

CHAPTER 165

BAUCHI STATE WATER BOARD LAW

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Constitution and Proceedings of the Board

CHAPTER 165

BAUCHI STATE WATER BOARD LAW**A Law to establish a Water Board Authority for Bauchi State.**

[B.A.S. 1 of 1979, B.A.S. 3 of 1990.]

[Commencement: 2nd November, 1989]

PART I*Preliminary***1. Citation**

(1) This Law may be cited as the Bauchi State Water Board Law 1990.

(2) This Law shall apply subject to the provisions of the Bauchi State Integrated Rural Development Authority Law, 1986.

[Cap. 72.]

2. Interpretation

In this Law, unless the context otherwise requires—

“Agency” means the Central Recruitment Agency established under the Central Recruitment Agency Law, 1985;

[Cap. 72.]

“assessed value” in relation to a tenement means the capital annual unimproved value at which the tenement is for the time being assessed in accordance with the provisions of the Tenement Rating Law;

[Cap. 156.]

“catchment area” means any area of land or water from which water contributes to the supply of any waterworks;

“dwelling house” means any premises used wholly or mainly for the purpose 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 a 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;

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

“Governor” means the Governor of Bauchi State;

“health officer” includes a medical officer of health, a health inspector or other person acting under the authority, whether general or special of the medical officer of health, and whether such health inspector or other person is serving in the medical or health departments of the Government or is in the service of any Local Government Administration;

“member” means a member of the Board and includes the Chairman;

“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 supply by means of a service where the water supplied is measured by meter;

“occupier” means the person in occupation of a tenement in respect of which the word is used or any part of such tenement, but does not include a lodger;

“owner” means the person for the time being receiving the rent of the tenement in respect of which the word is used, whether on his own account or as agent or trustee for any other person, or who would receive the rent if such tenement were let to a tenant, and includes the holder of a tenement direct from the State whether under lease, licence or otherwise;

“private supply” means a supply by means of a service to any tenement for the purpose of supplying water to be used solely within the area of such tenement;

“public fountain” means any fountain, standpipe, valve, tap or appliance used or intended to be used for or in connection with the supply of water to the public from any waterworks, and vested in or erected or hereafter to be erected by the Board and which is the property thereof;

“public supply” means a supply by means of any public fountain, standpipe, valve, tap or other appliance, for supplying 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 waterwork;

“street” includes any square, court, highway, road, thoroughfare or public passage or 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;

“the Board” means the Bauchi State Water Board established under section 3;

“the Chairman” means the Chairman appointed under section 4 (2);

“the Government” means the Government of the Bauchi State of Nigeria;

“the State” means the Bauchi State of Nigeria;

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

PART II

Establishment, Constitution, and Functions of the Board

3. Establishment of the Board

There is hereby established for the State a body called the Bauchi State Water Board which shall be a body corporate with perpetual succession and a common seal and which shall have power to sue and be sued in its corporate name.

4. Composition and appointment of the Board

- (1) The Board shall consist of the Chairman and six other members.
- (2) The Chairman and every member shall be appointed by the Governor and unless removed by him, hold office for a period of three years from the date of his appointment and shall be eligible for re-appointment.
- (3) The General Manager of the Board shall be an *ex officio* member of the Board.

5. Supplementary provisions Schedule

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

6. Functions of the Board

It shall be the duty of the Board subject to the provisions of this Law—

- (a) to control and manage all waterworks vested in the Board under the provisions of this Law;
- (b) to establish, control, manage, extend and develop such new waterworks and to extend and develop such existing ones as the Board 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 Board from time to time on matters relating to its functions under this Law and to submit the result of such research to the Governor for the utilisation of the same by him in the formulation of policy relating to the supply and usage of water in the State; and
- (e) with the approval of the Governor to make arrangements and enter into agreements with any person, department, or office of the Government or any other body or institution, or to delegate authority to any of its members, offices, employees, servant or agent as agent for the Board, of any of the functions, services or facilities which may be exercised, performed or provided by the Board under this Law.

7. General powers of the Board

(1) Subject to the provisions of this Law, the Board 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) Without prejudice to the generality of the provisions of subsection (1), the powers of the Board shall include powers—

- (a) to adopt with or without amendments such master plans for the maintenance and development of its undertakings as its officers may prepare and submit from time to time;
- (b) to construct, reconstruct, maintain and operate waterworks, and all other stations, buildings and to establish, operate and control sewage systems, and works necessary for the discharge of its functions under this Law;
- (c) to 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 but making good any damage done;
- (d) to abstract water from any lake, river, stream, or other natural source;
- (e) from time to time, to examine any surface or underground waters for the purpose of determining what, if any, pollution exists and the causes thereof;
- (f) to enter upon any land at any time for the purpose of laying, examining, repairing, or removing any water-pipe the property of the Board;
- (g) to construct public fountains in any street or other public place;
- (h) at any time between the hours of six o'clock in the morning and six 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—
 - (i) to inspect any service or meter and to ascertain whether there is any waste, leakage, obstruction or damage to any service or meter therein or anything in connection therewith;
 - (ii) to ascertain the amount of water taken or used; or
 - (iii) to disconnect the supply of water to any tenement, or to diminish, withhold, or divert the supply of water to any tenement through or by means of any service, either wholly or in part;
- (i) to 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 Board 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;
- (j) to 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 bulk supply of materials;

- (k) to 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;
- (l) to do anything for purpose of advancing the skill of persons employed by the Board or the efficiency of the equipment of the Board in the manner in which the equipment is operated, including the provision of facilities for training, education and research;
- (m) to accept or acquire and hold any security of any kind in any form whatsoever;
- (n) to surrender retransfer or reassign any security held by the Board whether upon exchange for another security or upon discharge;
- (o) in relation to any security held by the Board, to exercise any power, right or privilege in respect thereof which a private individual would be capable of exercising in like circumstances;
- (p) to make, draw, accept or endorse, negotiable instruments;
- (q) 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 with his approval to sell such stocks, shares, debentures or other securities;
- (r) to enter into any commitments, agreements or other arrangements in respect of the provision, distribution, supply or sale of water;
- (s) to insure its property against all forms of risks;
- (t) with the approval of the Governor, to write off bad debts.

(3) The preceding provisions of this section relate only to the capacity of the Board as a statutory corporation and nothing in the said provisions shall be construed as authorising the disregard by the Board of any written law.

8. Committees of the Board

(1) Subject to the provisions of this section, the Board may appoint one or more committees to advise or take any other action as the initiation, administration or progress of any project which the Board may undertake or in which it may participate or for any other purpose, whether general or special, relating to the functions of the Board, 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, any functions exercisable by the Board under this Law:

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

(2) The number of members of any committee appointed this section, the Chairman of the committee, the term of office and the remuneration of the members shall be such as the Board may, with the approval of the Governor specify.

(3) Any committee appointed under this section may include, with the approval of the Governor, 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 committee:

Provided that the majority of the members of every committee shall be members or officers of the Board.

9. Power of Governor to give directions

The Governor may give the Board general or specific directions as to the discharge of its functions.

PART III

Financial Provisions, Assets and Liabilities of the Board

10. Transfer to the Board of waterworks, etc.

(1) All waterworks which before the commencement of this Law vested in the Bauchi State Urban Utilities Board shall vest in the Board and such vesting shall extend to the whole waterworks (hereinafter referred to as the "transferred waterworks") including all lands, works, and other property, assets, powers, rights and privileges appertaining thereto or held or enjoyed in connection therewith.

[B.A.S. 21 of 1986 (Repealed).]

(2) All liabilities and obligations of the Urban Utilities Board in respect of any transferred waterworks falling due or to be discharged on or after the commencement of this Law shall, as from that date, become the liabilities and obligations of the Board.

(3) Every deed, bond, agreement, instrument and working arrangements to which the Urban Utilities Board 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 commencement of this Law as if—

- (a) the Board has been a party thereto;
- (b) for any reference to the Urban Utilities Board therein there were substituted as respects anything falling to be done on or after the commencement of this Law a reference to the Board.

11. Funds and resources of the Board and application of its revenue

The funds and the resources of the Board shall consist of—

- (a) all sums, investments or other property whatsoever vested in the Board by the provisions of section 10;
- (b) such sums or other property whatsoever as may from time to time be advanced by way of loan or granted to the Board by the Government;
- (c) such sums or other property whatsoever as may from time to time be advanced by way of loan or granted to the Board by any Local Government authority, or Statutory Corporation in the State, any other Government in Nigeria or any agency or institution of any such Government, any private foundation or any person whatsoever;

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- (d) any investments or other property whatsoever acquired by or vested in the Board;
- (e) money earned or arising from any investments or other property whatsoever acquired by or vested in the Board;
- (f) all other sums (whether as water rates or water charges or otherwise) or other property whatsoever which may in any manner become payable to or vested in the Board in respect of its powers and duties or of any matter incidental thereto under this Law or by virtue of the provisions of any other law.

12. Expenditure of the Board's funds

(1) The Board may apply funds at its disposal to its own expenses including the remuneration and expenses of its members in respect of their duties as members and the payment of salaries, allowances, pensions, gratuities and retiring benefits of its officers and servants.

(2) The Board may incur expenditure necessary for or incidental to the carrying out of its functions or duties under this Law.

13. Power to borrow money

(1) The Board may with the approval of the Governor, borrow money by way of mortgage or otherwise and on such terms and conditions as the Board may with the consent aforesaid, think necessary for the due discharge of its functions.

(2) A person lending money to the Board shall not be bound to inquire whether the consent required under subsection (1) has been obtained.

14. Annual estimate

Before the commencement of each financial year the Board shall prepare an estimate of its expected revenue and expenditure for that financial year and submit it to the Governor for approval.

PART IV*Administrative Organisation of the Board***15. General Manager, etc.**

(1) The Chief Executive of the Board shall be its General Manager who shall be a professionally qualified engineer with sound experience of water supply engineering and management and shall have responsibility for the carrying out of the policies and decisions of the Board in accordance with provisions of this Law.

(2) There shall be a Secretary to the Board who shall, subject to the provisions of this Law, have such functions of an administrative nature as the Board may from time to time assign.

(3) Power to appoint and exercise disciplinary control over the Secretary, and to determine his terms and conditions of service as to remuneration or otherwise, is vested in the Agency and is also subject to the provisions of any regulations or rules that may be made under section 18 or 19 respectively.

16. Other staff of the Board

(1) Subject to the provisions of this section, the Agency 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 the Board's 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 Agency by subsection (1) shall be subject to the provisions of any regulations or rules that may be made under section 18 or 19 respectively.

17. Secondment and transfer of employees

The Agency may employ on secondment such officers of the public service of the State or the service of any other State, Department or Local Government Administration as may, with the agreement of such officers, be seconded to the service of the Agency in accordance with the procedure applicable to the secondment of such officers.

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

The Agency may, subject to the provisions of this Law, make regulations with respect to appointment, promotion, transfer and dismissal of, and exercise of disciplinary control over the Board's employees, and without prejudice to the generality of the foregoing provisions, make regulations for any of the following matters—

- (a) the qualifications to be required for appointments;
- (b) the method of appointment (including probation and confirmation);
- (c) the form of any agreement to be entered into between the Agency and its employees;
- (d) the terms and conditions of service (without prejudice to the generality of that expression includes the salaries, and allowances, the grant of advances, the provision of quarters, leave, and medical and dental treatments);
- (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 Board and State Government or Local Government or any other statutory corporation;
- (h) such other matters relating to departmental procedure and duties and responsibilities of employees as the Agency considers can be best provided for by regulation.

19. Power to make rules relating to retirement benefits for employees of the Board

The Agency may, with the approval of the Governor make rules, with respect to the Board's employees, for—

- (a) the pensions, gratuities and retirement allowances to be granted to pensionable employees of the Board and their dependants;

- (b) the gratuities and retirement allowances to be granted to non-pensionable employees of the Board 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***20. Rates and scales of charges for water**

(1) The rates and scales of charges for water shall be such as the Board 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 Board 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 outgoing of the Board properly chargeable to income in that year;
- (b) the payments falling to be made in such year by the Board in respect of the interest on or repayment of the principal of any money borrowed by the Board;
- (c) such sums as the Board 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 Board thinks it fit, be fixed at different rates and scales for different localities.

21. Power to levy general water rate in respect of tenement of persons

(1) The Board may, in any area with the approval of the Governor, by order 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 tenements 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 sixteen years of age and over resident in such area shall pay annually such sum as general water rate as the order may prescribe; or
 - (iii) there shall be levied annually in respect of every tenement such sum as general water rate as the order may prescribe; 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:

Provided always that no person shall be assessed for general water rate in more than one of the various manners hereinbefore mentioned;

- (b) that any tenement or class of tenements, or any persons or class of persons may be exempted from such general rate;
- (c) that where assessment of the general water rate is made as provided in subparagraph (i) or (ii) 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 Board may provide that the rate shall be paid monthly in advance;

- (e) that such general water rate shall be paid with retrospective effect;
 - (f) 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) Any order made under this section may be given retrospective effect:

Provided that—

- (a) subject to the provisions of section 26, water has in fact been supplied in respect of the period of which any order, whereby any general water rate is levied, is to be given retrospective effect;
- (b) nothing in such order contained or by virtue of any of the provisions of this Law shall constitute or be construed as purporting to construe as an offence committed by any person any act or omission by him which was not such an offence by virtue of the provisions of such order of this Law only in so far as the same has taken place, or has been construed on or after the date of the publication of the order of 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.

22. Power to make regulation

(1) The Board may, with the approval of the Governor, make regulations for the better carrying out of the provisions of this Law, and without prejudice to the generality of the foregoing provisions 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 paid, and whether such rate 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 tenements or any person or class of persons;
- (f) the method and manner in which water may be taken from public fountains or a public supply;
- (g) the price to be paid for all services constructed or laid by the Board and the time and place for the payment of same;
- (h) the construction, laying, fitting, alteration or re-adjustment of services and the 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, or boating on or fishing in any waterworks;
- (k) the prevention of the wrongful opening or closing of any lock, cock, valve, sluice or any 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 Board;
- (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 and governance thereof and maintenance of good order thereon;
- (p) generally for the preservation and consideration 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 given retrospective effect:

Provided that—

- (a) subject to the provisions of section 26 water has in fact been supplied in respect of the period of 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 at the time it took place, and any act or omission may be constituted 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 provisions of any regulations made under the provisions of this section the Board may, without prejudice to its right to take proceedings for a fine or other penalty in respect of such contravention or 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 reasonably incurred by it in so doing from the person in default in the manner provided for in 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.

23. Rating by more than one method

Notwithstanding any of the provisions of this Law, no person shall be liable to pay rates levied by more than one method in respect of the same supply of water or to pay any charge as well as a rate in respect of the same supply of water.

24. Liability for payment of water rate or charge

The owner and occupier of every tenement not exempted from a rate or charge shall be liable to the Board 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 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 Board may recover the same with costs in a court of competent jurisdiction.

26. Continuity of supply of water

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

Provided that—

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

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

(2) The Board 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 of a whole or partial interruption of the supply of water howsoever caused.

27. Purchase and re-sale of water

(1) The Board 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 Board save under the licence granted by the Board on such terms and conditions as the Board 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 Board is included.

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

(1) The Board may, subject to the provisions of any regulations made under section 22, supply water through any service to any tenement on application being made by the owner or occupier thereof who shall pay to the Board any charges the Board may require for the laying of a service to such tenement.

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

(3) The occupier of a tenement to which water is supplied by meter shall pay monthly to the Board the amount due for the excess consumption and for meter rent.

(4) The Board shall as soon as 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 Board 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 Board may recover the same costs, together with the expense of disconnecting the service to the tenement, in any court of competent jurisdiction.

29. Board not responsible for safety of consumer's pipes, etc.

The Board shall not by virtue of making any inspection or test of the 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 or tested, 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 anyone other than an employee of the Board.

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 Board in any part of an area for private purposes, every person within that part of the area shall upon application to the Board, be entitled to 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 or any department of the Government or any other authority does any matter or 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 waterworks or of any distribution system vested in or the property of the Board, the Board shall on reasonable notice being given to it by such person, department or authority make such alteration, and the expenses incurred thereby 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*Accounts and Reports of the Board***32. Accounts, audits and estimates**

(1) The Board 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 Governor.

(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 Board for the financial year to which it relates.

(3) The said annual statement of accounts shall be audited by auditor or auditors to be appointed annually by the Board from a list of auditors supplied by the State Director of Audit and the remuneration to be paid by the Board 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 Board shall forward to the Governor a copy of the said statement of accounts together with a copy of the report made by the auditors.

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

33. Annual report

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

(2) Every annual report made by the Board under subsection (1) shall contain particulars of all directions given under this Law by the Governor to the Board during each financial year.

PART VII*Offences*

34. (1) No person shall construct any waterworks without the approval of the Governor.

(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) of this section 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 so to do by the Governor:

Provided that the Governor 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 permission in writing of the Governor.

(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 not exceeding eight hundred naira or to imprisonment to a term not exceeding six months.

35. Injury, pollution, etc.

Any person who—

- (a) wilfully or negligently damages any waterworks, public fountain, service or meter;
- (b) unlawfully draws off, diverts or takes water from the same or from any stream or water from 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 of ten naira or to imprisonment fine not exceeding six months and, for every day during which the offence continues after notice in writing requiring the same to be stopped, to further penalty of ten naira each such day.

36. Waste and altering service

(1) Any person who wilfully or negligently misuses, wastes, 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 two hundred naira or to imprisonment for a term not exceeding one month.

(2) Any person who alters, or causes, or permits to be altered any services, without the consent of the Board 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.

37. Fraudulent measurement

Any person who alters, or causes or permits to be altered, any service with intent to avoid the accurate measurement of 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 therefor, 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 imprisonment not exceeding four months; and any service so altered or any meter so damaged or altered shall be replaced or repaired by the Board at the expense of the person convicted, 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.

38. Foul accumulation of earth, etc.

Any person who puts, or allows to be put, or to remain, or to accumulate on any tenement owned or occupied by him or 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 Board, any foul noxious or injurious matter, or any earth, deposited 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 not exceeding two hundred naira or to imprisonment for a term not exceeding four months, and in respect of any period during which such matter, earth, deposited or excavated materials is allowed to remain after notice in writing from the Board requiring the same to be removed, to a further penalty of ten naira for each day whilst the offence continues.

39. 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, materials 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.

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

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

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

Any person who without lawful justification or excuse, the proof of which shall lie on the person charged—

- (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 five hundred naira or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

PART VIII*Miscellaneous and General***42. Proof of moneys due. Power of moneys due**

In any action of recovery of any rate, charge or other moneys other than fines and penalties, due payable, or recoverable under this Law, a certificate from the Board 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 evidence of such debt and of the non-payment thereof, and that the defendant is the person liable to pay the same.

43. Power of entry by health officer

A health officer or any person authorised in writing by him may enter 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.

44. Power of the Governor to surcharge persons

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

- (a) any sum due to the Board 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 a deficiency in the moneys or loss or destruction of any other property of the Board has occurred by reason of the negligence, breach of official duty or other misconduct of any person,

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

(2) Before exercising any of his powers under subsection (1) the Governor 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 persons 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 purpose of the inquiry.

(3) If the Governor 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 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 Board who can prove to the satisfaction of the Governor that he acted in pursuance of or 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 Board to whose orders, on 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 of 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.

45. Recovery of surcharges

Any amount notified as a surcharge in accordance with the provisions of subsection (3) of section 44 shall be a debt to the Board, and may be sued for and recovered in any court of competent jurisdiction at the suit of the Board.

46. Appeals against surcharges

(1) Any person who is aggrieved by any decision of the Governor to surcharge any amount upon him may, if the decision related to an amount exceeding four hundred naira, within thirty days of such decision, appeal to the High Court.

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

47. Preliminary investigation in respect of land required for waterworks

(1) Whenever it appears to the Board that any land in the State is likely to be needed for the purposes of any waterworks, the Board 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 adaptable for such purposes:

Provided that no such agent, servant or workman 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 days notice of the intended entry has been given to such occupier.

(2) As soon as may be convenient after any entry made under subsection (1) the Board 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 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.

48. Use of water by fire authorities

(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 waterworks of the Board.

(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 Board, which consent shall not be unreasonably withheld.

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

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

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

49. Execution or issue of instrument

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

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

50. Restriction on execution against Board's waterworks

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

51. Service of notices, etc.

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

52. Waterworks excluded from rates

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

53. Regulations made under the Waterworks Law

Any regulations made under the Waterworks Law and in force immediately before the date of commencement of this Law shall continue in force as from the date as if made by the Board under this Law, until such regulations are revoked or replaced under the provisions of this Law, and accordingly references in any such regulations to any water authority or to any other authority or person, shall with the necessary adaptations and modifications, be construed as references of the Board.

[N.N. 1963 Cap. 137.]

SCHEDULE*Constitution and Proceedings of the Board*

1. 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 three years from the date of his appointment.
2. A member of the Board who has ceased to be such member shall be eligible for re-appointment.
3. (1) If the Governor is satisfied that a member of the Board—
 - (a) has been absent from three consecutive meetings of the Board 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;
 - (c) has been convicted of an offence involving or necessarily implying fraud or dishonesty and has undergone a sentence of imprisonment therefor;

- (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 the Board or otherwise as in the opinion of the Governor is likely to affect prejudicially the discharge by him his functions as a member; or
- (f) is otherwise unable or unfit to discharge the functions of a member, the Governor may revoke the appointment of such member.

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

(3) Notwithstanding the provisions of paragraph (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 account of any vacancy among its members or on account of the appointment of any member having been defective.

5. Temporary membership

Whereby a 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. Meeting and procedure

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

(2) At a 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 choose one of their number, to be the 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 four members of the Board may by a notice in writing signed by them request 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

One-half of the members (including the Chairman or other member presiding) shall form a quorum at any meeting of the Board.

9. Common seal

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

(2) The common seal of the Board shall be authenticated by the signature of the Chairman of the Board or some other member thereof authorised by the Board 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 Board and every document purporting to be an instrument made by the Board and to be sealed with common seal (purporting to be authenticated in accordance with this paragraph) of the Board shall be received in evidence and be deemed to be such instrument without further proof unless the contrary is shown.

10. Standing orders

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