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KWARA STATE WATER CORPORATION LAW

A Law to establish the Kwara State Water Corporation.

[No. 6 of 1972.]

[Date of commencement: 23rd December, 1992]

1. **Short title**

This Law may be cited as the Kwara State Water Corporation Law, 1992.

2. **Interpretation**

In this Law, unless where the context otherwise requires—

"**the Board**" means the Board of the State Water Corporation established under the provisions of this Law;

"**Chairman**" means the Chairman of the Board and includes any person exercising the functions of the Chairman;

"**Commissioner**" means the State Commissioner charged with the responsibility for water resources matters;

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

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

"**General Manager**" means the General Manager appointed under Section 16 of this Law and includes any person for the time being exercising the functions of General Manager;

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

"**assessed value**" means the capital, annual or unimproved value at which the tenement is assessed in accordance with the provisions of the Assessment Law;

"**catchment area**" means any area of land or water from which water contributes to the supply of any water works;

"**dwelling house**" means any premises used wholly or partly for the purposes of private dwelling, (with or without any garage, out-house, garden, compound, yard, court, forecourt) or other appurtenances belonging thereto or usually enjoyed therewith;

"excess consumption" means—

- (a) in the case of a tenement in respect of which the general water rate is not payable, any quantity of water ascertained by meter as having been used in such tenement;
- (b) in the case of tenement in respect of which the general water rate is paid, any quantity of water ascertained by meter as having been used in such tenement in excess of such monthly allowance as may be prescribed;

"financial year" means the twelve months ending on the 31st day of December in any year;

"gathering ground" means any surface of land or water which collects rainfall for the purposes of any waterworks;

"meter" means any appliance used for measuring, ascertaining or regulating the amount of water taken or used from any waterworks by means of any service;

"metered supply" means a service where the water supplied is measured by meter;

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

"owner" means the person receiving the rent of the tenement whether on his own account or as agent or trustee for any other person, and includes the holder of a tenement direct from the State whether under a certificate of occupancy, lease, licence or otherwise;

"private supply" means supplying water to be used solely within the area of such tenement;

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

"public supply" means a supply by means of any public fountain, standpipe, valve, tap or other appliance for supply of water to the public other than a private supply;

"service" means all pipes, valves, cisterns, cocks, fittings and other appliances, other than a meter, by or through which water flows or is intended to flow from a waterworks;

"the State" means the Kwara State of Nigeria;

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

"tenement" means any land with or without buildings which is held or occupied as a distinct or separate holding or tenancy or any wharf or pier;

"waterworks" means all reservoirs, ponds, boreholes, and wells which are used with any dam, tank, cistern, tunnel, filter, bed, conduit, aqueduct, main pipe, fountain, sluice, valve, pump, engine or any other structure of appliance used or constructed for the storage, conveyance, supply, measurement or regulation of water.

PART II

Establishment, Constitution and Functions of the Corporation

3. Establishment of the State Water Corporation

(1) There is hereby established for the State a body to be called the Kwara State Water Corporation.

(2) The Corporation shall be a body corporate with perpetual succession and a common seal and shall have power to sue and be sued in its corporate name and to acquire, hold and dispose movable or immovable property for the purpose of its functions under this Law.

4. Constitution of the Board

(1) The Corporation shall have a Board which shall consist of the following

members—

- (a) a part-time Chairman;
- (b) the General Manager;
- (c) one representative of the Ministry of Works;
- (d) one representative of the Ministry of Finance and Economic Development;
- (e) one representative of the Economic Affairs Division of the Governor's Office;
- (f) five other persons who, in the opinion of the Governor, will represent adequately the interests of all other consumers of water in the State.

(2) The Assistant General Manager (Administration) shall be the Secretary to the Board.

(3) The Chairman, the other members and the Secretary shall be appointed by the Governor.

(4) No act or other proceedings of the Board shall be invalidated by reason of any vacancy among its members or by reason of any defect in the appointment of a member.

5. Remuneration of members

There shall be paid out of the funds of the Corporation to each member of the Board, not being an officer in the public service of the State, such remuneration, if any, whether by way of salary, fees or allowances, as the Governor may determine.

6. Supplementary Provisions Schedule

The provisions contained in the Schedule hereto shall have effect with respect to the constitution and proceedings of the Board.

7. Functions of the Corporation

It shall be the function of the Corporation—

- (a) to control and manage all waterworks vested, or to be vested, in the Corporation under the provisions of this Law;
- (b) to establish, control, manage, extend and develop such waterworks, and to extend and develop such existing ones as the Corporation may consider necessary for the purpose of providing water in order to meet the requirements of the general public, agriculture, trade and industry in the State;
- (c) to ensure that water is supplied to the consumers thereof at reasonable charges and in potable quality and adequate quantity;
- (d) to organise the conduct of comprehensive research for the purposes of the Corporation 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 utilization of the same by him in the formulation of policy relating to the supply and usage of water in the State;
to make arrangements and enter into agreements with any persons, department, or office of the Government or any other body or institution, or to delegate authority to any of its members, officers, employees, servants or agents, for the exercise, performance, or provision by that person, servant or agent as agent for the Corporation, of any of the functions, services or facilities which may be exercised, performed or provided for by the Corporation under this Law.
- (e) to manufacture, provide, sell, let for hire, connect, maintain, repair or remove dry water pipes, fittings, apparatus or appliances for the supply of water;
- (f) to maintain shops and showrooms for the display, sale and hire of water equipment of all kinds; and

- (h) to advertise such water equipment whether by way of demonstration, exhibition or otherwise.

8. Powers of the Corporation

(1) Subject to the provisions of this Law, the Corporation shall, for the purpose of carrying out its functions under this Law, have power to carry on all activities which are necessary, advantageous or convenient.

(2) the powers of the Corporation shall include powers to—

- (a) adopt master plans for the maintenance and development of its undertakings as its officers submit from time to time;
- (b) construct, reconstruct, maintain and operate waterworks and all other stations, buildings and works, necessary for the discharge of its functions under this Law;
- (c) enter upon any land at any time for the purposes of laying water-pipe or for the purpose of examining, repairing or removing same;
- (d) carry any water pipe through, across or under any street or any place laid out or intended as a street, and after giving reasonable notice in writing to the owner or occupier thereof, into, through or under any lands whatsoever without paying any compensation, but making good any damage done;
- (e) abstract water from any lake, river, stream, underground or other natural source;
- (f) from time to time, examine any surface or under-ground waters for the purpose of determining what, (if any), pollution exists and the causes thereof;
- (g) carry out such investigations as are necessary for the formulation of proposals for the purposes of this Law;

- (h) construct public fountains in any street or other public place;
- (i) at any time between the hours of six o'clock in the morning and six o'clock in the evening or in cases of urgency at any other time, to enter into or upon any tenement into or upon which any service has been laid or into or upon which water from any waterworks is supplied or flows, so as to—
 - (i) inspect any service or meter and to ascertain whether there is any waste, leakage, obstruction or damage to any service or meter therein and anything in connection therewith;
 - (ii) ascertain the amount of water taken or used; or
 - (iii) disconnect the supply of water to any tenement, or diminish, withhold, or divert the supply of water to any tenement through or by means of any service, either wholly or in part.
- (j) diminish, withhold, or suspend, stop, turn off or divert the supply of water through or by means of any service or public fountain either wholly or in part whenever the Corporation shall think necessary or proper and without prejudice to any liability to pay any water rate, meter rent or other sums due or to become due under this Law;
- (k) enter into such contracts as may be necessary, advantageous or expedient for the performance of its functions under this Law, including contracts for the construction or extension of waterworks or the bulk supply of materials;
- (l) acquire, purchase, lease, mortgage, hold, construct, manufacture or maintain any property whatsoever whether 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;
- (m) do anything for the purpose of advancing the skill of persons employed by the Corporation including the provision of facilities for training, education and research;

- (n) accept or acquire, hold, transfer or re-assign any security of any kind in any form whatsoever;
- (o) to invest money standing to its credit, and not for the time being required for its purpose under this Law in stocks, shares, debentures or other securities whatsoever approved by the Governor, and to sell such stocks, shares, debentures or other securities;
- (p) to enter into any commitments, agreements or other arrangements in respect of the provision, distribution supply or sale of water;
- (q) to insure its property against all forms of risk; and
- (r) with the approval of the Governor, to write off bad debts.

9. Formulations of proposals

(1) The Board may formulate proposals for the purpose of effecting the objects of the Corporation, and shall, if so required by the Governor, formulate proposals for any purpose, within the functions of the Corporation, which may be specified by him.

(2) Proposals formulated by the Board shall be submitted to the Governor through the Commissioner and the Governor may approve the proposals and, when so approved, the proposals shall be an approved project for the purposes of this Law.

10. Appointment of Committees

(1) The Board may appoint one or more committees to advise or take any action as to the initiation, administration or progress of any project which the Corporation may undertake or participate in or for any other purpose, whether general or special, relating to the functions of the Corporation, which in the opinion of the Board would be better regulated or managed by means of a committee, and may delegate to a committee so appointed, with or without restrictions or conditions, any functions exercisable by the Board under this Law:

Provided that the power to make rules, regulations or to borrow money shall not be delegated to any Committee by the Board.

(2) The Board may specify the number of the members of any Committee.

(3) Any committee appointed under this section may include persons who are not members of the Board but who possess such special qualifications or experience as in the opinion of the Board would prove beneficial to the work or purpose of the Board. Provided that the majority of the members of every committee shall be members of the Board or officers of the Corporation.

11. Power of Governor to give direction

(1) The Governor may, after consultation with the Board, give to the Corporation such general directions as to the discharge of its functions under this Law as appear to the Governor to be necessary to ensure conformity with the policy of the Government for the time being in respect of the supply and distribution of water in the State, and the Corporation shall give effect to any such directions.

(2) The Governor may, after consultation with the Board, give to the Corporation specific directions for the purposes of remedying any defect which may be disclosed in the arrangements of the Corporation for the discharge of its functions under this Law and the Corporation shall give effect to any such directions.

(3) The power conferred by subsection (2) on the Governor shall include power to give directions prohibiting or limiting any expenditure proposed to be incurred by the Corporation which appears to the Governor to be excessive or unnecessary.

PART III

Financial Provisions, Assets and Liabilities of the Corporation

12. Transfer to the Corporation of water-work, etc.

(1) The Governor may from time to time transfer any water undertakings or installation to the Corporation; and any water undertakings or installations so transferred shall vest in the Corporation and such vesting shall extend to the water undertakings and installations

(hereinafter referred to as "the transferred undertakings") including all lands, works, and other property, assets, powers, rights and privileges pertaining thereto, held, or enjoyed in

connection therewith.

(2) All liabilities and obligations of the Government in respect of any transferred waterworks falling due or to be discharged on or after the appointed day shall, as from that date, become the liabilities and obligations of the Corporation.

(3) Every deed, bond, agreement, instrument and working arrangements to which the Government was a party for the construction or otherwise in respect of any transferred waterworks, shall, subject to the provisions of this section, and unless the circumstances otherwise require, have effect as from the appointed day as if—

- (a) the Corporation had been a party thereto;
- (b) for any reference to the Government therein there were substituted as respects anything falling to be done on or after the appointed day a reference to the Corporation.

(4) Where, by the operation of any of the foregoing provisions of this section, any waterworks, rights and privileges, are vested in the Corporation, the Corporation and all other persons shall, as from the appointed day, have the same rights, powers and remedies (and in particular the same rights and powers as to the taking and resisting of legal proceedings) for ascertaining, perfecting, protecting or enforcing as the circumstances may require, such waterworks, lands, works or other properties, assets, powers, rights or privileges of the Corporation, and any legal proceedings by or against the Government pending on the appointed day in respect of the same shall be continued by or against the Corporation.

13. Funds and resources

- (1) The funds and resources of the Corporation shall consist of—
 - (a) all such sums as may from time to time be lent or granted to the Corporation by the Government of the State or by any other Government in Nigeria;
 - (b) all such sums as may be granted to the Corporation by any person corporate body or association;

- (c) all property and investments acquired by or vested in the Corporation, all monies earned or arising therefrom;
- (d) all fares and other sums derived by the Corporation from the provision of its services under this Law; and
- (e) all sums or property which may in any manner become payable to or vested in the Corporation in respect of any matter arising out of or incidental to its functions.

(2) All sums received by the Corporation shall be credited to the funds of the Corporation.

(3) The following charges shall be defrayed out of the revenue of the Corporation for any financial year—

- (a) the salaries, fees and allowances of the members;
- (b) the salaries, remuneration, fees, allowances, pensions, gratuities and other retirement benefits of the officers, servants, other employees and agents, technical or other advisers of or consultants to the Corporation;
- (c) all expenses of working and management of the Corporation and its waterworks and other properties including proper provision for depreciation or renewal of assets;
- (d) such minor works of a capital nature as the Corporation may deem necessary from time to time;
- (e) such sums including compensation which may be payable by the Corporation to any person or authority under the provisions of this Law or any other law;
- (f) taxes, rates and other levies payable by the Corporation under any law;
- (g) interest on any loan raised by the Corporation;

- (*h*) sums required to be transferred to any sinking fund or otherwise set aside for the purpose of making provision for the redemption of debentures, stocks, or other securities or the repayment of other loans; and
- (*i*) such other sums as the Commissioner may approve for payment out of the revenue account of the Corporation in respect of any financial year.

(4) The balance of the revenue of the Corporation for the financial year shall be applied—

- (*a*) to the creation of a general reserve or such other reserve as the Governor may from time to time approve both with regards to their maximum amounts and in other respects;
- (*b*) to the repayment of such interest or part thereof on the advance account referred to in section 15 as the state of the Corporation's affairs appears, in the opinion of the Corporation and with the approval of the Governor to warrant.

14. Power to borrow money

(1) Subject to the provisions of this section, the Corporation may, by issuing debentures, stocks or other securities, or in any other manner, borrow sums required by it for meeting any of its obligations or discharging any of its functions under this Law.

(2) (*a*) The power of the Corporation to borrow shall be exercisable only with the approval of the Governor as to the amount of the loan, the sources of the borrowing and the terms on which the borrowing may be effected, and the approval given for the purposes of this subsection may be either general or limited to a particular borrowing;

(*b*) Approval of the Governor for the purposes of this subsection may be subject to such conditions, other than conditions that may be imposed under paragraph (*a*) as he may specify.

(3) A person lending money to the Corporation shall not be bound to enquire whether the borrowing of the money is within the power of the Corporation.

15. Debentures to the Government

(1) If the Government makes any loan to the Corporation at any time in accordance with the provisions of this Law, the Corporation shall, if so required by the Governor, issue to the Government a debenture or debentures of a nominal value equivalent to the sum loaned—

- (a) Debentures issued in accordance with the provisions of subsection (1) shall bear interest at such rate, if any, and from such date as the Governor may specify.

PART IV

Administrative Organisation of the Corporation

16. General Manager, etc.

(1) (a) The Chief Executive Officer of the Corporation shall be its General Manager who shall be a professionally qualified Engineer with relevant experience in water supply and management.

(b) He shall have ultimate responsibility for the carrying out of the policies and decisions of the Board in accordance with the provisions of this Law.

(2) There shall exist in the Corporation such number of Departments as may be deemed necessary and each of them shall be headed by the following officers—

- (a) Assistant General Manager (Administration);
- (b) Assistant General Manager (Mechanical/Electrical);
- (c) Assistant General Manager (Water);
- (d) Assistant General Manager (Finance); and
- (e) Assistant General Manager (Commercial).

(3) Power to appoint and exercise disciplinary control over the General Manager and to determine his terms and conditions of service as to remuneration or otherwise, shall be vested in the Governor, and shall also be subject to the provisions of any regulations or rules that may be made under this Law.

17. Other staff, etc. of the Corporation

(1) Subject to the provisions of this section, the Corporation shall have power to appoint and exercise disciplinary control over such other officers, servants and agents as it may think necessary for the discharge of its functions under this Law and to determine their terms and conditions of service as to remuneration or otherwise.

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

18. Transfer of employees

The Corporation may employ on transfer such officer in the public service of the State or in the service of any other State, Local Government or Federal Government as may, with the agreement of such officers, be transferred to the service of the Corporation in accordance with the procedure applicable to the transfer of such officers.

19. Power to make regulations

The Board may, with the approval of the Governor, and subject to the provisions of this Law, make regulations with respect to the appointment, promotion, transfer and dismissal of, 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 Corporation and its employees;
- (d) the terms and conditions of service (including, without prejudice to the generality of that expression, the salaries and allowances, the grant of advances, the provisions of quarters leaves, and medical and dental treatment);
- (e) the procedure and requirements for promotion;

- (*f*) the maintenance of discipline (including dismissal and the termination of appointments);
- (*g*) the transfer of employees between the Corporation and the Government of the State, Federal Government, any other State, or Local Government Authority, or any Statutory Corporation;
- (*h*) such other matters relating to departmental procedure and duties and responsibilities of employees as the Board considers can be best provided for by regulations.

20. Power to make rules relating to retirement benefits for employees of the Corporation

The Corporation may, with the approval of the Governor, make rules, with respect to its employees, for—

- (*a*) the pensions, gratuities and retirement allowances to be granted to pensionable employees of the Corporation and their dependants;
- (*b*) the gratuities and retirement allowances to be granted to non-pensionable employees of the Corporation and their dependants;
- (*c*) all matters ancillary to the matters mentioned in paragraphs (*a*) and (*b*).

PART V

Powers and Procedure in Respect of Water Supply and Water Rates

21. Rates and scales of charges for water

(1) The rates and scales of charges for water shall be such as the Corporation may, from time to time, with the approval of the Governor determine.

(2) Subject to the provisions of subsection (1) all charges for water sold in bulk or direct to consumers and for services rendered by the Corporation shall be fixed at such rates and at such scales that the revenue for such year from every source will be sufficient as nearly as may be, to pay—

- (a) the working expenses and other outgoings of the Corporation properly chargeable to income in that year;
- (b) the payments falling to be made in such year by the Corporation in respect of the interest on or repayment of the principal of any money borrowed by the Corporation;
- (c) such sums as the Corporation may think proper to set aside in that year for a general reserve, extensions, renewals, depreciation, loans and other like purposes.

(3) Charges for water or services may, if the Corporation thinks fit be fixed at different rates and scales for different services.

22. Power to levy general water rate in respects of tenants or persons

(1) The Corporation may, in any area, with the approval of the Governor, direct—

(a) that there shall be levied and paid a general water rate of an amount and assessed in the manner hereinafter described—

- (i) the rate shall be levied in respect of tenants in such area, and in such case it shall be assessed on the assessed value of the tenements and shall be such percentage of that value as the order may prescribe.

Provided that where a tenement is supplied with an internal pipe supply the general water rate may be increased in respect of that tenement;

- (ii) every person or any class of persons of 18 years of age and over resident in such area shall pay annually such sum as general water rate as the order may prescribe;
- (iii) there shall be levied annually in respect of every tenement such sum as general water rate as the order may prescribed;
or

(iv) persons resident within a defined area may be divided into classes, such classes being assessed for general water rate on one or other of the methods of assessment herein before described as the order may prescribe and shall pay general water rate accordingly.

(b) that there shall be exempt from such general water rates any tenement or class of tenements, or any person or class of persons;

(c) that where assessment of the general water rate is made as provided in subparagraph (i) or (iii) of paragraph (a) such higher rate as the order may prescribe shall be levied and paid in respect of a non-domestic supply;

(d) whether payments of general water rate are to be made quarterly, half yearly or yearly and that the first payment of such general water rate shall become due on such date as the order may prescribe.

Provided that in exceptional cases the Corporation may provide that the rate shall be paid monthly in advance;

(e) that such general water rate shall be paid with retrospective effect;

(f) there shall be a general levy for water supplies payable by Local Government Authorities in respect of towns and villages supplied with water by stand pipes; or

(g) the officer to whom or the office at which the general water rate shall be paid and the times during which such payment may be made.

(2) nothing in such order contained or by virtue of any of the provisions of this Law shall constitute or be construed as purporting to constitute an offence committed by any person any act or omission by him which was not such an offence at the time it took place, and any act or omission may constitute an offence by virtue of the provisions of such order or this Law only in so far as the same has taken place or has been continued on or after the date of the publication of the order in the State *Gazette*.

(3) The application of any order made under this section may be general or may be limited as to area or time or otherwise.

23. Power to make regulations

(1) The Corporation may, make regulations for the carrying out of the provisions of this Law, and may make regulations with respect to all or any of the following matters—

- (a) the price of, or charge for, water supplied—
 - (i) by means of a public supply;
 - (ii) by meter;
 - (iii) by means of a private supply to a tenement;
 - (iv) to any office, barracks, institution, undertaking or building whether of a public or private nature;
 - (v) to a site of any building under construction.
- (b) levy or impose a special rate or charge;
- (c) the amount of rent to be paid for meters;
- (d) the officer to whom or the office at which the rate, charge or rent shall be payable monthly, quarterly, half yearly or yearly in arrears or in advance, and the date on which the first payment of such rate, charge or rent shall become due or in the case of water supplied by a public supply the manner in which the charge for such water shall be payable;
- (e) exemptions from any water rate or charge of any tenement or class of tenement's, or any person or class of persons;
- (f) the method and manner in which water may be taken from public fountains or public supply;
- (g) the price to be paid for all services constructed or laid by the

Corporation and the time and place for the payment of the same;

- (*h*) the construction, laying, fitting, alteration or readjustment of services, and nature, quality, size and pattern thereof and of meters used therewith;
- (*i*) the forms of all notices required to be given or sent under this Law and the issuing and service thereof;
- (*j*) the control, whether or not by prohibition, of boating on or fishing in any waterworks;
- (*k*) the prevention of the wrongful opening or closing of any lock, cock, valve, sluice or manhole appertaining to any waterworks or otherwise belonging thereto;
- (*l*) the prevention of waste of water;
- (*m*) the prevention of the commission of any offence or nuisance in or about any of the stations, works, plants, buildings or premises of the Corporation;
- (*n*) the prevention of trespasses upon or injury to stations, works, plants, buildings or premises appertaining to any waterworks or otherwise belonging thereto;
- (*o*) generally for regulating the operation of the waterworks;
- (*p*) generally for the preservation and the conservation of the sources of water in catchment areas;
- (*q*) the prescription of penalties for offences against any regulations made under this section.

(2) Regulations made under this section may be given retrospective effect—

- (*a*) subject to the provisions of paragraph (i) of subsection (2) of section 7 and section 27, water has in fact been supplied in respect of the period for which any regulations, whereby any price, charge or amount for water supplied or rent for meters is to be payable, are to be given retrospective effect;
- (*b*) nothing in such regulations contained or by virtue of any of the provisions of this Law shall constitute or be construed as purporting

to constitute as an offence committed by any person any act or omission by him which was not such an offence at the time it took place, and any act or omission may constitute an offence by virtue of the provisions of such regulations or this Law only in so far as the same has taken place or has been continued on or after the date of the publication of the regulations in the State *Gazette*.

(3) If any person contravenes or fails to comply with the provision of any regulations made under the provisions of this section the Corporation may, without prejudice to its right to take proceedings against any person for the non-compliance, cut off the supply and in addition or in the alternative may, after such notice in writing as it may think fit, enter and cause any water fittings belonging to or used by that person which are not in accordance with the requirements of the regulations to be altered, repaired, replaced or removed, and may recover the expenses incurred by it in so doing from the person in default in the manner provided for the recovery of water rates.

(4) The application of any regulations made under this section may be general or may be limited as to area or time or otherwise.

24. Liability for payment of water rate or charges

The owner and occupier of every tenement not exempted from a rate or charge shall be liable to the Corporation for payment of the rate or charge, but unless otherwise prescribed in the order or regulations imposing such rate or charge the same shall be deemed an owner's rate, and as between the occupier and the owner of any such tenement, shall in the absence of any agreement to the contrary, be borne by the owner, and the amount thereof, if paid by the occupier, may be recovered by him from the owner in an action for money paid to his use, or may be deducted from any rent due to or to become due in respect of the tenement.

25. Recovery of rate or charge

If any person fails to pay any rate or charge for which he is liable within one month after the same became payable, the Corporation may recover the same with costs in any court of competent jurisdiction.

26. Continuity of supply of water

(1) The Corporation shall as far as possible maintain a continuity of supply of water:

Provided that—

(a) the Corporation shall have the right to suspend the supply of water for such periods as may be necessary for carrying out inspection, tests, or repairs and for the making of new connections;

(b) the Corporation shall have the right to suspend or discontinue any supply where payment of any rates, dues or charges are in arrears.

(2) The Corporation shall in no case be under any obligation to pay damages or compensation for loss, damage or inconvenience caused to any consumer through any suspension, failure, discontinuance or a whole or partial interruption of supply for water however caused.

27. Purchase and re-sale of water

(1) The Corporation may purchase water in bulk and may resell such water either in bulk or by distribution direct to individual consumers.

(2) No person shall resell water supplied by the Corporation save under licence granted by the Corporation upon such terms and conditions as the Corporation may prescribe. Provided that no such licence shall be required for the sale of any manufactured goods or other commodity in which water supplied by the Corporation is included.

28. Service to tenements and payment for excess consumption and for meter rent

(1) The Corporation may, subject to the provisions of any regulations made under section 23, supply water through any service to any tenement on application being made by the owner or occupier hereof who shall pay to the Corporation any charges the Corporation may require for the laying of a service to such tenement.

(2) The Corporation may refuse to supply water to any particular tenement otherwise than through a meter which shall be supplied, installed and maintained by the Corporation.

(3) The occupier of a tenement to which water is supplied by meter shall pay

monthly to the Corporation the amount due for the excess consumption and for meter rent.

(4) The Corporation shall as soon as may be convenient after the end of each month notify the occupier of a tenement supplied with water of the amount due from him for excess consumption and for meter rent, and the amount payable for excess consumption and the meter rent shall be paid by such occupier within fourteen days of the service upon him of such notice and if the same is not then paid the Corporation may disconnect the service to the tenement.

(5) If any person fails to pay the amount due from him for excess consumption or meter rent, the Corporation may recover the same with costs, together with the expenses of disconnecting the service to the tenement, in any court of competent jurisdiction.

29. Board not responsible for safety of consumers pipes, etc.

The Corporation shall not by virtue of making any inspection or test of a consumer's pipes, fittings, appliances and apparatus in accordance with this Law or any regulations made thereunder, whether during the progress of the work of installation at the consumer's premises or after its completion, be deemed to be responsible for the efficiency or safety of the consumer's pipes, fittings, appliances and apparatus so inspected tested, or for the proper execution of the work of installation, or for any damage or loss arising out of the use or misuse of apparatus by the consumer or any other person other than an employee of the Corporation.

30. Entitlement to supply and preclusion of preferential treatment

Except in so far as is otherwise provided by this Law where a supply of water is provided by the Corporation in any part of an area, for private purposes, every person within that part of the area shall, upon application to the Corporation, be entitled to a supply on the same terms on which other persons in such part of the area are entitled under similar circumstances to a corresponding supply, provided that in the case of a fresh connection adequate water can be made available without detriment to existing supplies to persons or institutions in the area.

31. Expenses of certain necessary alterations

(1) If any person, any department of Government or any other authority does

any thing which such person, department or authority is by or under any law authorised to do and which necessitates an alteration in any part of any water works or of any distribution system vested in or the property of the Corporation, the Corporation shall on reasonable notice being given to it by such person, department or authority make such alteration, and the expenses incurred there by shall be borne by such person, department or authority.

(2) In the event of any dispute arising as to the amount of such expenses the same may be referred by either the person, department or authority as aforesaid or the Board to an arbitrator to be appointed by the Commissioner.

PART VI

Offences and Penalties

32. Construction of water Works

(1) No person shall construct any waterworks without the approval of the Corporation in writing.

(2) This section shall not apply to the construction of a well having a diameter not exceeding four feet and a depth not exceeding two hundred feet.

(3) Notwithstanding the provisions of subsection (2) no person shall pump water or permit artesian water to flow from a well having a diameter not exceeding four feet and a depth not exceeding two hundred feet or any borehole within one mile of a waterworks, unless permitted in writing to do so by the Corporation.

Provided that the Commissioner may by notice in the State Gazette specify any area being further than one mile from any waterworks where water shall not be pumped or artesian water permitted to flow from any such well or borehole without the permission of the Governor in writing. All applications for approval shall be directed to the General Manager of the Corporation.

(4) Nothing in this section shall affect the rights of any person under any other written law.

(5) Any person who contravenes any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine of five hundred naira or to

imprisonment for a term not exceeding six months.

33. Injury pollution, etc.

Any person who—

- (a) wilfully or negligently damages any water works, public fountain, service or meter;
- (b) unlawfully draws off, diverts or takes water from the same, or from any stream or water by which any waterworks are supplied; or
- (c) pollutes any such water, or allows any foul liquid, gas or other noxious or injurious matter to enter into any waterworks or any service connected therewith,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand Naira or to imprisonment for a term not exceeding two years and, for every day during which the offence, continues after notice in writing requiring the same to be stopped to a further penalty of one hundred Naira for each such day.

34. Waste and altering service

(1) Any person who wilfully or negligently misuses, wastes, or causes or allows to be misused or wasted any water passing into, through, upon or near any tenement from any waterworks shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty Naira or to imprisonment for a term not exceeding one month.

(2) Any person who alters, or causes, or permits to be altered, any service without the consent of the Corporation or contrary to any regulations made under this Law, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty Naira or to imprisonment for a term not exceeding one month.

35. Fraudulent measurement

Any person who alters, causes, or permits to be altered any service with intent to avoid the accurate measurement or register of water by means of any meter or to obtain a greater supply of water than he is entitled to, or to avoid payment thereof, or who wilfully

or negligently damages, alters or causes or permits to be damaged or altered any meter, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred naira or to imprisonment for a term not exceeding four months;

(2) Any service so altered or any meter so damaged or altered shall be replaced or repaired by the Corporation at the expense of the person convicted, and the cost of replacing or repairing any such service or meter may be recovered upon the order of a court in the same manner as any penalty may be recovered upon conviction.

36. Failure to remove any injurious matters

Any person who puts, or allows to be put, or to remain, or to accumulate on any tenement owned or occupied by him for his servants, or who fails to remove or to cause to be removed, or to take such steps as may be necessary to prevent, upon notice in writing from the Corporation, any foul, noisome or injurious matter, or any earth, deposit or excavated material in such manner or place that it may be washed, fall, or be carried into any waterworks or the gathering grounds thereof, shall be guilty of an offence and shall be liable on conviction to a fine of one thousand Naira or to imprisonment not exceeding two years and in respect of any period during which such matter, earth, deposit or excavated material is allowed to remain after notice in writing from the Corporation requiring the same to be removed to a further penalty of fifty Naira for each day whilst the offence continues.

37. Bathing, washing, etc.

Any person who—

- (a) bathes in any part of any waterworks;
- (b) washes, throws or causes to enter therein, any horse, dog, goat, pig, or other animal, or any bird, or any clothes, material or thing; or
- (c) wrongfully opens or closes any lock, cock, valve, sluice or manhole belonging to any waterworks,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred Naira, or to imprisonment for a term not exceeding four months. Nothing under this section shall allow the running of private waterworks with prejudice to the

Corporation's waterworks provided that where ever there are functioning waterworks, the Corporation reserved the right to prevent anybody from building another water-works unless with a cost payable to the Corporation.

38. Penalty for refusing to or failing to pay rates or charges

Where any person fails to pay the rate, charge or rent payable by him by virtue of this Law, the Corporation may cut off any supply and may recover the expenses incurred in so doing and for reconnection from the person in default with costs in any court of competent jurisdiction.

39. Penalty for inciting any person to refuse to pay rates or charges, etc.

Any person who, without lawful justification or excuse—

- (a) incites any person to refuse to pay any rate or charge payable by him by virtue of this Law; or
- (b) incites or assists any person to misrepresent in any way his rateable capacity or any information material to the assessment of or rating upon any tenement of which he is owner or occupier,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred Naira or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

40. Taking over Private waterworks

Under this provision, a private waterworks may be taken over by the Corporation provided the owner is prepared to release such without cost to the Corporation and subject to the clearance sought from the Corporation before the establishment of such waterworks at required standard.

PART VII

Accounts and Reports of the Corporation

41. Accounts audit and estimates

(1) The Corporation shall—

- (a) cause to be kept proper accounts in respect of its functions under this Law and other records in relation thereto; and
- (b) prepare, in respect of each financial year, a statement of accounts, in such form as may be approved by the Commissioner.

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

(3) The said annual statement of account shall be audited by an auditor or auditors to be appointed annually by the Corporation after consultation with the Auditor-General of the State, and the remuneration to be paid by the Corporation to the auditor or auditors so appointed shall be approved by the Governor.

(4) As soon as the said annual statement of accounts has been audited as aforesaid the Corporation shall forward to the Commissioner and state the Auditor-General a copy each of the said statement of accounts together with copy of the report made by the auditors.

(5) Before the commencement of each financial year the Corporation shall prepare an estimate of its revenue and expenditure for the financial year and submit the same to the Governor through the Commissioner for his approval, and the Commissioner shall have power to disallow or reduce the provision under any item in the estimate as he may consider necessary.

42. Annual Report

(1) The Corporation shall, within six months after the end of each financial year, make available to the Commissioner a report, in such form and containing such particulars as he may from time to time direct, dealing with the activities of the Corporation during that financial year.

43. Power to make regulations

The Corporation may, subject to the approval of the Governor, make regulations for all or any of the following purposes—

- (a) prescribing the general conditions under which water shall be supplied or discontinued to consumers;
- (b) prescribing the form of and the conditions to be contained in and the method of service of any notice required or authorised under this Law;
- (c) prescribing any fee or anything which is to be prescribed generally and for the carrying out of the purpose and provisions of this Law.

PART VIII

Miscellaneous and General

44. Proof of monies due

(1) In any action for the recovery of any rate, charge or other monies, other than fines and penalties, due, payable or recoverable under this Law, a certificate from the Corporation, or of any person appointed by the Board in that behalf, that any sum of money is due and that the defendant is the person liable to pay the same, shall, in the absence of any evidence to the contrary, be conclusive proof of such debt and of the nonpayment thereof, and that the defendant is the person liable to pay the same.

(2) Every such action may be instituted by the Corporation or by any person authorised by the Board to institute such action on its behalf.

45. Power of entry by health officers

A health officer or any person authorised in writing by him may enter any waterworks between six o'clock in the morning and six o'clock in the evening or in an emergency at any other time for the purpose of inspecting such waterworks or any part thereof, and of taking samples of the water supplied from such waterworks.

46. Power of the Commissioner to surcharge person

(1) Where, upon considering any audit report on accounts or in any other case, the Commissioner is satisfied that in respect of the functions of the Corporation under this Law—

- (a) any sum due to the Corporation has not been duly brought to account by any person by whom such sum ought to have been brought into account; or
- (b) any loss of or deficiency in the monies or loss or destruction of any other property, of the Corporation has occurred by the negligence, breach of official duty or other misconduct of any person,

the Commissioner may surcharge the amount of such sum, loss or deficiency, or of the value of the property lost or destroyed, upon the person aforesaid whether he be a member of the Corporation or an officer or other employee or agent of the Corporation.

(2) Before exercising any of his powers under subsection (1) the Commissioner may by writing under his hand authorise any person to conduct an inquiry for the purposes of this section and to take evidence and examine witnesses upon oath or affirmation (which oath or affirmation that person is hereby empowered to administer) and that person may, by summons under his hand require all such person as he may deem fit to appear before him at a time and place to be stated in such summons and to produce all such books, records, accounts and other documents and materials as he may consider necessary for the purposes of the inquiry.

(3) If the Commissioner decides to surcharge any amount upon any person under subsection (1) he shall cause a notice to be served upon him, or on his legal representatives in the event of his death, requiring him or such representatives to pay the amount surcharged within such period from the date of the service of the notice as may be specified therein.

(4) Notwithstanding any of the provisions of subsection (3) no liability to surcharge shall be incurred by any officer, other employee or agent of the Corporation who can prove to the satisfaction of the Commissioner that he acted in pursuance of and in accordance with the terms of a resolution of the Board or of any Committee duly appointed under this Law, or on the written instructions of any officer, other employee or agent of the Corporation to whose orders, in relation to the matter in question, he was subject.

Provided that nothing in this subsection shall exempt any person from liability to surcharge in accordance with the provisions of this section where that person knew or ought reasonably to have known that the terms of any resolution or any written instructions as aforesaid were not in accordance with the provisions of this Law or any regulations or rules made or directions given hereunder.

47. Recovery of surcharges

Any amount notified as a surcharge in accordance with the provisions of subsection (3) of section 46 shall be a debt due to the Corporation and may be sued for and recovered in any court of competent jurisdiction.

48. Appeals against surcharge

(1) Any person who is aggrieved by any decision of the Commissioner to surcharge any amount upon him may, if the decision relates to an amount exceeding four hundred Naira, within thirty days of such decision, appeal to a court of law.

(2) The court on such appeal shall have power to confirm vary or quash the decision of the Commissioner and to give such directions as the court may deem fit in the matter.

49. Preliminary Investigation in respect of land required for water works

(1) Whenever it appears to the Corporation that any land in the State is likely to be needed for the purpose of any waterworks, the Corporation may, by its servants and agents, together with all necessary workmen, enter upon any such land and—

- (a) survey and take levels of the land;
- (b) dig or bore under the subsoil; and
- (c) do all other acts necessary to ascertain whether the land is adapted for such purposes.

Provided that no such agent, servant or workmen shall enter any building or upon any enclosed court or garden attached to a dwelling house (except with the consent of the

occupier thereof) unless at least seven day's notice of the intended entry has been given to such occupier.

(2) As soon as conveniently may be after any entry made under subsection (1) the Corporation shall pay compensation for all damages arising out of the exercise of any power conferred by that subsection.

(3) In the case of dispute as to the amount of any compensation payable under this section the amount may be determined by the High Court or a District Court having jurisdiction in respect of the place where the land is situated.

50. Decisions relating to the use of water by fire authorities and fire brigades

(1) Nothing in this Law shall preclude any fire authority or fire brigade from abstracting water, for the purpose of the prevention or control of fire, from any public fountain, service or water works of the Corporation.

(2) Water shall not be abstracted by any fire authority or fire brigade for the purpose of testing any fire-fighting appliance except with the consent of the Corporation, which consent shall not be unreasonably withheld.

(3) No charge shall be made for water supplied by the Corporation under subsection (1) or (2) above.

(4) Any main, pipe, valve, hydrant, service or other waterworks required within the area of operation of the Corporation by any fire authority or fire brigade in the discharge of its functions to prevent and control fire shall be provided by the Corporation upon full payment therefore by such fire authority or fire brigade, but such main, pipe, valve, hydrant, service or other waterworks shall vest in the Corporation in perpetuity but shall be maintained and renewed by the Corporation as the fire authority or fire brigade may require and at such fire authority or fire brigade.

(5) In this section the expression "fire authority" and "fire brigade" means any authority or body of firemen respectively constituted, organised or established under any written law.

51. Execution or issue of instruments

(1) Any contract or instrument which, if entered into or executed by a person not being a body corporate, which would not require to be under seal, may be entered into or executed on behalf of the Corporation by any person generally or specially authorised by the Corporation for that purpose.

(2) Any document purporting to be a document duly executed or issued under the seal of the Corporation or on behalf of the Corporation shall, unless the contrary is proved, be deemed to be a document so executed or issued, as the case may be

52. Service of notice, etc.

Service upon the Corporation of any notice, order or other document may be effected by delivering the same or by sending it by registered post addressed to the General Manager of the Corporation.

53. Restriction or execution against Corporation water works

No execution or attachment or process in the nature thereof shall be issued against any waterworks vested in or the property of the Corporation but any sums of money which may be the judgement of any court awarded against the Corporation shall, subject to any direction given by the court where notice of appeal has been given by the Corporation in respect of the said judgement, be paid by the Corporation from its funds.

54. Waterworks excluded form rates

Waterworks vested in or the property of the Corporation shall not be regarded as hereditaments of tenements to be valued for rating purposes under any law.

55. Repealed

The Water Corporation Law No. 6 of 1972 and Kwara State Utility Board Law No. 22 of 1984 are hereby repealed.

SCHEDULE

[Section 6.]

Constitution and Proceedings of the Board

1. Tenure of office of member

Every member of the Board (other than an ex officio member) shall, subject to the provisions of this Schedule hold office for a period of four years from the date of his appointment provided that the Governor may remove any member without giving any reason.

2. Eligibility for re-appointment

A member of the Board who has ceased to be such member shall be eligible for re-appointment for another term.

3. Vacation of office

(1) The Governor may remove any member of the Board if he is satisfied that such a member—

- (a) has been absent from three consecutive meetings of the Board without the permission of the Commissioner in the case of the Chairman or of the Chairman in the case of any other member;
- (b) has become bankrupt or made an arrangement with his creditors;
- (c) has been convicted of an offence involving or necessarily implying fraud or dishonesty and has undergone a sentence of imprisonment therefore;
- (d) is incapacitated by physical or mental illness from performing his functions as a member;
- (e) has such financial or other interest in the operations of that Board or otherwise as in the opinion of the Governor is likely to effect prejudicially the discharge by him of his functions as a member; or
- (f) is otherwise unable or unfit to discharge the functions of a member.

(2) Notwithstanding anything contained in the instrument by which a member is appointed, a member may resign his appointment as a member by notice in writing to the Governor, and upon receipt of such resignation notice by the Governor the appointment of such member shall be terminated.

(3) Notwithstanding the provision of subparagraph (1) the Governor may at any time remove any member from office.

4. Vacancies

No act or proceedings of the Board shall be questioned on accounts of any vacancy among its members or on account of the appointment of any member having been defective.

5. Temporary membership

Where any member of the Board is temporarily incapacitated by illness from performing the functions of his office or is temporarily absent from Nigeria, the Governor may appoint any person to hold temporarily the office held by such incapacitated or absent member during the period of such incapacity or absence and all the functions of such member under this Law shall devolve upon the person so temporarily appointed.

6. Co-option of persons

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 person to be a member for such meeting or meetings as may be required, and such person whilst so-co-opted shall have all the rights and privileges of a member save that he shall not be entitled to vote on any question.

7. Meetings and Procedure

(1) The Board shall hold such number of meetings as may be necessary for the due fulfillment of its functions, so however, that it shall hold at least two meetings in every year.

(2) At meeting of the Board—

(a) the Chairman of the Board shall, if present, be Chairman of the meeting;

(b) if the Chairman of the Board is not present or if the office of Chairman is vacant, the members of the Board who are present shall choose one of their member to be Chairman of the meeting.

(3) Every question at a meeting of the Board shall be determined by a majority of the votes of the members present and voting on the question, and in the case of any equal division of votes, the Chairman of the meeting shall have a second or casting vote.

(4) Any six members of the Board may by notice in writing signed by them request the Chairman to call a special meeting of the Board for the purposes set out in such notice and the Chairman shall thereupon call a special meeting.

8. Quorum

Four members (at least two of whom shall be ex officio members) shall form a quorum at any meeting of the Board.

9. Common Seal

(1) The Corporation shall so soon as may be after its establishment provide itself with a common seal.

(2) The common seal of the Corporation shall be authenticated by the signature of the Chairman or some other member thereof authorised by the Corporation to act in that behalf and the signature of the Secretary of the Board.

(3) Judicial notice shall be taken of the common seal of the Corporation and every document purporting to be an instrument made by the Corporation and to be sealed with the common seal (purporting to be authenticated in accordance with this paragraph) of the Corporation shall be received in evidence and be deemed to be such instrument without further proof unless the contrary is shown.

10. Standing Order

Subject to the provisions of this Law, the Board may make standing orders for the purpose of regulating its own proceedings.

CHAPTER K57

KWARA STATE WATER CORPORATION LAW

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
