

CHAPTER K16 - KWARA STATE ENVIRONMENTAL PROTECTION AGENCY LAW

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GENERAL NOTE: The word "board" is substituted with the expression "Governing Council" wherever it appears in this Law, by Law No. 1 of 1995.

KWARA STATE ENVIRONMENTAL PROTECTION AGENCY LAW

A Law to establish the Kwara State Environmental Protection Agency.

[KWS No. 8 of 1991, No. 1 of 1995, No. 13 of 2004, No. 4 of 2006.]

[Date of commencement: 23rd November, 1992]

1. Short title

This Law may be cited as the Kwara State Environmental Protection Agency Law, 1992.

2. Interpretation

In this Law, unless the context otherwise requires—

"Agency" means the Kwara State Environmental Protection Agency established under section 3 of this Law;

[No. 4 of 2006.]

"Authorised Officer" includes an Environmental Health Officer;

[No. 13 of 2004.]

"Governing Council" means the Kwara State Environmental Protection Agency Governing Council;

[No. 1 of 1995.]

"Committee" means the Local Government Committee on Environmental Protection established under section 24 of this Law;

[No. 4 of 2006.]

"commercial or industrial waste" means waste from tenement used wholly or mainly for the purpose of a trade, business or factory or industry or for the purpose of sport, recreation or entertainment and include waste from any mine or quarry;

"Commissioner" means the Commissioner charged with the responsibility for environmental matters;

[No. 13 of 2004.]

"designated dumping site" means any place designated by the Agency pursuant to the provisions of this Law;

"domestic waste" means waste from a private dwelling or residential home or from tenement forming part of a university or school or other educational establishment or part of a hospital or a nursing home;

"industrial effluent" means an unwanted surplus waste, liquid or gaseous, generated from manufacturing or service operation or business;

"General Manager" means the Chief Executive Officer of the Agency;

"Governing Council" means the governing council of the Agency;

[No. 1 of 1995.]

"Governor" means the Governor of Kwara State;

"incinerator" means a properly erected plant specially designed, vetted and approved by the Agency for the purpose of burning to ashes any combustible refuse;

"member" includes the Chairman;

"Military Administrator" means the Military Administrator of the State and includes the Governor;

[No. 1 of 1995.]

"Ministry" means the Ministry charged with the responsibility for environmental matters;

[No. 13 of 2004.]

"occupier" includes a tenant or resident or user of any tenement;

"Person" means an individual and shall include corporate body, a limited liability company, a charitable organisation or association of a partnership of any number of persons;

[No. 13 of 2004.]

"Pollution" means man-aided alteration of the chemical, physical, ecological or biological quality of the environment;

[No. 13 of 2004.]

"Premises" includes a house or building or any part thereof together with its gardens or other appurtenances;

[No. 13 of 2004.]

"Secretary" means the Secretary appointed under section 8 of this Law;

"Solid Waste" means garbage, refuse, slugs and discarded solid materials but does not include solid or dissolved materials in domestic sewage or other significant pollutants in water resources;

[No. 13 of 2004.]

"State" means The Kwara State of Nigeria.

PART 1

The Establishment, Functions and Proceedings of the Governing Council

3. Establishment of the State Environmental Protection Agency

(1) There is hereby established for the State a body to be called the Kwara State Environmental Protection Agency, which shall be a body corporate with perpetual succession having a common seal and shall have power to sue and be sued in its corporate name.

[No. 4 of 2006]

(2) The Agency shall have a Governing Council which shall consist of the a chairman, and the following members—

(a) the Hon. Commissioners charged with responsibility for the following State Ministries as members—

- (i) Finance and Economic development;
- (ii) Works and Transport;
- (iii) Health;
- (iv) Environment;
- (v) Education; and
- (vi) Industry;

(b) four persons from the private sector who have distinguished themselves as skillful and experienced in environmental matters;

(c) a representative of the Ministry of Environment and Tourism not below the rank of a Director.

(d) the General Manager of Kwara State Environmental Protection Agency who shall be an ex officio member and secretary to the council.

[No. 1 of 1995, No. 13 of 2004, No. 4 of 2006.]

(3) Members of the Council shall hold office on a part-time basis.

[No. 1 of 1995.]

3A. Establishment and function of the Technical committee

(1) There is hereby established for the Agency a Technical Committee to be known as the Kwara State Environmental Protection Agency Technical Committee (hereinafter referred to as "the Technical Committee").

(2) The Technical Committee shall consist of a Chairman who shall be the General Manager and Chief Executive of the Agency; and the following other members—

- (i) the Director, Town Planning, Ministry of Lands, Survey and Physical Development, Military Administrator's office;
- (ii) the Director, Personnel, Finance and Administration, Ministry of Finance;
- (iii) the Director, Civil Engineer, Ministry of Works;
- (iv) the Director, Public Health Services, Ministry of Environment and Tourism;

- (v) the Director, Forestry, Ministry of Environment and Tourism;
- (vi) the Director, Schools and Colleges, Ministry of Education;
- (vii) the Director, Industry, Ministry of Industries;
- (viii) the Secretary to the Agency as Secretary; and
- (ix) two persons from the private sector with wide knowledge, skills and expertise in environmental matters.

[No. 4 of 2006.]

- (3) Members of the Committee shall hold office on a part-time basis.
- (4) The functions of the Technical Committee shall be—
 - (a) to assist and advise the Council and the Agency in the performance of their functions under this Law; and
 - (b) to give technical opinion on issues referred to it or delegated to it by the Council.

[No. 1 of 1995.]

4. Meetings and procedure

- (1) The Governing Council shall hold such meetings as may be necessary for the fulfillment of its functions, so however that it shall hold at least six meetings in a year.
- (2) At every meeting of the Governing Council—
 - (a) the Chairman shall preside if present; or
 - (b) in his absence, the members present shall elect one of their members to preside as Chairman for the meeting.
- (3) No act or other proceedings of the Governing Council shall be invalidated by reason of any vacancy among its members.
- (4) Where upon a special occasion the Governing Council desires to obtain the advice of any person on any particular matter, the Governing Council may co-opt such a person to be a member for such meeting as may be required and such person whilst co-opted shall have all the rights and privileges of a member save the right to vote on any issue.
- (5) The Chairman (or anyone standing in for him) and six other members shall form a quorum.
- (6) Every question at a meeting of the Governing Council shall be determined by a majority of votes of the members present and voting on the question, and in the case of any

equal division of the votes the Chairman shall have a second chance of casting a vote.

(7) Subject to the provisions of this Law, the Governing Council or any committee appointed by it may make standing orders for the purposes of regulating its own proceedings.

5. Appointment of members

(a) The Chairman and members shall be appointed by the Governor;

(b) The activities of the Agency shall be subject to supervision by the Ministry of Environment and Tourism.

[No. 13 of 2004.]

6. Tenure of office of members

The Chairman and members shall hold office at the pleasure of the Governor.

7. Remuneration of members

There shall be paid to each member out of the funds of the Agency such remuneration, if any, whether by way of salary, fees or allowances or other expenses as the Agency with the approval of the Governor may from time to time determine.

8. General manager, etc.

(1) There shall be appointed by the Governor a General Manager for the Agency, who shall be a person sufficiently qualified in the field of environmental sciences or a related field.

(2) The Chief Executive Officer of the Agency shall be its General Manager who shall have ultimate responsibility for carrying out the policies and decisions of the Governing Council in accordance with the provisions of this Law.

(3) The General Manager shall carry out administrative, supervisory and establishment duties with a view to properly manage the finances and administration of the Agency in line with Government policies.

9. Power to control general manager and secretary

(1) There shall be a Secretary to the Agency who shall be appointed by the Governor

and who shall in addition to his functions and subject to the provisions of this Law, have such functions of an administrative nature as the Governing Council may from time to time assign to him.

(2) Power to appoint and exercise disciplinary control over the General Manager, and the Secretary and to determine their 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 that may be made under section 15.

10. Other staff, etc., of the Agency

(1) Subject to the provision of section 6 above and subsection (2) of section 9, the Governing Council may appoint, engage, employ or dismiss such officer or employee as it may consider necessary for the proper and efficient conduct of the business of the Agency upon such terms and conditions as to remuneration or otherwise as it may determine.

10A. Protection of members, officers and employees of the Agency

(1) No member, officer or employee of the Agency shall be liable to be prosecuted or sued in any Court for any act done or ordered to be done by him in good faith in the discharge of his functions under this Law.

(2) In any action or suit against the Agency no execution or attachment or process in the nature thereof shall be issued against the Agency but any sum of money which by judgement of the Court is awarded, the Agency shall subject to any directions given by the Agency be paid from the funds of the Agency.

[No. 13 of 2004.]

11. Aims and objective of the Agency

The aims and objectives of the Agency shall be to—

- (a) promote a safe and healthy environment for people to live in;
- (b) ensure sustainable development for the purposes of the use of the environment.

12. Functions of the Governing Council

For the purpose of achieving the objectives set out in section 11 above, the Agency shall perform the following functions—

- (a) formulate policies and programmes within the context of the Federal Ministry of Environment plans aimed at enhancing the position and improvement of the protection of the environment in the State;

- (b) formulate and enforce policies, rules and regulations on solid waste collection and disposal, general environmental protection and control and regulation of the ecological system or all activities related thereto;
- (c) co-ordinate the activities of all the agencies in the State connected with environmental and ecological matters;
- (d) conduct public enlightenment campaigns and disseminate vital information on environmental and ecological matters;
- (e) render advisory services and support to all Local Governments in the State in areas of flood and erosion control, solid waste management, and eco-logical matters;
- (f) take measures to guarantee consistent effectiveness of environmental structures throughout the State for flood control, solid waste collection and disposal, and general sanitation;
- (g) formulate master plans for drainage, solid and liquid wastes management for development of environmental standard;
- (h) liaise with State Ministries, departments of Local Governments, Statutory bodies and research agencies on matters and facilities relating to environ-mental protection;
- (i) initiate appropriate policy action on the environmental impact implications of environmental related activities;
- (j) monitor sources of toxic pollution in the air, land and water and offer the necessary advice to industrial establishments;
- (k) mobilise the inhabitants of all areas in the State for the effective observance of environmental rules and guidelines for the promotion of a healthy and safe environment;
- (l) initiate measures to ensure pollution-free air, land and water throughout the State including any other steps to inculcate environmental discipline to individuals or groups;
- (m) implement applicable laws and standards on activities related to the environment in co-operation with the Federal Ministry of Environment and any other body.

- (n) monitor and control disposal of solids, gaseous and liquid waste generated by both Government and private facilities in the State;
- (o) monitor and control all forms of environmental degradation from Agricultural, Industrial and Government operations;
- (p) set, monitor and enforce standards and guidelines on vehicular erosion; and
- (q) promote co-operation in environmental science and technologies with similar bodies in other countries and international bodies connected with the protection of the environment.
- (r) inspect school premises and its environment for the purpose of ascertaining a conducive learning environment, for the purpose of this paragraph all newly established schools shall obtain two certificates of approval from the Agency—
 - (i) certificate of approval on inspection before the construction of the structure; and
 - (ii) certificate of approval on inspection of the environment after the construction.

[No. 13 of 2004, No. 4 of 2006.]

13. Powers of the Agency

- (1) Subject to the provision of this Law, the Agency shall for the purposes of carrying out its functions under this Law have power to carry out all activities which are necessary and advantageous for the protection and enhancement of the quality of the environment in the State.
- (2) Without prejudice to the generality of the provisions of subsection (1) of this section, the powers of the Agency shall include powers—
 - (a) to enter into any transaction (whether or not involving expenditure, the granting of financial assistance or the acquisition of any property or rights) where it is deemed absolutely necessary to facilitate the proper performance of its functions;
 - (b) to carry on all environmental protection activities to enhance the achievement of the objectives of the Agency;
 - (c) to monitor and survey water (including underground water), air, land and soil environments in the state to determine pollution levels in them or to collect baseline data from them;

- (d) to carry out research and development activities for environmental protection;
- (e) (i) to enforce World Health Organisation Water Standard;
(ii) to monitor and survey all portable water and allied products distributed in the State for the purpose of controlling its quality and to register manufacturers involved in water allied products packaging for the purpose of sale to the public.
- (f) to educate the general public on the types of disposal methods acceptable by the State Government for domestic and industrial wastes;
- (g) to carry out toxicological tests on insecticides, herbicides and other agricultural chemicals which are new in the market with the aim of checking possible adverse effects on the environment;
- (h) to conduct environmental impact assessment of new and existing projects and make recommendations for corrective measures;
- (i) to enter and inspect any premises engaged in or carrying on manufacturing operation or business with the intent of collecting samples to ascertain environmental pollution level at any time;
- (j) to undertake further investigation on such of the premises mentioned in paragraph (i) above on the basis of the result of the sample collected;
- (k) to establish air quality standards for appropriate stack/filters/reactors for industries that emit gaseous waste; and
- (l) to control noise pollution;
- (m) to require to be produced, examined and take copy of any licence, permit, certificate or any document required under this Law;
- (n) to require to be produced and examined any appliance, device or other items to be used in relation to environmental protection;
- (o) to apply enforcement measures to combat environmental degradation in manufacturing premises and government operations; and

(p) to accept gifts of land, money, books or other properties upon such terms and conditions as may be specified by the person making the gifts if such terms and conditions attached are not inconsistent with the functions of the Agency.

[No. 13 of 2004, No. 4 of 2006.]

14. Appointment of Committee

The Governing Council may appoint committees to advise it or take any other actions as to the initiation, or administration of any matter which the Agency may participate in, or for any other purposes, whether general or special, relating to the functions of the Agency which in the opinion of the Governing Council would be better regulated or managed by means of a committee.

15. Power to make regulations

The Governing Council may subject to the provisions of this Law and with the approval of the Governor, make regulations for all or any of the following—

- (a) prescribing the general conditions and specify offences which may disturb the achievement of the goals of the Agency;
- (b) providing generally other conditions that will enhance successful implementation of the functions of the Agency;
- (c) prescribing fees or charges in such cases as may be determined by the Agency for its services;
- (d) prescribing, with respect to the appointment, promotion, transfer and dismissal of and exercise of disciplinary control over its employees—
 - (i) the qualifications to be required for appointments;
 - (ii) the method of appointment (including probation and confirmation);
 - (iii) the form of any agreement to be entered into between the Agency and its employees;
 - (iv) the terms and conditions of service (including without prejudice to the generality of that expression on the salaries and allowances, the grant of advances, the provision of quarters);
 - (v) the procedure and requirements for promotion;
 - (vi) the maintenance of discipline (including dismissal and termination of appointments); and

- (vii) such other matters relating to departmental procedure and duties and responsibilities of employees as the Governing Council considers can be best provided for by regulations.
- (e) acceptable standards or criteria to control the pollution level of water, air, noise and land in consonance with the Federal Government guidelines and policies and criteria on the environment;
- (f) acceptable erosion measures in consonance with Federal Government guidelines and policies on the National Coastline ;
- (g) standard for effluent;
- (h) basic standard requirement for nature conservation; and
- (i) waste management option.

[No. 13 of 2004.]

Financial Provisions

16. Funds and resources of the Agency

The funds and resources of the Agency shall consist of—

- (a) all such sums as may from time to time be lent or granted to the Agency by the Government of the State or by any other Government in Nigeria;
- (b) all such sum as may be granted to the Agency by any persons;
- (c) all property and investments acquired by or vested in the Agency and all monies earned or arising therefrom;
- (d) all fares and other sums derived by the Agency from the provisions of its services under this Law; and
- (e) all sums or property which may in any manner become payable to or vested in the Agency in respect of any matter arising out of or incidental to its functions.

17. Application of funds

All sums received by the Agency shall be credited to the funds of the Agency.

18. Power to invest

The Agency may from time to time invest money standing to its credit in stocks, shares, debentures or any other securities approved either generally or specifically by the Governor.

19. Accounts

- (1) The Agency shall keep all proper and usual accounts in respect of its functions under this Law.
- (2) It shall prepare in respect of each financial year, statements of accounts in such forms as may be approved by the Governor.

20. Audits

- (1) The accounts of the Agency for each year shall be audited as soon as possible after the end of that year by auditors appointed by the Governing Council with the approval of the State Auditor-General and the fees of the auditors and the expenses generally shall be paid by the Agency.
- (2) As soon as the accounts have been audited as provided for by subsection (1) of this section, the Governing Council shall send to the Governor a copy of the income and expenditure account and the balance sheet together with the reports of the auditors thereon.

Miscellaneous

21. Common seal

- (1) The Governing Council shall as soon as may be after its establishment, provide itself with a common seal.
- (2) The common seal shall be authenticated by the Chairman or other member authorised by the Governing Council to act in that behalf and the signature of the secretary of the Agency.
- (3) Judicial notice shall be taken of the common seal of the Agency and every document purporting to be an instrument made by the Governing Council and to be authenticated in accordance with this Law shall be received in evidence and be deemed to be such instrument without further proof unless the contrary is shown.

22. Reports on its activities

The Governing Council shall at the end of each year make a report of the Agency's achievements and activities available to the Governor.

23. Revocation of appointment of members

If the Governor is satisfied that a member—

- (a) has been absent from three consecutive meetings of the Agency without the permission of the Governor 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; or
- (c) has been convicted of an offence involving or necessarily implying fraud or dishonesty; or
- (d) is incapacitated by physical or mental illness from performing his functions as a member; or
- (e) has such financial or other interest whether in the operations of the Agency or otherwise as in the opinion of the Governor is likely to affect 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, he may revoke the appointment of such member.

(2) A member may resign his appointment by notice in writing to the Governor.

24. Establishment of Local Government Committee on environmental protection

(1) The Governor shall as soon as possible after the establishment of the Agency cause the establishment at each Local Government, a Committee for the purpose of maintaining good environment quality in the areas of related pollutants under their control and subject to the provisions of this Law.

(2) The Committees shall be made up of—

- (a) a Chairman, who shall be the Local Government Chairman or any other person with equivalent powers as the Governor may deem fit;
- (b) the Local Government supervisor for Health;
- (c) the Local Government supervisor for Works; and
- (d) the Local Government supervisor for Agriculture.
- (e) the Community leader for the area; and
- (f) the market Women Leader.

25. Power of the Agency to give grant, etc.

In carrying out the functions prescribed in section 12 of this Law and in other provisions of this Law, it shall be lawful for the Agency to—

- (a) collect and make available, through publications and other means of public enlightenment in co-operation with public or private organisations basic scientific data and other information pertaining to pollution and environmental protection matters;
- (b) enter into contracts for the purpose of executing and fulfilling its functions pursuant to this Law;
- (c) establish and promote training programmes for its staff and other appropriate individuals from public or private organisations;
- (d) establish advisory bodies composed of administrative, technical or other experts in such environmental areas as the Governing Council may consider useful and appropriate to assist it in carrying out the purposes and provisions of this Law;
- (e) establish such environmental criteria, guidelines, specifications or standards for the protection of the State air and intra-State water as may be necessary to protect the health and welfare of the population from environmental degradation;
- (f) maintain a programme of technical assistance to bodies (public and private) concerning implementation of environmental criteria, guidelines regulations and standard and monitoring enforcement of the regulations and standards thereof.

26. Pension

Service in the Agency shall be recognised by Government for the purposes of pension.

27. Performance of functions

The Agency may perform any of its functions through or by any of its officers, servants or agents duly authorised by it in that behalf.

28. Power to accept gifts, etc.

- (1) Subject to subsection (2) of this section the Agency may accept gifts of land, money, books or other property upon such terms and conditions as may be specified by the person

making the gift.

(2) No gift shall be accepted by the Agency if the conditions attached to it are inconsistent with the functions of the Agency under this Law.

29. Power to borrow or invest

(1) The Agency may with the consent of the Governor borrow whether by way of overdraft or loan and on such terms and conditions from any source any money required to meet its obligations and functions under this Law.

(2) The Agency may invest any of its surplus funds in such securities as may be permitted by law.

30. Advisory committee

The Agency may establish an Advisory Committee which shall be made up of not less than four outstanding professionals with specialisation in the following areas—

- (a) Urban or Regional planning;
- (b) Environmental Sciences;
- (c) Preventive or Community medicine; and
- (d) Civil Engineering with bias for sanitary/public health engineering.

31. Functions of Advisory committee

The functions of the Advisory Committee shall be—

- (a) to study and deliberate on basic matters relating to environmental pollution control and protection wherever necessary and when requested by the Agency;
- (b) to identify all environmental issues requiring the State Government's attention and to make necessary recommendation to the Agency on same;
- (c) to recommend recycling of waste as a management method for industries and State Government Agencies whenever necessary;
- (d) to recommend the basic standard requirements for solid, liquid, gaseous or toxic wastes management in the state as far as they do not conflict with but complement those of the Federal Government; and
- (e) to recommend acceptable safe methods of collection and disposal of hazardous and toxic wastes in the State.

32. Enforcement of water standard

(1) The Agency shall make recommendations to the Governor for the purpose of establishing water quality standards for the intra-State waters in the State to protect the health welfare and quality of water.

(2) The Agency shall enforce World Health Organisation water standard.

33. Obstruction of officers

Any person who obstructs any officer of the Agency or any person authorised by him or any person engaged in carrying out the provision of this Law shall be guilty of an offence and on conviction shall be liable to a fine of five thousand naira or to imprisonment for six months.

[No. 13 of 2004.]

34. Provision of waste receptacle

Every owner or occupier of a tenement shall provide approved waste receptacle which shall be kept within the tenement to be used for depositing refuse of any description and only to be brought out of the tenement for the disposal of refuse.

35. Maintenance of waste receptacle

Every owner or occupier of a tenement shall maintain in a good condition the receptacle mentioned in section 34 above, and shall replace same when it is worn out.

36. Use of receptacle

No obnoxious, toxic or poisonous waste shall be deposited in a waste receptacle.

37. Designation of refuse disposal sites

For the purposes of this Law, the Agency shall designate refuse disposal sites for refuse, obnoxious, toxic and poisonous wastes.

[No. 13 of 2004.]

38. Prohibition of littering, etc.

No person shall throw or deposit on any street, open space, gutter, drain or drainage system or tenement whether occupied or not any can, litter, loose refuse or waste of any description except at such places as may be authorised by the Agency.

39. Prohibition of discharge of effluent for liquid waste

No person shall cause or knowingly permit any trade or sewage effluent or liquid waste to be discharged into any drain or drainage system, road gorges, water courses or any part

thereof except at such place as may be authorised by the Agency.

40. The Agency, etc., to dispose refuse

(1) The Agency, authorised Government Agency, Local Government Council or a private refuse disposal collector duly registered by the Agency shall assist in the disposal of refuse waste within the State.

[No. 13 of 2004.]

(2) Every private refuse disposal collector shall be registered with the Agency and shall be issued with a permit on payment of a prescribed fee by the Agency.

[No. 13 of 2004.]

(3) Any person who fails, neglects or refuses to register under this section is guilty of an offence under this Law.

41. Cancellation, etc., of permit

(1) The Agency may cancel, suspend or reissue or renew any permit it issues under subsection (2) of section 40.

[No. 13 of 2004.]

(2) The Agency shall not issue any permit to any person unless the prescribed fees have been paid.

(3) A permit issued under this Law shall have effect from the time of the issuance, until the end of twelve calendar months.

42. Conditions for permits

(1) The Agency in issuing a permit may attach to it such conditions governing the tenure of the permit and any other matters as it thinks fit in the interest of the public.

(2) Any person to whom permit has been issued under this section shall be treated as a contractor of the Agency for the purposes of this Law.

43. Covering of refuse vehicles

(1) Any vehicle or container used in transporting or conveying refuse or waste within the state shall be covered in such a way that the content thereof does not litter the street.

(2) Where a vehicle or container is not used in the manner described under subsection (1) of this section, the driver or carrier of the vehicle or owner of the vehicle or container as the case may be, is guilty of an offence under this Law.

44. Burning of receptacle contents

No person shall burn or cause to be burnt the contents of any dustbin or receptacle belonging to the Agency.

45. Use of incinerator

For the purpose of disposing refuse or waste through incinerator no person shall erect, construct or use an incinerator without the prior approval in writing of the Agency.

46. Storage of industrial and commercial waste

The storage of industrial or commercial waste by any person on any tenement is hereby prohibited.

47. Burning of industrial and commercial waste

The burning of any industrial or commercial waste on any tenement is hereby prohibited.

48. Dumping of industrial and commercial waste

No person shall dump indiscriminately at any place other than the designated refuse disposal site any commercial or industrial waste.

49. Excavated materials

Any person who in the process of any construction or repair of any drain excavates or removes any silt, earth or other material from such drain shall carry away such silt, earth or other material.

50. Dumping of building materials

(1) No person shall in the process of any construction at any site deposit on any road verge or drain, sand, laterite, gravel, iron rod, plank or any building material.

(2) For the purpose of this section, any person or any builder responsible for any construction on any site shall confine the deposit of the materials mentioned in subsection (1) of this section to the site of the construction.

51. Sealing of tenement

(1) For further effective implementation of this Law, a duly authorised officer of the Agency may seal up any tenement in respect of which a nuisance has been committed.

- (2) Construction, etc., of drain.—The Agency may authorise any of its officers—
- (a) to inspect or clean a drain, open space, public place, recreation ground or drainage system; or
 - (b) carry out any other work in a lawful manner on a drain or drainage system for the continuous flow of such drain or drainage system or any part thereof.

(3) The tenement referred to in subsection (1) of this section shall remain sealed up until the nuisance committed is abated.

(4) The owner or occupier of the said tenement shall bear the cost of unsealing such tenement.

52. Demolition of any obstruction

The Agency may—

- (a) demolish or remove any construction or structure on the footpath or on required set back from the road or which is so placed as to cause an impediment to the clearing, construction, inspection or continuous flow of a drain or drainage system or any part thereof; or
- (b) construct any building or structure which may be deemed necessary for the clearing, cleaning or inspection of a drain or drainage system or any part thereof.

Penalties

53.

(1) Offence of nuisance.—Any person who contravenes any of the provisions of sections 34–36, 38–40, or 43–50, commits a nuisance and shall be guilty of an offence.

(2) Courts to try offences.—Notwithstanding any provisions in any law, a Magistrate Special Environment Court or Area Court shall have jurisdiction to try any person who commits an offence under sections 34–36 38–40, or 43–50 hereof, and shall have power to impose punishment on such persons as provided under this Law.

[No. 13 of 2004.]

54. Commencement proceedings

An Environmental Health Officer, or police officer or state counsel may commence proceedings against a person who fails to abate a nuisance or who commits an offence under sections 34–36, 38–40, or 43–50 after service on him by means of a criminal summons.

[No. 13 of 2004.]

55. Power to prosecute offender

An authorised officer, or police officer or State Counsel shall have power to prosecute an offender who has been summoned to court under the provision of this Law.

56. Power of arrest

Any person who commits a nuisance or an offence under this Law may be arrested without a warrant by a police officer or an Environmental Health Officer or agent of the Agency.

[No. 13 of 2004.]

57. Penalties

(1) Any person who fails to comply with the, provisions of section 34-36, 38-40, or 43-50 of this Law shall on conviction be liable to a maximum fine of five thousand naira or imprisonment for six months.

[No. 13 of 2004.]

(2) Where the person who commits the nuisance is a corporation, a body corporate, or unincorporate, the penalty shall be fifty thousand naira for each offence.

[No. 13 of 2004.]

(3) Where it is proved that the nuisance committed under this Law by a corporation, a body corporate or unincorporate has been with the consent or connivance of or attributed to any neglect or omission on the part of any director, manager, secretary or other similar officer of the corporation or body corporate (or any person purporting to act in any such capacity) the director, manager, secretary or other similar officer of the corporation, body corporate or unincorporate, shall be liable on conviction to a fine of ten thousand naira or to imprisonment for one year.

[No. 13 of 2004.]

(4) (a) Any person or group of persons, schools that contravenes the provisions of section 12 (r) shall be guilty of an offence and liable on conviction to a fine of fifty thousand naira and also to total or partial closure of the Institution.

(b) Any defaulter who fails to comply with the water standard as laid down by the Agency as provided for in section 13 (12) (e) by registering and providing good quality water shall be guilty of an offence and shall be liable on conviction to a fine of twenty-five thousand naira with total closure of such an establishment pending satisfactory compliance with the Agency's order.

[No. 4 of 2006.]

58. Purification and discharge of industrial waste

Any industrial waste mentioned in this Law which is to be discharged shall have been adequately treated or purified by the person generating such waste and shall have been certified by the Agency to have complied with the approved standards set down by the Agency prior to such discharge.

(2) The Agency, on being satisfied that the person has complied with the standard approved by it shall issue a written permission renewable every twelve months to such person for such discharge.

(3) A copy of any written permission obtained shall be displayed on the premises generating such waste.

59. Prohibition of discharge of oil, grease, etc.

The discharge by any person of any form of oil, grease or spent oil brought about in the course of any manufacturing operation or business into any public drain, water source, gorge and road verge is hereby prohibited.

60. Prohibition of discharge of industrial gaseous waste

(1) No person shall discharge into the air in the course of industrial process any inadequately filtered and purified gaseous waste or gases containing substances injurious to life and property, such as sulphur dioxide oxide of nitrogen, hydrogen sulphide, carbon mono-oxide, ammonia, chlorine, smoke and metallic dusts and particulates.

(2) All car assembling companies and automobile engineering firms in the state shall install exhaust air-scrubbers as a standard design.

61. Permit to manufacture, etc.

No person shall carry on the business of manufacturing of any matter of any description of chemicals, lubricants, petroleum products, cement, (except for use in building) materials or gases or carry on the containerising of any oil, lubricant or petroleum product in residential or commercial areas of the State in any quantity without first obtaining a written permission from the Agency notwithstanding that a town planning approval has been obtained from the State Town Planning and Development Authority.

62. Prohibition of dumping of expired drugs, etc.

No person shall bury or dump or cause or allow to be buried or dumped any expired drugs or chemicals of any type from pharmaceutical or chemical companies in any part of the state without prior written permission of the Agency.

63. Prohibition of dumping of toxic or hazardous waste

No person shall dump or bury or cause or allow to be buried or dumped in any land or water within the state any toxic or hazardous substance or harmful waste as may be designated and approved by the Agency.

64. Sinking of industrial wells and boreholes

No person shall embark on the digging of wells or boreholes for industrial purposes without seeking and obtaining written approval from the Agency.

65. Prohibition of use of herbicides or insecticides in rivers, lakes, etc.

No person shall use Gammalin 20 or any herbicide or insecticide or other chemicals to kill or for any other purpose in rivers, lakes or streams within the State without first obtaining a written approval of the Agency.

66. Prohibition of storage of radioactive materials

No person shall store radioactive materials in any quantity within the State.

67. Offences and penalties

(1) Any person who fails or neglects to comply with any of the provisions of sections 58-62 or 64-65 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred thousand naira.

(2) Where the person who commits any of the offences mentioned in subsection (1) of this section is a Statutory Corporation, body corporate or unincorporate, such a person shall be liable on conviction to a fine not exceeding five hundred thousand naira.

(3) Where it is proved that the offence which has been committed under any of the provisions of sections 58-62, 64 or 65 of this Law is by a statutory corporation or a body corporate or unincorporate and has been with the consent or connivance of or attributed to any neglect or omission on the part of the director, manager, secretary or other similar officer or such Corporation or body Corporate or unincorporate as the case may be, such director, manager secretary or such similar officer shall be guilty of an offence and shall be liable on conviction to a fine of fifty thousand naira or three months imprisonment as if he had personally committed the offence.

(4) Any person who fails or neglects to comply with the provisions of sections 63 or 66 commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand naira.

(5) In addition to any penalty which may be imposed under this Law, the Court may order such premises to be sealed up until such person restores the polluted environmental area to an acceptable state approved by the Agency.

(6) Any person who permits such waste or substance specified in section 63 or 66 to be dumped on his land commits an offence and shall on conviction be liable to a maximum term of ten years imprisonment without an option of fine.

(7) Where a person guilty of an offence under section 63 or 66 is a statutory Corporation or body corporate or unincorporate such person shall be liable on conviction to a fine not exceeding one million naira, and shall bear the cost of removing the dumped waste or substance and restoring the environment to a harmless state.

(8) The court shall order any fine imposed on any offender under this Law to be paid into the State Government coffers.

(9) For the purpose of this Law and immediately after its commencement, the appropriate courts shall try offenders under this Law.

68. Jurisdiction of magistrate special environment court and high courts

A magistrate, special environmental court or High Court shall have jurisdiction to try any person who commits an offence under sections 58–66 of this Law.

[No. 13 of 2004.)

69. Powers conferred on a Judge

A judge presiding in a case commenced pursuant to this Law shall in addition to the powers conferred upon him under this law, exercise such powers as may be conferred upon him by any other law.

70.

(1) The procedure of a court assigned to try offences under this Law shall be the same as the procedure of a Magistrate, Area or High Court as the case may be.

(2) A Magistrate shall for the purpose of this law have power to give sentences to a maximum of five hundred thousand naira fine or a term of ten years imprisonment.

71. Environmental Sanitation Day

The Governor may declare any day as an environmental sanitation day.

72.

[No. 4 of 2006.]

73. Amendment of Law No. 7 of 1985

Sections 3 (1) (a), 5 and 7 (2) (/) of the Kwara State Task Forces Law, No. 7 of 1985 are hereby repealed.

74. Vesting of assets

(1) By virtue of this Law, all the assets, funds, resources (including human resources) and liabilities which immediately before the commencement of this Law were vested in the dissolved Environmental Sanitation Task Force are hereby without further assurance vested in the Agency.

(2) By virtue of this Law, all the assets funds, resources (including human resources) and liabilities which immediately before the commencement of this Law were vested in the State Ministry of Health for environmental sanitation purposes or duties are hereby without further assurance vested in the Agency.

CHAPTER K16

KWARA STATE ENVIRONMENTAL PROTECTION AGENCY LAW

SUBSIDIARY LEGISLATION

No Subsidiary Legislation