, such sums of money as the Agency may require in the exercise of its functions under this Law.

(2) There shall be attached to the consent such condition that the money borrowed shall be utilised for specific purposes.

PART VI

Power in Relation to Land

24. Acquisition of land

(1) Whenever, there is need for an acquisition by the Agency of any land required for the purposes of carrying out its functions and powers as set out in this Law, the appropriate authority is the Ministry of Lands and Housing or person authorised by the Governor may, upon the application of the Agency and after such enquiry as he may think fit, declare that the land is required for the service of the Agency.

(2) The land to which a declaration as in subsection (1) of this section is made shall be deemed to be required for public purposes within the State and within the meaning of the Land Use Act, and the Governor may cause action to be taken under the said Act, for

acquiring the Land for the Government.

(3) The compensation, if any payable under the Land Use Act, for the acquisition of any land under this section shall be paid by the Agency as assessed by the Ministry of Lands and Housing.

PART VII

Local Government Emergency Management Committees

25. Establishment of Local Government Emergency Management Committees

(1) There is established for each Local Government Area of the State a Local Government Emergency Management Committee (hereinafter referred to as "the Local Government Committee").

(2) The Local Government Committee shall consist of—

- (a) the Chairman of the Local Government Council who shall be the Chairman;
- (b) the Secretary to the Local Government;
- (c) one representative each of the Local Government department of—
 - (i) Health;
 - (ii) Works;
 - (iii) Agriculture; and
 - (iv) Women Affairs and Social Welfare; and
- (d) one representative each of—
 - (i) the Area Town Planning and Development Authority;
 - (ii) The Nigeria Police Force;
 - (iii) The Nigeria Security and Civil Defence Corps;
 - (iv) The Nigerian Red Cross Society;
 - (v) the Boys' Scout and Girls' Guide in the Local Government Area;
 - (vi) the Chairman of the Traditional or Emirate Council in the Local Government Area; and
- (e) three persons experienced in disaster management.

(3) The members of the Local Government Committee shall—

- (a) be persons of proven integrity;
- (b) be appointed by the Chairman of the Local Government Council;
- (c) other than the Chairman and *ex officio* members, hold office on such

terms as may be specified by the Chairman of the Local Government Council; and

- (d) be paid such allowances as the Local Government Council may from time to time determine.

(4) The Local Government Committee may make rules regulating its own proceedings.

(5) The functions of the Local Government Committee shall be—

- (a) to respond to any disaster within the Local Government Area and seek assistance from the Agency if it deems it fit in any circumstance;
- (b) to notify the Agency of any natural or other disasters occurring in the Local Government Area;
- (c) to carry out disaster management activities in Local Government Area

as

may, from time to time, be recommended by the Agency;

- (d) to be accountable to the Agency for the funds allocated to it by the Agency for purposes of discharging its functions under this Law;
- (e) to place at the disposal of the Agency all necessary assistance as may

be

required by the Agency in the Local Government Area; and

- (f) to do such other things as are necessary and expedient to ensure the effective performance of its functions.

PART VIII

Miscellaneous

26. Requisition, etc.

(1) In the exercise of its functions under this Law the Agency may demand by requisition from any organisation any available equipment, facilities or personnel that may assist in a speedy disaster management operation, search, rescue operation and any other form of disaster operations during a period of emergency.

(2) Any organisation which—

- (a) wilfully obstructs or impedes the Agency or any person acting under the authority of the Agency in the exercise of any power or duty under this Law; or
- (b) without reasonable excuse fails to—

- (i) render assistance or release any available equipment, facility or personnel required for a search and rescue operation or other disaster, curtailment activities, or
- (ii) comply with a directive of the Agency,

is guilty of an offence and liable on conviction to a fine not exceeding N50,000.00.

(3) The Agency shall provide compensation for loss or damage arising from the use of any equipment, facility or personnel required under this section.

27. Offices of the Agency

For the purpose of providing offices and premises necessary for the performance of its functions under this Law, the Agency may, subject to the Land Use Act—

- (a) purchase or take on lease any interest in land, or other property; and
- (b) construct offices, equip and maintain them.

28. Directives by the Governor

Subject to the provisions of this Law the Governor may give to the Agency directives of a general nature relating generally to matters of policy with regard to the performance of the Agency of its functions and it shall be the duty of the Agency to comply with the directives.

29. Regulations

The Agency may, with the approval of the Governor make regulations generally for the purpose of giving full effect to this Law.

30. Interpretation

In this Law, unless the context otherwise requires—

"Agency" means the Agency established under section 1 of this Law;

"Board" means the Board of the Agency established under section 3 of this Law;

"Chairman" means the Deputy Governor of the State;

"Disaster, natural or other disasters" includes any disaster arising from any crisis, epidemic, drought, flood, earthquake, rainstorm, derailment, road accident, air crash, oil spillage, fire outbreak, collapsed building, ecological or other accidents and mass deportation or repatriation of Kwarans from any where to the State;

"Governor" means the Governor of Kwara State;

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

"Secretary" means the Secretary of the Agency;

"Special Adviser" means the Special Adviser to the Governor on Emergency and Relief Matters;

"State" means Kwara State of Nigeria.

31. Citation

This Law may be cited as the Kwara State Emergency Management Agency Law, 2007.

SCHEDULE

[Section 7.]

Supplementary Provisions Relating to the Board

1. Standing orders

The Board may make standing orders regulating its proceedings or those of any of its Committees.

2. Meetings

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

(2) 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

Eleven members of the Board 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. 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. Validity of proceedings

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. Sub-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 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 its appointment.

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

9. Common seal

(1) The common seal of the Agency shall not be used or affixed to any document except in pursuance of a 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 onto 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 contracts

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.

CHAPTER K15

KWARA STATE EMERGENCY MANAGEMENT AGENCY LAW

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
