



## JIGAWA STATE OF NIGERIA



BILL NO.....\2018

SPONSOR: .....

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A BILL

FOR

### Long Title

A Law to provide for the right of access to basic water and sanitation services, the institutional framework and the Regulatory framework for the water and sanitation sector, the roles of governments and the private sector and for other matters connected therewith

Commencement

( )

IT ENACTED by the House of Assembly of Jigawa State as follows:

## CHAPTER 1

### FUNDAMENTAL PRINCIPLES AND OBJECTS

- 1). The main objects of this Law are to provide for;
- (a) the right of access to basic water supply and the right to basic sanitation necessary to secure sufficient water and an environment not harmful to human health or well-being;
  - (b) the setting of standards and norms for service provision and standards for tariffs in respect of water supply and sanitation services;
  - (c) the preparation and adoption of water supply and sanitation services development plans by the Ministry responsible for water resources in accordance with this Law;
  - (d) the establishment of water supply and sanitation service Agencies, their powers and duties;
  - (e) for coordination of intervention in water and Sanitation delivery by Federal, State and Local Governments as well as other non-governmental Agencies and bodies;
  - (f) the accountability of water services providers;
  - (g) the promotion of effective water resource management and conservation particularly for water within the constitutional authority of the State
  - (h) collaboration of the Sector institutions with other national and State agencies in the development of water supply and sanitation services in accordance with the State master plan and this Law
- 2). Directive Principles for water supply and sanitation services delivery in the State;

The principles and implementation responsibilities set out in this section shall be regarded by every Ministry, Department and Agency of government as well as the private water service providers, and other non-governmental Agencies and Organizations as being fundamental to every activity undertaken within the State water supply and sanitation services Sector.

These principles are;

- (a) Water resources within the State are a common good common good belonging to all residents of the State

- (b) Within the context of an Integrated Water Resources Management (IWRM) approach to managing the water resources, the Government recognises Water as a social good, an economic good, as well as an environmental good.
- (c) Everyone has a right of access to basic water supply and basic sanitation which right takes precedence over supply for any other uses.
- (d) ensuring the affordability of water supply and sanitation services for the low income and poor sections of the populace by the development of mechanisms to ensure access to basic water and basic sanitation services through subsidies.
- (e) The Ministry responsible for water Resources, every water service institution and private water service providers must provide for measures to realise these rights in their water sector Development Plans as well as in their operations.
- (f) The Government recognises the role of the private sector in water supply and sanitation sector development, and shall create necessary enablement for the participation of the private sector in the delivery of water supply and sanitation services.
- (g) Publicly owned water supply and sanitation infrastructure and assets shall be held in public trust for the people by the State Government and shall be vested in public water utilities established pursuant to this Law. Such assets may be transferred to the Community through Community based associations or by contract to non-governmental private water service providers for the purpose of service provision in public private partnership arrangements approved by the State government.
- (h) Water supply and sanitation management and development shall be based on participatory approach, involving consumers, users, planners and policy makers at all levels. Decisions should be made at the lowest appropriate level in accordance with the provisions of this Law.
- (i) Women and men shall be equitably represented in all water supply and sanitation decision making organs at the State, local, and Community levels.
- (j) All water providers in the State shall produce potable water that meets the Nigerian Standard for Drinking Water Quality (NSDWQ)

(NSDWQ) issued by the standards Organisation of Nigeria and the Federal Ministry of Health.

- (k) The Government shall develop investment plans for the development of water and Sanitation infrastructure for the Sector and shall make provisions for necessary funds for such investments in accordance with the State water sector development plans, the State development plans and the State Economic plans.
- (l) The State Government shall, through the Ministry responsible for water resources implement the short, medium and long term development goals for the Sector as articulated in the State Water and Sanitation Policy and Sector Strategy including periodic policy development and review, institutional reform, capacity building, and creation of necessary enabling environment for Sector development.
- (m) Emphasis shall be on conflict prevention and management in the Sector to assure regulation by Ministry responsible for Water resources water security, reliability and sustainability of service.
- (n) Water supply and sanitation service provision in the State shall be along the lines of urban water supply, small towns water supply and rural water supply for improved access and coverage to the citizens of the State
- (o) Water infrastructure and assets in the urban areas shall be vested in the State urban water utility, which may engage with the private sector for the performance of any of its statutory functions in accordance with this Law.
- (p) Water infrastructure Assets in the small towns shall be vested in the small towns water utility in the short term. The State Policy is a gradual transfer of management of water and sanitation infrastructure in small towns to the Community, which may engage the private sector for the operation and maintenance of such schemes.
- (q) Rural Communities shall have ownership of water supply and sanitation assets at the rural level while the State Agency responsible for rural areas shall provide technical assistance and advisory services for construction, design, and maintenance in accordance with this Law.
- (r) Cost recovery and affordability shall be the focus of water supply and sanitation service provision for all water service institutions and providers in the State

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- (s) The rights mentioned in this section are subject to the limitations contained in this Law.

## CHAPTER II

### The Jigawa State Water Board

#### ESTABLISHMENT OF THE JIGAWA STATE WATER BOARD AND FOR MATTERS CONNECTED THEREWITH

##### Establishment of the Jigawa State Water Board

- 1). There is hereby established the Jigawa State Urban Water and Sanitation Board (referred to in this Law as "*the Water Board*").
- 2). The Water Board shall:
  - a. be a body corporate with perpetual succession and a common seal;
  - b. have power to sue and be sued in its corporate name; and
  - c. be capable of holding, purchasing, acquiring and disposing of property, movable and immovable.
- 3). All existing and new State owned water infrastructures in the urban areas of the State are hereby vested in the Water Board in furtherance of S. 2 (o) of this Law.
- 4). The Water Board and its composition
  - 1). The Governing body of the Water Board (hereafter called the "**Board**") shall consist of a:
    - a). A Chairman
    - b). Five members, including at least one woman and or a representative of Civil Society Organisation, and three professionals in the field of finance, water engineering, sanitary engineering or public health engineering;
    - c). The Managing Director
  - 2). The names of the Chairman and other members of Water Board shall be published in the State Gazette.
  - 3). The Chairman and other members of the Board shall be appointed by the Governor

- 4). The Board shall meet to conduct the business of the Board at least once every quarter and at such other times as the Chairman may determine
- 5). The provisions contained in the Schedule to this Law shall have effect with respect to the proceedings of the Board and the other matters mentioned therein.

**5). Remuneration of members of the Governing Board**

There shall be paid to the members of the Board, allowances as determined by the Board subject to State policy on same

**6). Tenure of office of Members of the Board**

- (1) (a) The Chairman and other members of the Board shall hold office for a term of four years and shall be eligible for re-appointment for one more term each

(b) The appointment shall be upon such terms and conditions as maybe stipulated in their letters of appointment

- (2) All members of the Water Board except the MD shall be appointed to serve as part-time members.

- (3) A Board member shall continue in office after the expiration of his term of office until a successor has been appointed provided that he shall not continue in office pursuant to this section for longer than six months

**7). Vacation of office**

Notwithstanding the provisions of Section 6 of this Law, a member shall vacate his office and his office shall become vacant;

- (a) one month after the date upon which he gives notice in writing to the Governor of his intention to resign; or

- (b) on the date he begins to serve a sentence of imprisonment imposed without the option of a fine:

i). in Nigeria, in respect of a criminal offence involving fraud, or dishonesty; or

ii). outside Nigeria, in respect of an offence involving financial impropriety or any conduct which, if committed in Nigeria, would constitute an offence; or

- (c) if he attends fewer than 75% of the Water Board 's meetings in any one year period; or
- (d) in the case of members who have professional qualifications, if the member is barred or suspended from his professional body.
- (e) If he becomes bankrupt
- (f) if he becomes of unsound mind or incapable of carrying out his duties
- (g) if he is guilty of serious misconduct in relation to his duties as a member of the Board .
- (h) on the dissolution of the Board.

**8). Quorum**

- a). The quorum for a meeting of the governing Board shall be four members, including the Chairman.
- b). The Chairman shall preside at meetings of the Board and in his absence; the members present at the meeting shall elect one of the members present to preside.

**9). The specific duties of the Governing Board;**

The specific duties of the Board shall include but not be limited to the following:

- (a) Making strategic decisions on the activities and mandate of the Water Board;
- (b) Reviewing and approving the Water Board's business plans, budget and performance;
- (c) Approving pre-qualified Private sector Operators;
- (d) Approving The water Board's policies and monitoring implementation of same;
- (e) Ensuring that regulated activities meet with standards set by the Ministry for Water resources;
- (f) Ensuring that the Water Board remains a socially responsible corporate body;
- (g) Approving and monitoring the implementation of the Water Board's water services development plan, and



- (h) Proposing tariff in furtherance of the State water and Sanitation Principles in chapter 1 for the approval of the Commissioner and
- (i) Any other business which may be considered necessary by the governing Board in pursuance of the Water Board's functions as provided in this Law.

## **FUNCTIONS, POWERS AND OBJECTIVES OF THE WATER BOARD**

### **10). Objectives of the Water Board**

The objectives of the Water Board shall be to;

- (a) Provide safe, adequate and affordable water supply and sanitation services to the residents of the urban areas in furtherance of S. 2 (o) of this Law.
- (b) To collaborate with the Ministry responsible for water resources Management to secure efficient use of water resources for conservation and protection in urban areas.
- (c) To engage the Private sector for the purpose of performing any of the duties of the Water Board in furtherance of S. 2 (r) of this Law
- (d) to create an investment fund for capital investments in water infrastructure assets and to implement investment plans for the purpose of expanding access to water and sanitation services for the citizens in the areas served within the shortest possible time.
- (e) Implement cost recovery and commercial orientation in service provision and maintain customer focus for service sustainability and efficiency

### **11). Functions of the Water Board**

1). The functions of the Water Board shall be to;

- a). Establish, control, operate and maintain, extend and develop water works as considered necessary for the purpose of providing wholesome, potable water for consumption of the public and for domestic, trade, commercial, industrial, scientific and other uses in the urban areas in the state;
- b). Ensure that adequate wholesome water is supplied to its consumers regularly in line with Nigerian Drinking Water Quality Standards as may be amended from time to time;
- c). in consultation with the Urban Water Consumers Consultative Forum (WCCF), determine its water rates and present it to the Ministry for approval.

- d). Conduct or organize the conduct of research in respect to water supply and sanitation development and matters connected therewith and submit the results of such research to the Commissioner responsible for Water Resources for formulation of the State WASH policy;
- e). Develop, maintain and beneficially exploit water resources both natural and artificial;
- f). To establish a Water Consumer Consultative Fora (WCCF) for the purpose of representing consumer interest and provide support to the Water supply and sanitation (WSS) reform process with emphasis on the participation of women.
- g). Collaborate closely with all Local government WASH Departments on all activities
- h). Facilitate the conduct of Environmental Impact Assessment (EIA)

## 12). General Powers of the Board

- (1) The Board shall, subject to the provisions of this Law, have power for the purpose of carrying out its functions to:
  - a). own all water services assets and construct new water services assets within the areas designated as urban areas.
  - b). fix rates payable for water supplied as well as charges payable for other services by customers of the Water Board
  - c). prepare water and sanitation development plans for the urban water sector
  - d). acquire, purchase, lease, hold, construct, manufacture, maintain or insure any property forming part of the water services assets required for or in connection with the performance of its functions and sell, lease, concede, dispose of, or otherwise deal with such property or any part thereof subject to the approval of the Governor in instances of sale;
  - e). undertake any land acquisition procedure necessary for the performance of its functions, in accordance with all valid legislation;
  - f). enter into agreement with any person or group for the performance of any of its statutory functions under this Law;
  - g). protect, maintain and improve all existing natural water courses in consultation with relevant authorities;

- h). 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, and making good any damage done;
- i). abstract water from any lake, river, stream or other natural source forming part of the water resources of the State, and to do likewise in respect of other water by arrangement with the appropriate authority under and in accordance with the provisions of any existing law in that behalf and may assign such rights to private operators pursuant to a PSP Agreement;
- j). examine from time to time any surface or underground water forming part of the water Resources of the State for the purpose of determining if any pollution exists and its causes and to do likewise in respect of other water by arrangement with the appropriate authority under and in accordance with the provisions of any existing Law in that behalf;
- k). construct stand pipes or public fountains in any street or other public place;
- l). at any time between the hours of six o'clock in the morning and six o'clock in the evening, or in case of urgency at any other time, to enter into premises or place upon which any service has been laid or into which any water supply services is supplied so as to:
  - (i) inspect any service and to ascertain whether there is any wastage, leakage, obstruction, illegal connection or damage to any service or meter therein and anything in connection therewith;
  - (ii) ascertain the amount of water taken or used;
  - (iii) disconnect the supply of water to any premises;
  - (iv) examine, repair or remove any water pipe which is the property of the Water Board
- m). enter into agreement with any person for the supply, construction, manufacture, maintenance or repair of any property which is necessary or appropriate for the purpose of the Water Board;
- n) do anything for the purpose of advancing the skills of persons employed by the Water Board or the efficiency of the equipment of the water Board or the manner in which the equipment is operated including the provision of facilities for training, education and research;

- o). insure its properties against all forms of risk;
  - p). write off bad debts with the approval of the Governor;
  - q). granting exemptions from any water rate or charge of any premises or class of premises to any person or class of persons;
  - r). authorise or delegate any officer, employee or servant of the water Board to act as agent of the water Board for any functions, services or facilities which may be exercised, performed or provided by the water Board under this Law;
  - s). The Board shall have power to conduct water quality investigations in furtherance of its functions under this law as well as upon request by other private water service providers, corporate bodies and individuals and charge appropriate fees for same
  - t). The board shall have power to undertake every and any measures in accordance with the provisions of this Law to protect its installations from the incursion of drain water sewage and any other sanitary waste for the protection of the health of its consumers
- 2). The water Board shall have power for the purpose of carrying out its functions to do all such acts as appear to it to be requisite, advantageous, or convenient and may carry on any activities in that behalf either alone or in association with any other person or body.
- 3). The Governor may by order confer on the Water Board such other additional functions as he may think fit; either:
- a) Functions of a kind similar to the functions specified in subsection 2 of this section
  - b). Functions which in the opinion of the Governor can be conveniently exercised by the Water Board in association with the functions already specified above.

#### **STAFF OF THE WATER BOARD**

##### **13). The Managing Director**

- (1) There shall be appointed by the Governor an officer of the Water Board to be known as the Managing Director who shall, subject to the general direction of the Board;

- (a) be the Chief Executive and Chief Accounting Officer of the water Board (referred to in this Law as "the MD")
- (b) be responsible for the implementation of the decisions and policies of the Board as well as the general administration of the Water Board ;
- (c) perform such other duties as the Board may from time to time direct;

(2) The MD shall

- (a) be a person with a professional qualification in water engineering, or public health engineering with sound relevant experience and
- (b) shall be appointed by the Governor

**14). The Legal Adviser**

- a). There shall be a Legal Adviser (referred to in this Law as "Legal Adviser") to the Water Board who shall be responsible to the Board and shall assist in the discharge of his functions under this Law.
- b). The Legal Adviser shall be a Legal Practitioner with a minimum of [5] years post-call experience and shall be the head of the Legal department.

**15). The functions of the Legal Adviser**

The Legal Adviser shall perform the following functions:

- (a) perform all duties as the Board or the MD may from time to time direct.
- (b) render necessary advice on compliance with Laws, rules and regulations affecting the Water Board;
- (c) prepare, vet and review all contracts Agreements and other legal documents
- (d) represent the Water Board in court in matters to which it is a party.

**16). Other staff of the Water Board**

- (1) The Water Board shall have power to appoint directly from the private sector, or from any Public service of the State, Local government, Federation, or otherwise, any number of staff and other employees as it may from time to time deem necessary to assist the Water Board in the discharge of its functions under this Law.

- (2) The terms and conditions of Service shall be as may be determined by the Board.
- (3) It is hereby declared;
- (a) that Service in the Water Board shall be approved Service under the provision of the Pensions Law and accordingly, staff and employees of the Water Board shall be entitled to Pensions, gratuities and other retirement Benefits as prescribed under the Pensions Law.
  - (b) Without prejudice to the provisions of subsection (a) of this section, nothing in this Law shall prevent the appointment of any person to any office on terms which preclude the grant of pension, gratuity or other retirement benefits with respect to that office.
- 17). The Board may, subject to the provisions of this Law, determine generally the conditions of service of the staff of the Water Board and without prejudice to the generality of the foregoing; the Water Board may determine;
- a). The conditions for the appointment, promotion, termination and dismissal of staff and employees of the Water Board.
  - b). Procedure for Appeals by such employees against dismissal or termination or other disciplinary measures,

and until such conditions of service are made, any instrument relating to the conditions of service in the Public Service of the State shall be applicable, with such modifications as may be necessary, to Staff and employees of the Water Board.

**18). Remuneration of officers**

The Water Board shall determine the remuneration to be paid to its officers and servants and may require any officer to give such security as is deemed proper for the due execution of his office.

**FINANCIAL PROVISIONS**

**19). Funds and resources of the Water Board**

- (1) The funds and resources of the Water Board shall consist of:
- (a) all sums, investments or other property vested in the Water Board by virtue of the provisions of this Law;
  - (b). such sums or other advances by way of loans, or grants to the Water Board by the State Government;

- (g) Any money allocated to the Water Board under the State Government budgetary allocation or such other money as may from time to time accrue to the Water Board

- (2) The Water Board shall ensure that its funds and resources are adequate to meet the operating expenses, depreciation charges, debt servicing requirements and such percentage of its annual capital expenditure requirements as may be determined by the Governor.

#### **20). Bank account**

The Water Board shall operate bank accounts for its funds with a reputable Bank or Banks and the signatories to the accounts shall be either the MD or in his absence his designated representatives as the case may be, and the Head of Accounts, or in his absence his designated representative as may be authorised by the Board in that behalf.

#### **21). Application of the Water Board's funds**

- (1) Part or all of the following charges shall be defrayed out of the revenue of the Water Board for any financial year:
  - (a) the remuneration and allowances of the members of the governing body and those of any committees of the Water Board;
  - (b) the salaries, remuneration, fees, allowances, pensions and gratuities of the staff, agents, technical and other advisers or consultants of the Water Board;
  - (c) all expenses of operation and management of the Water Board and its waterworks and other properties including proper provision for depreciation, wear and tear or renewal of assets;
  - (d) such minor works of a capital nature as the Water Board may deem necessary from time to time;
  - (e) such sums including compensation that may be payable by the Water Board to any person or authority by virtue of the provisions of this Law or any other enactment;
  - (f) taxes, rates and other levies payable by the Water Board under any Law;
  - (g) interest on loans raised by and on behalf of the Water Board;
  - (h) sums required to be transferred to any sinking fund or otherwise set aside for the purpose of making provision for the capital investments, redemption of investments in the Water Board or other securities or the repayment of other loans; and

- (c) all expenses of operation and management of the Water Board and its waterworks and other properties including proper provision for depreciation, wear and tear or renewal of assets;
- (d) such minor works of a capital nature as the Water Board may deem necessary from time to time;
- (e) such sums including compensation that may be payable by the Water Board to any person or authority by virtue of the provisions of this Law or any other enactment;
- (f) taxes, rates and other levies payable by the Water Board under any Law;
- (g) interest on loans raised by and on behalf of the Water Board;
- (h) sums required to be transferred to any sinking fund or otherwise set aside for the purpose of making provision for the capital investments, redemption of investments in the Water Board or other securities or the repayment of other loans; and
- (i) such other sums as the Water Board may approve for payment out of the revenue account of the Water Board in respect of any Financial year.

**22). General Reserve Fund**

- 1). The Water Board may, with the approval of the Governor establish and maintain a General reserve fund in a separate Account into which account shall be paid the following:
  - a). balance of the revenue of the Water Board for any financial year;
  - b). such money as the Governor may from time to time direct from any sources;
  - c). a pre-approved percentage of the total annual budget of the water board for any year under reference
- 2). The General Reserve funds shall be used for emergency and urgent needs of the Water Board relating to the rendering of urgent and essential services as the Water Board may from time to time authorize subject to the approval of the Governor.;

Provided that where the fund is used to meet State or National emergencies, the Governor shall make arrangements to replace such amount upon application by the Water Board.



**23). Loans and grants by the State Government**

- (1) The JIGAWA State Government ("Government") may make to the Water Board the following:
  - (a) grants of any sums of money or property deemed necessary; and
  - (b) loans upon such terms as to repayment of interest or otherwise as the Government may determine.
- (2) The Government may, if it deems it expedient to do so, waive in favour of the Water Board any right or liability to the Government in respect of any property vested in the Water Board by virtue of the provisions of this Law.

**24). Annual Budgets and accounts**

- (1) The Water Board shall, not later than 30<sup>th</sup> July of each year, submit to the Governor, an estimate of its expenditure and income (including payments for the Water Board's fund) for the next succeeding year.
- (2) The Water Board shall keep proper accounts, to conform with standard accounting practice with respect to each year and proper records in relation to those accounts and shall cause its accounts to be audited within six months after the end of each year by auditors appointed from the list and in accordance with guidelines issued by the Auditor – General for the State.

**25). Annual reports**

The Water Board shall prepare and submit to the Governor not later than six months after the end of each year, a report in such form as the Governor may direct on the activities of the Water Board during the immediately preceding year, and shall include in such report, a copy of the audited accounts of the Water Board for that year and the auditors' report on the accounts.

**26). Power to accept gifts**

- (1) The Water Board may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person or organization making the gift
- (2) The Water Board shall not accept gifts if the conditions attached by the person or organisation offering the gifts are inconsistent with the functions of the Water Board.

**27). Power to borrow money**

- (1) The Water Board may from time to time, with the approval of the Governor, borrow money by overdraft or in any other manner for and in connection with the exercise of its functions under this Law as the Water Board may deem necessary.
- (2) An approval given for the purposes of this section may be either general or limited to a particular borrowing or otherwise and may be subject to conditions.
- (3) Any person lending money to the Water Board shall not be bound to inquire whether or not the borrowing of the money is within the powers of the Water Board.

**28). Investments**

The Water Board may, subject to the Provisions of the Law, and the conditions of any trust created in respect of any property, invest any of its funds in any security prescribed by the Investments and Securities Law or in such other securities as may from time to time be approved by the Governor.

**29). Exemption from tax**

- (1) The Water Board shall be exempted from the payment of income tax on any income accruing from investments made by the Water Board.
- (2) The provisions of any enactment relating to the taxation of Companies or trust funds shall not apply to the Water Board

**30). Power to raise capital on the stock exchange**

The Water Board may with the approval of the Governor raise capital for the implementation of its developmental plans and programmes through the capital market or by issuing Bonds or other instruments, by satisfying all the necessary requirements of the Stock Exchange in that regard subject to the approval of the Governor.

**31). Guarantee on loans or other instruments of the Water Board by the State Government**

- (1) The Government may guarantee by an undertaking of the State Commissioner for Finance in such manner and on such condition as the Governor may think fit, the payment of the principal and interest of any sum or sums borrowed or Bonds issued by the Water Board with the approval of the Governor.
- (2) Such sums as may be required by the State Accountant-General for the purpose of making good the obligations of the Government under the

guarantee shall be charged on the Consolidated Revenue Fund of the State government.

**32). Proof of moneys due**

In any action for the recovery of any rate or other moneys (other than fines and penalties) payable or recoverable under and by virtue of the provisions of this Law, a certificate under the hand of the Water Board in that behalf, that any sum of money is due, and that the defendant is the person liable to pay the same shall, be evidence of such debt and of non-payment thereof, and of the fact that the defendant is the person liable to pay the same. Such defendant shall have the burden of proving otherwise.

**33). Responsibility of the Water Board which the Governor may perform or delegate**

In the absence of a Board of the Water Board and until such time such Board is constituted pursuant to this Law, the Governor or any person to whom he has delegated the responsibility of the Water Board shall execute any document, exercise or perform any of the Water Board's Powers.

**Water Supply, Distribution and Consumption**

**34. Water Board's responsibility to consumers for continuous supply of water**

- (1) The Water Board shall as far as possible maintain a continuity of supply of water to residents in the State;

provided that:

- (a) the Water Board shall have the right to suspend the supply of water for such periods as may be necessary for carrying out inspections, tests, or repairs and for the making of new connections;
- (b) the Water Board shall have the right to suspend or turn off supply for the purpose of effecting alterations and modifications to its pipelines and other facilities or general maintenance of the water work subject to reasonable notice being given to the occupier thereof.
- (c) the Water Board shall have the right to suspend or discontinue any supply where the payment of any rate, dues or charges are in arrears;

Provided further that the supply to a Local Government Council or any other areas as may be designated by the Board shall not be suspended or disconnected without the notice mentioned in (b) above

- (2) The Water Board shall in no case be under any obligation to pay damages or compensation for loss, damages or inconveniences caused to any consumer through any suspension, failure, discontinuance or a total or partial interruption of the supply of water howsoever caused except in the case of negligence on the part any employee or Agent of the Water Board.

**35). Rates and scales of charges**

- (1) The Water Board shall from time to time fix rates and scales of charges payable for water supply and other services within the designated urban areas in accordance with a methodology for tariff setting earlier approved by the Ministry which allows for the fixing of economic rates for water supply and other services in order to meet its financial objectives in accordance with the provisions of this Law.
- (2) The water rates and charges may be fixed at different rates for different locations and different users as may be approved by the Ministry.

**36). Application for water supply**

- (1) The Water Board may supply water to a tenement upon application of the owner/occupier thereof which service shall be by contract between the parties pursuant to Rules and Regulations issued by the Ministry.
- (2) The Water Board may refuse to supply water to any particular premises otherwise than by a meter installed and kept in repair by the Water Board

Provided that the Water Board may not disconnect any user or fail to connect a potential consumer for the failure of the Water Board to provide said meter.

**37. Purchase resale and distribution of water by the Water Board**

Subject to the provisions of this Law, the Water Board may purchase water in bulk and may resell such water either in bulk or by distribution to individual, commercial or corporate consumers.

**38). Prohibition of sale of water supplied by the Water Board**

As from the commencement of this Law, it shall be unlawful for any person to resell water supplied by the Water Board except pursuant to a License or other Agreement with the Water Board for that purpose:

Provided that no authority shall be required for the sale of any manufactured goods or other commodities in which water supplied by the Water Board is included such water having been legally procured from the Water Board in the first place.

**39). Payment for water rates and charges**

- (1) The owner or occupier of any tenement to which water is supplied by the Water Board shall pay to the Water Board such rates and charges for water supply or other service as may from time to time be determined by the Water Board and approved by the Ministry
- (2) Upon failure by a consumer to pay any outstanding water rates and charges pursuant to a notice issued in accordance with regulations issued by the Ministry, the water Board may recover such rates or charges by application brought before the High court of Jigawa State or any other special court created for that purpose.

**40). Power to levy general water rate in respect of Local Government**

The Water Board shall have power to collect from Local Government Councils such fees as may be agreed in respect of services in common provided for the inhabitants of the respective Local Government Council Area.

**41). Water Board not responsible for installation works or for damage**

The Water Board shall not by virtue of making any inspection or test of a consumer's pipes, fittings, appliances and apparatus in accordance with this Law, or any regulations made there-under, 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 or arising out of the use or misuse of apparatus by the consumer or any other person other than an employee of the Water Board.

**40). Entitlement to supply of water without preferential treatment**

Except in so far as is otherwise provided by this Law, where a supply of water is provided by the Water Board in any part of an area for private purposes, every person within that part of the area shall, upon application to the Water Board, be entitled to a supply on terms and conditions as the Water Board may deem fit:

Provided that in the case of a first time connection adequate water can be made available without detriment to existing supplies to persons or institutions in the area.

**41). Responsibility for expenses caused by certain necessary alterations**

- (1) If any person or any Ministry, department or Agency of the Government, or other authority does anything 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 Water Board, the Water Board shall on reasonable notice being given to it by such person, Ministry, department

or authority make such alteration and the expenses incurred thereby shall be borne by such person, Ministry, department or authority.

- (2) In the event of any dispute as to the amount of such expenses, the same may be referred by the person, Ministry, department or authority concerned or the Water Board to the High Court.

#### 42). Maps of waterworks

- (1) Subject to the provisions of this section, it shall be the duty of the Water Board to keep records of the location of:
- (a) every resource main, water main or discharge pipe which is for the time being vested in the Water Board; and
  - (b) any other underground works, other than a service pipe, which are for the time being vested in the Water Board.
- (2) It shall be the duty of the Water Board to ensure that the contents of any records for the time being kept by it under this section are available, at all reasonable times, for inspection by the public free of charge at an office of the Water Board upon prior application in writing to the Water Board.
- (3) Any information which is required under this section to be made available by the Water Board for inspection by the public shall be so made available in the form of a map.
- (3) For the purpose of determining whether any failure to make a modification of any records kept under this section constitutes a breach of the duty imposed by subsection (1) that duty shall be taken to require any modification of the records to be made as soon as reasonably practicable after the completion of the works which make the modification necessary; and, where records kept under this section are modified, the date of the modification and of the completion of the works making the modification necessary shall be incorporated in the records.
- (4) The Water Board may charge such amounts as it may determine for the provision of such information to the public.

## **CUSTOMER COMPLAINTS CENTER**

### **43). Establishment of Complaints Centre**

- (1) There shall be established for the Water Board, a Complaints Centre (referred to in this Law as "the Centre") which shall be established within the Water Board's Headquarters.
- (2) The Water Board may establish complaints centers in its area offices as it deems necessary with a view to bringing its services closer to the consumers.

### **44). Functions of the Centre**

The functions of the Centre shall be:

- (1) To receive and pursue complaints from consumers regarding:
  - (a) Quality of water;
  - (b) Water leakages;
  - (c) damage to properties of the Water Board
  - (d) Water connection charges
  - (e) Standards of service; and
  - (f) other related matters.
- (2) to settle disputes and protect the interests of all consumers.
- (3) to monitor all matters appearing to the Centre to affect the interests of customers or potential customers.
- (4) to consult with any operator about matters which affect the interest of customers or potential customers to that operator.
- (5) to make representations where appropriate on behalf of a customer or complainant to any Private Sector Operator
- (6) to receive and pursue complaints from Environmental Agencies and Government bodies on pollution matters.
- (7) To forward complaints to the relevant authorities where applicable

**45). Limitation of suits against the Water Board, etc**

- (1) Subject to the provisions of this Law, the provisions of the Public Officers Protection Law shall apply in relation to any suit instituted against any member, officer or employee of the Water Board
- (2) No suit against the Water Board, a member of the Water Board, the Managing Director or any other officer or employee of the Water Board for any Law done in pursuance or execution of any Law, or any public duties or in respect of any alleged neglect or default in the execution of such Law, duties or authority, shall lie or be instituted in any court unless –
  - (a) it is commenced within three months next after the Law, neglect or default complained; or
  - (b) in the case of continuation of damage or injury, within three months next after the ceasing thereof
- (3) No suit shall be commenced against the Water Board, the MD or any other officer or employee of the Water Board before the expiration of a period of one month after written notice of intention to commence the suit shall have been served on the Water Board by the intending plaintiff or his agent; and the notice shall clearly and explicitly State -
  - (a) the cause of action;
  - (b) the participants of claim
  - (c) the name and place of the abode of the intending plaintiff; and
  - (d) the relief which is he claims

**46). Service of documents**

Any summons, notice or other document required or authorized to be served upon the Water Board under the provisions of this Law or any other enactment or Law may be served by delivering the same to the MD or by sending it by registered post and addressed to the MD at the Principal office of the Water Board

**47). Restriction on execution against the Water Board**

In any action or suit against the Water Board, no execution or attachment of process in the nature thereof shall be issued against the Water Board but any sums of money which may by judgment of the court is awarded against the



Water Board shall, subject to any directions given by the court, be paid from the general reserve fund of the Water Board .

**48). Indemnity of the officers of the Water Board**

Every member of the Water Board, agent, auditor or officer or employee of the Water Board shall be indemnified out of the assets of the Water Board against any liability incurred by him in defending any proceeding, whether civil or criminal if any such proceeding is brought against him in his capacity as such member, agent, auditor or officer or employee as aforesaid.

**49). Directives by the Governor**

The Governor may give to the Water Board or the MD such directives of a general nature or relating generally to matters of policy with regard to the exercise by the Water Board of its functions under this Law and it shall be the duty of the Water Board to comply with the directives or cause them to be complied with.

**50). Certain provisions relating to defaulters, etc**

- (1) where any person contravenes any of the provisions of this Law, the Water Board may, without prejudice to the rights of the Water Board to commence proceedings against any defaulter –
  - (a) serve a notice in writing on the defaulting occupier or consumer and
  - (b) authorize or cause an officer or employee of the Water Board to enter and alter, disconnect, stop or remove any water fittings belonging to or used by such defaulting occupier or consumer
- (2) Upon the occupier or the consumer remedying the default or contravention referred to in subsection (1) of this section, the Water Board may cause repairs, replacement and re-connection of the water fittings and the Water Board shall recover the cost or expenses reasonably incurred to effect the repairs or replacement or re-connection as the case may be.

**51). Recovery of loss of money**

- (1) where, upon consideration of any audit report, the Water Board is satisfied that in respect of its functions under this Law –
  - (a) a sum due to the Water Board has not been duly brought to account by any person; and

(b) there is loss of money or destruction of any of the property of the Water Board which has occurred by reason of –

(i) negligence; and

(ii) breach of official duty or other misconduct of any person, the Water Board may surcharge such money or the value of the property lost or destroyed upon the person aforesaid whether he is member of staff of the Water Board or an agent of the Water Board

(2) Before exercising any of the powers specified under subsection (1) of this section, the Water Board may, in writing, authorize any person to conduct an inquiry for the purposes of the section (and to take evidence and examine witnesses) by summons, require all such persons as it may deem fit to appear before it at a time and place stated in such notice or summons and to produce all such books, records, accounts and other documents and materials as it may consider necessary for the purpose of the inquiry

(3) If the Water Board decides to surcharge any person under subsection (1) of this section, it shall cause a notice to be served upon such person.

(4) Notwithstanding anything to the contrary contained in subsection (1) of the section, no liability to surcharge shall be incurred by any officer, employee or agent of the Water Board if he can prove to the satisfaction of the Water Board that he acted in pursuance, and in accordance with the terms of a resolution of the Water Board or of any committee duly appointed by the Water Board under this Law or on the written instructions of any officer, employee or agent

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

(5) Any amount notified as a surcharge in accordance with subsection (3) of this section shall be due to the Water Board and may be sued for and recovered in any court of competent jurisdiction at the instance of the Water Board.

**52). Appeals against surcharge**

- (1) Any person who is aggrieved by any decision of the Water Board for a surcharge of any amount exceeding N[10,000] shall within thirty days of such decision appeal to the Governor for a review of the decision.
- (2) The Governor, shall have power to confirm, vary quash the decision of the Water Board and given such direction as he may deem fit in each circumstance

**53). Provisions relating to land**

- (1) Wherever it appears to the Water Board that any land in the State is required for the purpose of any waterworks, the Water Board shall, subject to the Land Use Law, apply to the Governor for approval for its officers or agents to enter upon the land and –
  - (a) survey and take levels of the land
  - (b) dig or bore hole under the subsoil; and
  - (c) do such other things as are necessary to ascertain whether the land is adapted for such purposes

Provided that no such officer, agent, servant or workman of the Water Board shall enter any building or upon any enclosed court or garden attached to a dwelling house (except with the consent of the occupier) and at least seven days notice of intent to enter shall be given to such occupier except in cases of emergency where reasonable notice must be given.

- (2) where any entry made under subsection (1) of this section occasions any damages requiring the payment of compensation, the Water Board shall pay compensations it thinks fit in the circumstances, from time to time.

**54). Abstraction by fire authorities**

- (1) subject to subsection (2) of this section, any fire authority may abstract water from any public fountain, service or waterworks of the Water Board for the purpose of prevention or control of fire.
- (2) Water shall not be abstracted by any fire authority for the purpose of testing any fire fighting appliance except with the consent of the Water Board and such consent should not be unreasonably withheld.

- (3) No charge shall be made for water supplied by the Water Board under subsection (1) or (2) of this section
- (4) Any main, pipe, valve, hydrant, service or other waterworks required within the area of operation of the Water Board by any fire authority in the discharge of its functions to prevent and control fire shall be provided by the Water Board upon payment therefor by the fire authority such fees or rates as the Water Board may from time to time, determine provided that such main, pipe, valve, hydrant, service or other waterworks shall vest in the Water Board and shall be maintained by the Water Board as the fire authority may, from time to time, require.
- (5) In this section, "fire authority" means any authority or body of firemen duly constituted, organized or established under any enactment or Law by the Federal, State or local government.

### CHAPTER III

#### SMALL TOWNS WATER SUPPLY AGENCY (STOWA)

#### ESTABLISHMENT OF THE JIGAWA STATE SMALL TOWNS WATER SUPPLY AND SANITATION AGENCY

- 55). There is hereby established the Jigawa State Small Towns water supply and sanitation Agency (referred to in this Law as "**STOWA**").
- 56). STOWA shall:
- (a) be a body corporate with perpetual succession and a common seal;
  - (b) have power to sue and be sued in its corporate name; and
  - (c) be capable of holding, purchasing, acquiring and disposing of property, movable and immovable.
- 57). All existing and new State owned water infrastructures in the small towns in Jigawa State are hereby vested in STOWA in furtherance of S.2 (p) of this Law.

#### STOWA and its composition

- 58). (1) The Governing body of STOWA (hereafter called the "**Board**") shall consist of a:
- a). A Chairman who is a professional in the water industry;
  - b). Five members, including at least one woman and or a representative of Civil Society Organisation (CSOs)/WCA and three professionals in the field of finance, water engineering, sanitary engineering or public health engineering;
  - c). The Managing Director of the Board who shall be known as the MD of the Board; and
  - d). A representative of the Ministry responsible for water resources
- 2). The names of the Chairman and other members of STOWA shall be published in the State Gazette
- 3). The Chairman and other members of the Board shall be appointed by the Governor
- 4). The Board shall meet to conduct the business of the Board once every quarter and as such other times as the Chairman may determine

- 5). The provisions contained in the Schedule to this Law shall have effect with respect to the proceedings of the Board and other matters mentioned therein.

#### **Remuneration of members of the Board**

- 59). There shall be paid to the members of the Board such allowance as the Board shall determine subject to State policy on same

#### **60). Tenure of office of Members of the Board**

- 1). (a) The Chairman and other members shall hold office for a term of four years and shall be eligible for re-appointment for one more term each
- (b) The appointment shall be upon such terms and conditions as maybe stipulated in their letters of appointment
- 2). All members of the Water Board except the MD shall be appointed to serve as part-time members.
- 3) A Board member shall continue in office after the expiration of his term of office until a successor has been appointed provide that he shall not continue in office pursuant to this section for longer than six months

#### **The specific duties of the Board**

- 61). The specific duties of the Board shall include but not be limited to the following:
- (a) Making strategic decisions on the activities and mandate of STOWA;
  - (b) Reviewing and approving STOWA's business plans, budget and performance;
  - (c) Approving plans and procedures for the engagement of PSP Operators by the WCAs;
  - (d) Ensuring that the activities of STOWA meet with standards set by the Ministry;
  - (e) approving and monitoring the implementation of STOWA's water services development plan,
  - (f) propose a tariff methodology in furtherance of the State's water and Sanitation Principles in chapter 1 for the approval of the Ministry ; and

- (g) Any other business which may be considered necessary by the Board in pursuance of STOWA's function as provided in this Law.

**62). Quorum**

- a). The quorum for a meeting of the Board of STOWA shall be five members, including the Chairman.
- b). The Chairman shall preside at meetings of the Board and in his absence, the members present at the meeting shall elect one of their members present to preside.

**63). Vacation of office**

- (1) Notwithstanding the provisions of Section 60 of this Law, a member shall vacate his office and his office shall become vacant;
  - (a) one month after the date upon which he gives notice in writing to the Governor of his intention to resign; or
  - (b) on the date he begins to serve a sentence of imprisonment imposed without the option of a fine:
    - i). in Nigeria, in respect of a crime involving dishonesty or fraud; or
    - ii). outside Nigeria, in respect of an offence involving financial impropriety or any conduct which, if committed in Nigeria, would constitute an offence;
  - (c) if he attends fewer than 75% of STOWA's meetings in any one year period without sufficient reasons; or
  - (d) in the case of members who have professional qualifications, if the member is barred or suspended from his professional body.
  - (e) If he becomes bankrupt
  - (f) if he becomes of unsound mind or incapable of carrying out his duties
  - (g) if he is guilty of serious misconduct with relation to his duties as a member of STOWA .
  - (h) A member of STOWA may only be removed on the dissolution of the Board

## **FUNCTIONS, POWERS AND OBJECTIVES OF STOWA**

### **64). Objectives of STOWA**

The objectives of STOWA shall be to;

- a). provide safe, adequate and affordable water supply services to the residents of the small towns by its own operations and ultimately for transfer to the Community based Association.
- b). collaborate with the Ministry to secure efficient use of water resources for conservation and protection of same in small towns in the State.
- c). engage the Private sector for the purpose of performing any of the duties of STOWA
- d). implement capital investment plans for the purpose of expanding access to water and sanitation services for the citizens in the areas served within the shortest possible time.
- e). Implement cost recovery and commercial orientation in service provision and maintain customer focus for service sustainability and efficiency

### **65). Functions of STOWA**

1). The functions of STOWA shall be to;

- a) control, operate and maintain all Water facilities vested in STOWA.
- b) undertake planning, design, construction and maintenance of all Small Towns Water Supply facilities including motorized and solar powered borehole based schemes.
- c) establish, control, manage, extend and develop Water facilities as STOWA may consider necessary for the purpose of providing wholesome potable water for the consumption of the public and for domestic, trade, commercial, industrial, scientific and other uses;
- d) To transfer ownership of all schemes to benefitting Communities through appropriate Water Consumer Associations by means of a Transfer Agreement stating the conditions of such transfer.
- e) Undertaking public enlightenment, training and mobilization for Community participation in all its programmes;
- f) ensure that adequate and wholesome water is supplied to consumers regularly and at such charges as the Ministry may, from time to time, approve.



- g) conduct or organize the conduct of research in respect of water supply, sanitation and matters connected therewith and submit the results of such research to the Commissioner for the formulation of policy;
- h) Coordination of activities in its administration and finance, as well as making inter-governmental and non-governmental linkages subject to the overriding coordination responsibility of the Ministry;
- i) The undertaking of STOWA's programme planning, monitoring of on-going and completed projects as well as the collection and storage for easy retrieval of all data, records and statistics on its operations;
- j) To assist the Communities within the small towns to form Water Consumer Associations and provide technical and other advisory services for same.
- k) Determine its water rates and present it to the Ministry for approval after consultation with the WCA
- l) Collaborate closely with all Local government WASH Departments on all activities
- m) To plan, design and construct all small town sanitation infrastructure.
- n) Facilitate the conduct of Environmental Impact Assessment (EIA)

#### 66). General Powers of STOWA

- (1) The Board shall, subject to the provisions of this Law, have power for the purpose of carrying out its functions to:
  - a). own all water services assets and construct new water services assets in small towns..
  - b). Fix rates and charges payable by consumers for water supplied by STOWA in consultation with the WCA subject to the approval of the Ministry
  - c) Determine fees to be paid for all other services of STOWA subject to the approval of the Ministry
  - d) . Determine in consultation with the WCA the manner in which rates shall be paid by the consumers

- e) prepare water and sanitation development plans for the Small Towns water sector
- f) acquire, purchase, lease, hold, construct, manufacture, maintain or insure any property forming part of the water services assets required for or in connection with the performance of its functions and sell, lease, concede, dispose of, or otherwise deal with such property or any part thereof subject to the approval of the Governor in instances of sale;
- g). undertake any land acquisition procedure necessary for the performance of its functions, in accordance with all valid legislation;
- h). enter into agreement with any person for the performance of any of its statutory functions under this Law;
- i). protect, maintain and improve all existing natural water courses in consultation with relevant authorities;
- h). 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, and making good any damage done;
- i). abstract water from any lake, river, stream or other natural source forming part of the water resources of the State, and to do likewise in respect of other water by arrangement with the appropriate authority under and in accordance with the provisions of any existing law in that behalf and may assign such rights to private operators pursuant to a PSP Agreement;
- j). examine from time to time any surface or underground water forming part of the water Resources of the State for the purpose of determining what pollution, if any, exists and its causes and to do likewise in respect of other water by arrangement with the appropriate authority under and in accordance with the provisions of any existing Law in that behalf;
- k). construct stand pipes or public fountains in any street or other public place;
- l). at any time between the hours of six o'clock in the morning and six o'clock in the evening, or in case of urgency at any other time, to enter into premises or place upon which any service has been laid or into which any water supply services is supplied so as to:
  - (i) inspect any service and to ascertain whether there is any

wastage, leakage, obstruction, illegal connection or damage to any service or meter therein and anything in connection therewith;

- (ii) ascertain the amount of water taken or used;
  - (iii) disconnect the supply of water to any premises;
  - (iv) examine, repair or remove any water pipe which is the property of the STOWA
- m). enter into agreement with any person for the supply, construction, manufacture, maintenance or repair of any property which is necessary or appropriate for the purpose of the STOWA;
- n) do anything for the purpose of advancing the skills of persons employed by the STOWA or the efficiency of the equipment of the STOWA or the manner in which the equipment is operated including the provision of facilities for training, education and research;
- o). write off bad debts with the approval of the Governor;
- p). granting exemptions from any water rate or charge of any premises or class of premises to any person or class of persons;
- q). authorise or delegate any officer, employee or servant of the water Board to act as agent of the STOWA for any functions, services or facilities which may be exercised, performed or provided by the STOWA under this Law;
- 2). STOWA shall have power for the purpose of carrying out its functions to do all such acts as appear to it to be requisite, advantageous, or convenient and may carry on any activities in that behalf either alone or in association with any other person or body.
- 3). The Governor may by order confer on STOWA such other additional functions as he may think fit; either:
- a) Functions of a kind similar to the functions specified in subsection 1 of this section
  - b) Functions which in the opinion of the Governor can be conveniently exercised by STOWA in association with the functions already specified above

## **STAFF OF STOWA**

### **67. The MD**

- 1). There shall be appointed by the Governor an officer of STOWA to be known as the Managing Director who shall, subject to the general direction of the Board;
  - (a) be the Chief Executive and Chief Accounting Officer of the Agency (referred to in this Law as "the MD")
  - (b) be responsible for the implementation of the decisions and policies of the Board of STOWA as well as the general administration of STOWA;
  - (c) perform such other duties as the Board of STOWA may from time to time direct;
- 2). The MD shall
  - (a). be a person with a professional qualification in water engineering, sanitary engineering or public health engineering with sound relevant experience
  - (b) be appointed by the Governor .

### **68). The Legal Adviser**

- 1) There shall be a Legal Adviser and Legal Adviser (referred to in this Law as "Legal Adviser") to STOWA who shall be responsible to the Board and shall assist him in the discharge of his functions under this Law.
- 2). The Legal Adviser shall be a Legal Practitioner with a minimum of five [5] years post-call experience and shall be the head of the Legal department.

### **69). The functions of the Legal Adviser**

The Legal Adviser shall perform the following functions:

- a). render necessary advice on compliance with Laws, rules and regulations affecting the Agency ;
- b). prepare, vet and review all contract Agreements and other legal documents
- c). represent STOWA in court in matters to which it is a party.

### **70). Other staff of STOWA**

- (1) STOWA shall have power to appoint directly from the private sector, or from any Public service of the State, Local government, Federation, or otherwise,

any number of staff and other employees as it may from time to time deem necessary to assist STOWA in the discharge of its functions under this Law.

(2) The terms and conditions of Service shall be as may be determined by STOWA.

(3) It is hereby declared;

(a) that Service in STOWA shall be approved Service under the provision of the Pensions Law and accordingly, staff and employees of STOWA shall be entitled to Pensions, gratuities and other retirement Benefits as prescribed under the Pensions Law.

(b) Without prejudice to the provisions of subsection (a) of this section, nothing in this Law shall prevent the appointment of any person to any office on terms which preclude the grant of pension, gratuity or other retirement benefits with respect to that office.

71). STOWA may, subject to the provisions of this Law, determine generally the conditions of service of the staff of STOWA and without prejudice to the generality of the foregoing; STOWA may determine;

a). The conditions for the appointment, promotion, termination and dismissal of staff and employees of STOWA.

b). Procedure for Appeals by such employees against dismissal or termination or other disciplinary measures,

and until such conditions of service are made, any instrument relating to the conditions of service in the Public Service of the State shall be applicable, with such modifications as may be necessary, to Staff and employees of STOWA .

72). **Remuneration of officers**

STOWA shall determine the remuneration to be paid to its staff and may require any officer to give such security as is deemed proper for the due execution of his office.

## **FINANCIAL PROVISIONS**

73). **Funds and resources of STOWA**

1). The funds and resources of STOWA shall consist of:

a). all sums, investments or other property vested in STOWA by virtue of the provisions of this Law;

b). such sums or other property as may from time to time be advanced

**76). General Reserve Fund**

- 1). STOWA may, with the approval of the Governor establish and maintain a General reserve fund in a separate Account into which account shall be paid the following:
  - a). balance of the revenue of STOWA for any financial year;
  - b). such money as the Governor may from time to time direct from any sources;
- 2). The General Reserve funds shall be used for emergency and urgent needs of STOWA relating to the rendering of urgent and essential services as STOWA may from time to time authorize subject to the approval of the Governor.;
- 3). Where the fund is used to meet State or national emergencies, the Governor shall make arrangements to replace such amount upon application by STOWA.

**77). Loans and grants by the State Government**

- 1). The JIGAWA State Government ("Government") may make to STOWA the following:
  - (a) grants of any sums of money or property deemed necessary; and
  - (b) loans upon such terms as to repayment of interest or otherwise as the Government may determine.
- (2) The Government may, if it deems it expedient so to do, waive in favour of the

Water Board any right or liability to the Government in respect of any property vested in the Water Board by virtue of the provisions of this Law.

**78). Annual Budgets and accounts**

- 1). STOWA shall, not later than 30<sup>th</sup> September of each year, submit to the Governor, an estimate of its expenditure and income for the next succeeding year.
- 2). STOWA shall keep proper accounts, to conform with standard accounting practices, in respect to each year and proper records in relation to those accounts and shall cause its accounts to be audited within six months after the end of each year by auditors appointed from the list and in accordance with guidelines supplied by the Auditor – General for the State.

**79). Annual reports**

STOWA shall prepare and submit to the Governor not later than six months after the end of each year, a report in such form as the Governor may direct on the activities of STOWA during the immediately preceding year, and shall include in such report a copy of the audited accounts of STOWA for that year and the auditors' report on the accounts.

**80). Power to accept gifts**

- 1). STOWA may accept gifts of land money or other property on such terms and conditions, if any, as may be specified by the person or organization making the gift
- 2). STOWA shall not accept gifts if the conditions attached by the person or organisation offering the gifts are inconsistent with the functions of STOWA.

**81). Power to borrow money**

- 1). STOWA may from time to time, with the approval of the Governor, borrow money by overdraft or in any other manner for and in connection with the exercise of its functions under this Law as STOWA may deem necessary.
- 2). An approval given for the purposes of this section may be either general or limited to a particular borrowing or otherwise and may be subject to conditions.
- 3). Any person lending money to STOWA shall not be bound to inquire whether or not the borrowing of the money is within the powers of the Agency.

**82). Investments**

- (2) The Government may, if it deems it expedient so to do, waive in favour of the Water Board any right or liability to the Government in respect of any property vested in the Water Board by virtue of the provisions of this Law.

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**82). Investments**

STOWA may, subject to the Provisions of the Law, and the conditions of any trust created in respect of any property, invest any of its funds in any security prescribed by the Investments and Securities Law or in such other securities as may from time to time be approved by the Governor.

**83). Exemption from tax**

- 1). STOWA shall be exempted from the payment of income tax on any income accruing from investments made by STOWA.
- 2). The provisions of any enactment relating to the taxation of Companies or trust funds shall not apply to STOWA

**84). Power to raise capital on the stock exchange**

STOWA may with the approval of the Governor raise capital for the implementation of its developmental plans and programmes through the capital market or by issuing Bonds or other instruments, by satisfying all the necessary requirements of the Stock Exchange in that regard subject to the approval of the Governor.

**85). Guarantee on loans or other instruments of STOWA by the State Government**

- 1). The Government may guarantee by an undertaking of the State Commissioner for Finance in such manner and on such condition as the Governor may think fit, the payment of the principal and interest of any sum or sums borrowed or Bonds issued by STOWA with the approval of the Governor.
- 2). Such sums as may be required by the State Accountant-General for the purpose of making good the obligations of the Government under the guarantee shall be charged on the Consolidated Revenue Fund of the State government.

**86). Responsibility of STOWA which the Governor may perform or delegate**

In the absence of a Board of STOWA and until such time such Board is constituted pursuant to this Law, the Governor or any person to whom he has delegated the responsibility of STOWA shall execute any document, exercise or perform any of STOWA's Powers or functions excluding the power to make regulations.

**Water Supply, Distribution and Consumption**

**87). Agency's responsibility to consumers for continuous supply of water**

- 1). STOWA shall as far as possible maintain a continuity of supply of water to residents in the State;

provided that:

- a). STOWA shall have the right to suspend the supply of water for such periods as may be necessary for carrying out inspections, tests, or repairs and for the making of new connections;
  - b). STOWA shall have the right to suspend or turn off supply for the purpose of effecting alterations and modifications to its pipelines and other facilities or general maintenance of the waterworks subject to notice as may be determined by regulations of the Ministry ;
  - c). STOWA shall have the right to suspend or discontinue any supply where the payment of any rate, dues or charges are in arrears:
- 2). STOWA shall in no case be under any obligation to pay damages or compensation for loss, damages or inconveniences caused to any consumer through any suspension, failure, discontinuance or a total or partial interruption of the supply of water howsoever caused.

#### **88). Rates and scales of charges**

- 1). STOWA, shall from time to time fix rates and scales of charges payable for water supply and other services in small towns in accordance with a methodology for tariff setting earlier approved by the Ministry which allows for the fixing of economic rates for water supply and other services in order to meet its financial objectives in accordance with the provisions of this Law.
- 2). The water rates and charges may be fixed at different rates for different locations and different users as may be approved by the Ministry.

#### **89). Application for water supply**

- 1). STOWA may supply water to a tenement upon application of the owner/occupier thereof which service shall be by contract between the parties pursuant to Rules and Regulations issued by the Ministry
- 2). STOWA may refuse to supply water to any particular premises otherwise than by a meter installed and kept in repair by STOWA

Provided that STOWA may not disconnect any user or fail to connect a potential consumer for the failure of STOWA to provide the said meter.

**90). Purchase resale and distribution of water by STOWA**

Subject to the provisions of this Law, STOWA may purchase water in bulk and may resell such water either in bulk or by distribution to individual consumers.

**91). Prohibition of sale of water supplied by STOWA**

As from the commencement of this Law, it shall be unlawful for any person to resell water supplied by STOWA except pursuant to an Agreement with STOWA for that purpose:

Provided that no authority shall be required for the sale of any manufactured goods or other commodities in which water supplied by STOWA is included.

**92). Payment for water rates and charges**

- 1). The owner or occupier of any tenement to which water is supplied by STOWA shall pay to STOWA such rates and charges for water supply or other service as may from time to time be determined by STOWA and approved by the Ministry.
- 2). Upon failure by a consumer to pay any outstanding water rates and charges pursuant to a notice by STOWA in accordance with regulations issued by the Ministry, the STOWA may recover such rates or charges by application brought before the High court of Jigawa State or any other special court created for that purpose.

**93). Supply to Local Government Councils and its institutions**

- 1). Where standpipes or other supply services are provided for communal use, upon application by the relevant local government council, STOWA shall have power to charge for such service in accordance with rates approved by the Ministry and the Local Government Councils shall pay such rates from its resources.
- 2). STOWA shall have powers to collect from the local government councils such fees as may be agreed in respect of services provided to institutions within the local government including those for primary schools, markets and water fountains in each of the respective Local Governments.

**94). Agency not responsible for installation works or for damage**

STOWA shall not by virtue of making any inspection or test of a consumer's pipes, fittings, appliances and apparatus in accordance with this Law, or any regulations made there-under, whether during the progress or 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 or arising out of the use or

misuse of apparatus by the consumer or any other person other than an employee of STOWA .

**95). Entitlement to supply of water without preferential treatment**

Except in so far as is otherwise provided by this Law, where a supply of water is provided by STOWA in any part of an area for private purposes, every person within that part of the area shall, upon application to STOWA , be entitled to a supply on terms and conditions as STOWA may deem fit:

Provided that in the case of a first time connection adequate water can be made available without detriment to existing supplies to persons or institutions in the area.

**96). Responsibility for expenses caused by certain necessary alterations**

- 1). If any person or any Ministry , department or Agency of the Government, or other authority does anything 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 STOWA , STOWA shall on reasonable notice being given to it by such person, Ministry , department or authority make such alteration and the expenses incurred thereby shall be borne by such person, Ministry , department or authority.
- 2). In the event of any dispute as to the amount of such expenses the same may be referred by the person, Ministry, department or authority concerned or STOWA to the Ministry.

**97). Right to construct wells and boreholes for domestic use**

- 1). For the avoidance of doubt and the purposes of this law, any person may without obtaining a license from Ministry construct, dig or extend a borehole or other work in his residential premises for the purpose of abstraction of water supply and to an extent necessary for a supply of water for the domestic purpose of his household;
- 2). Any person constructing or extending any well, borehole or other works under subsection 1 of this section shall comply with all regulations made pursuant to this Law regarding construction of wells, boreholes, e.t.c

**98). Maps of waterworks**

- 1.) Subject to the provisions of this section, it shall be the duty of STOWA to keep records of the location of:

- a). every resource main, water main or discharge pipe which is for the time being vested in STOWA ; and
  - b). any other underground works, other than a service pipe, which are for the time being vested in STOWA .
- 2). It shall be the duty of STOWA to ensure that the contents of any records for the time being kept by it under this section are available, at all reasonable times, for inspection by the public free of charge at an office of STOWA upon prior application in writing to STOWA.
  - 3). Any information which is required under this section to be made available by STOWA for inspection by the public shall be so made available in the form of a map.
  - 4). For the purpose of determining whether any failure to make a modification of any records kept under this section constitutes a breach of the duty imposed by subsection (1) that duty shall be taken to require any modification of the records to be made as soon as reasonably practicable after the completion of the works which make the modification necessary; and, where records kept under this section are modified, the date of the modification and of the completion of the works making the modification necessary shall be incorporated in the records.
  - 5). STOWA shall put in place a mechanism to receive and address consumer complaints in an efficient and effective manner and as may be prescribed by the Ministry.
  - 6). The duty of STOWA under this section shall be enforceable under this Law by the Ministry.

**99). Water Consumer Associations (WCAs)**

- a). WCAs shall be set up by Communities in Small towns with the support of STOWA to manage water schemes serving their immediate Community on behalf of Water consumers in each small town
- b). The objective of the WCA shall be to undertake in the long run the operation, maintenance and management of the water schemes within its own area either by itself, through STOWA or by engaging a private water operator.
- c). The WCA shall be incorporated under the Jigawa State Cooperative Society Law

- d). The WCA may apply to the STOWA for the transfer to the WCA of water facilities within their Community whereupon the STOWA may assess the application and forward same to the Ministry for comments.
- e). Where STOWA and the Ministry are satisfied that the WCA possesses sufficient capacity and structure to successfully operate the scheme in an efficient and sustainable manner, the STOWA may transfer of such scheme to the WCA
- f). Such scheme shall be transferred to the WCA pursuant to a Transfer Agreement for that purpose between the WCA and STOWA upon terms and in accordance with the rights duties and obligations of STOWA with respect to such schemes as provided in this Law.

## CHAPTER IV

### **RURAL WATER SUPPLY AND SANITATION AGENCY**

#### **100. Establishment, functions, etc of the Jigawa State Rural Water Supply AND Sanitation AGENCY (RUWASSA)**

- 1). There is hereby established for the State a body to be known as the Jigawa State Rural Water supply and Sanitation AGENCY (hereinafter referred to as "the RUWASSA")
- 2). The RUWASSA
  - i) is a body corporate with perpetual succession
  - ii) shall have a common seal
  - iii) may sue and be sued in its corporate name; and
  - iv) may, own and dispose movable or immovable property

#### **103. Board of the RUWASSA**

- (1) There is established, for the proper management of the RUWASSA, a Governing Board (hereinafter referred to as the **Board**).
- (2). The Board shall comprise of -
  - a). A Chairman
  - b). Five members, including at least one woman, and three professionals in the field of finance, water engineering, sanitary engineering or public health engineering;
  - c). a representative of the Ministry Rural infrastructure and Community development
  - d). The Managing Director of the Board who shall be the Chief Executive
- 3). the names of the Chairman and other members of STOWA shall be published in the State Gazette
- 4). The Chairman and other members of the Board other than ex-officio members shall be appointed by the Governor upon terms and conditions as contained in their letters of appointment
- 5). The Board shall meet to conduct the business of the Board at least once every quarter and as such other times as the Chairman may determine

- 6). The provisions contained in the Schedule to this Law shall have effect with respect to the proceedings of the Board and the other matters mentioned therein.

**101). Tenure of the Board**

- 1). (a) The Chairman and other members shall hold office for a term of four years and shall be eligible for re-appointment for one more term each
- (b) The appointment shall be upon such terms and conditions as maybe stipulated in their letters of appointment
- 2) All members of the Water Board except the MD shall be appointed to serve as part-time members.
- 2) A Board member shall continue in office after the expiration of his term of office until a successor has been appointed provide that he shall not continue in office pursuant to this section for longer than six months

**102). Allowances**

The Chairman and other members shall be paid such allowances as may be proposed by the Board and approved by the Governor subject to State policy on same.

**103). The specific duties of the Board**

The specific duties of the Board shall include but not be limited to the following:

- (a) Making strategic decisions on the activities and mandate of RUWASSA;
- (b) Reviewing and approving RUWASSA business plans, budget and performance;
- (c) Approving RUWASSA policy decisions and monitoring implementation of same;
- (d) approving and monitoring the implementation of STOWA's water services development plan,
- (e) Any other business which may be considered necessary by the Board in pursuance of STOWA's function as provided in this Law.



#### **104). Objectives of RUWASSA**

- 1). The provision of water supply and sanitation infrastructure by the award of contracts and the dissemination of health education to the general public in the rural areas of the State;
- 2). supervise the construction of water supply and sanitation facilities in the rural areas and hand over same to the WASHCOMS for operation and maintenance
- 3). Provide technical supervision and training to WASHCOMS and LGA WASH departments
- 4). Develop rural water supply and sanitation sector development plans for the State rural Communities
- 5). Control and manage all rural water supply facilities and sanitation facilities vested in it and transfer same to the Communities through the WASHCOMS by means of a Transfer Agreement stating the terms and conditions of such transfer in accordance with the provisions of this Law;

#### **105). Functions of the RUWASSA**

The RUWASSA shall:

- a). Facilitate the conduct of Environmental Impact Assessment (EIA)
- b). In consultation with the WASH Departments of the relevant LGA and the WASHCOMS in the designated area, agree and design appropriate technology for water supply to the Community and coordinate the construction and supervision of same.
- c). Certify the construction of the scheme as conforming to standards issued by the Ministry and hand over same to the Community for the management and operation thereof subject to the supervision of same by the officials of the RUWASSA and the LGA WASH department
- d). design and supervise the construction and sinking of boreholes and other water and sanitation works by Individuals or corporate bodies in the State and charge appropriate fees as the Board may from time to time determine;
- e). liaise with the Federal and State Government Ministries and Agencies in the design and implementations of programmes and projects in the area of

rural water supply, environmental sanitation and maintenance and provision of rural infrastructure and any other rural development activities;

- f). define, encourage and support any activity that will enhance rural water supply, environmental sanitation, the provision of other infrastructures and other rural development activities;
- g). identify, involve and support local Community members, leaders and organizations in the effective mobilization of the rural population for accelerated and sustained rural development;
- h). identify and implement other rural programmes that would enhance income generating activities in the rural areas as well as help to improve the quality of life and the standard of living of the rural dwellers;
- i). develop in consultation with the LGA WASH Departments, rural water and sanitation Sector development plans based on the Community WASH development plans submitted to the LGA WASH Departments by the WASHCOMs and other Stakeholders.
- j). supervise and monitor on a continuous basis the entire range of rural development activities carried out or supported by the RUWASSA in rural Communities;
- k). commission and support studies and research projects that will facilitate the execution of the functions of the RUWASSA.
- l). Coordinate the activities of all Local government WASH Departments
- m). Undertake WASH education and create awareness of WASH principles in the Communities, particularly in schools and amongst women and children
- n). Organise technical training of LGA WASH department staff, key officers on the WASHCOMs and local artisans for the operation and maintenance of the water supply schemes.
- o). Promote improvement of traditional sources of Community water supply (protected spring orifices, protected hand dug wells, rain water harvest etc).
- p). Promote construction and maintenance of public toilet facilities, household toilet facilities,
- q). Promote recycling of domestic and industrial waste (waste to wealth programmes)

- r). Ensure the compliance with the Nigerian standards for drinking water quality.
- s). Monitor and protect the quality of raw water sources
- t). Promote private sector participation in the water supply and sanitation industry in the rural areas to attract resources for sustainable development of the rural water sector including the design of construction contracts.
- u). Develop mechanisms and procedures for stakeholder participation in monitoring and evaluation of rural water supply and sanitation sector development plans, programmes and other activities related thereto

#### **106. General Powers of the RUWASSA**

- (1) Subject to the provisions of this Law, the RUWASSA 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 foregoing, the powers of the RUWASSA shall include powers to ;
  - (a) organize Communities to form Community improvement or development unions or associations (to be known as WASHCOMS) under elected leadership to act as the apex organization for the implementation of rural water supply and sanitation development programmes initiated by the RUWASSA, the LGA, or the Communities themselves
  - (b) prepare such master plans as may be necessary for the development and maintenance of rural water supply and sanitation infrastructure in consultation with WASHCOMS and submit same to the supervising Ministry and the Ministry responsible for water resources
  - (c) undertake enlightenment and create awareness of the WASH Policy and sector reform principles and necessary activities to carry same into effect.
  - (d) Transfer all water services assets within the rural Communities to the WASHCOMS for operation and maintenance;
  - (e) to do anything for the purpose of advancing the skills of persons employed by the RUWASSA, including providing facilities for training, education and research or the efficient running of the service of the RUWASSA

- (f) 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 of rural water supply and sanitation infrastructure facilities, the bulk supply of materials or the management of complex schemes.
  - (g) acquire, purchase, lease, hold, construct, manufacture, maintain or insure any property whether movable or immovable, required for or in connection with the performance of its functions and to sell, lease, dispose of, or otherwise deal with such property or any part thereof subject to the approval of the Governor in instances of sale;
  - (h) From time to time examine any surface or underground water for the purpose of determining whether any pollution exists and causes thereof;
  - (i) do all such other things as will enable the RUWASSA more effectively perform its functions under this Law
- 3). The preceding provisions of this section relate only to the capacity of RUWASSA as a statutory body and nothing in the said provisions shall be construed as authorizing the disregard by RUWASSA of any written Law.
  - 4). The Governor may by order confer on RUWASSA such other additional functions as he may think fit, either:
    - a) Functions of a kind similar to the functions specified in subsection 2 of this section
    - b). Functions which in the opinion of the Governor can be conveniently exercised by RUWASSA in association with the functions already specified above.

#### **107). Administrative Organisation of the RUWASSA**

The RUWASSA shall have power to establish and maintain such major departments, subsidiary divisions, sections, branches and field offices and make all other administrative arrangements as may in its opinion be necessary or expedient for the performance of its functions under this Law

#### **108). Departments and Responsibilities**

- (1) The RUWASSA may establish Departments for the effective performance of its functions including but not limited to the following

- a) **Community Mobilization, Health and Hygiene Education Department, which shall be responsible for –**
- i) Coordinating Advocacy campaigns in the Local Government Areas.
  - ii) Supporting Local Government to mobilize and train Communities to participate in Water Supply and Sanitation activities.
  - iii) Supporting Local Government to carry out Community Hygiene Education for behavioral change
  - iv) creating awareness on the Link between hygiene and sanitation practices with water quality and health.
  - v) supporting LGA and the Community to develop Community Action Plan (CAP)
  - vi) to support and develop/promote hygiene participatory tools such as education materials and facilities.
- b) **Sanitation Department, which shall be responsible for:**
- i) Promoting and Supporting Sanitation development in Local Government Areas.
  - ii) Training of technicians and Communities.
  - iii) Sanitation intervention in rural Communities
  - iv) Provision of sanitation facilities in Communities of the State.
- c) **Water Supply Department, which shall be responsible for:**
- i) Supervising the drilling and construction of boreholes;
  - ii) Provision of Alternative Water Supply sources such as the use of rain water harvesting.
  - iii) Training of technicians and artisans.
  - iv) Carrying out hydrological and geophysical survey for well siting.

- d) **Planning, Monitoring and Evaluation Department** which shall be responsible for:
    - i) Data collection and management
    - ii) Development of water and Sanitation Sector development plans and other Project Plans; and
    - iii) Project Monitoring and Evaluation.
  - e) **Works and Maintenance Department**, which shall be responsible for rehabilitation of water and sanitation facilities
  - f) **Administration and Finance Department** which will be responsible for the proper administrative and financial control of the RUWASSA.
- (2) Each of these departments may be headed by a General Manager who shall in the discharge of his duties be responsible to the MD.

**109). Establishment of LG WASH Departments**

- (1) There shall be established in each Local Government Area in the State a Rural Water Supply and Sanitation Department (hereinafter called the **WASH Department**).
- (2) The Officers of the department shall include but may not be limited to:
  - (a) The Head of Department
  - (b) With the following sub-officers:
    - i) Water Supply Officer;
    - ii) Sanitation Officer;
    - iii) Community Mobilization/Hygiene Education Officer;
    - iv) Planning, Monitoring and Evaluation Officer.
- (3) The Department shall be responsible for:
  - a) The establishment of contact and report between the RUWASSA and all Communities in the area.

- b) The development of annual developmental plans and budget for water and sanitation in the Local Government area in consultation with the WASHCOMs
- c) Encouraging and supporting Communities to mobilize, organize and establish water supply and sanitation Committees (WASHCOMs) and registering such Committees in the Local government Authority while ensuring the maximum involvement of women;
- d) The compilation of an inventory and maintenance of water and sanitation facilities in all Communities in the Local Government Area and monitoring of their operation.
- e) The identification and training of hand pump mechanics, caretakers, latrine artisans and hygiene facilitators.
- f) The maintenance of records for plans and requests concerning Water Supply and Environmental Sanitation, Hygiene Education and other sanitary activities in all Communities in the Local Government.
- g) Mobilizing and supporting Community linkages with other relevant developmental agencies and organizations.
- h) Encouraging and supporting teachers in primary and Post Primary Schools to teach and promote hygiene education to pupils and members of the Community;
- i) Contributing to the eradication of Water and Sanitation related diseases in the Local Government Areas.
- j) Liaising with other Agencies for progress reports and policy guidelines and standards;
- k) Working with Non-Governmental Organizations/Community Based Organizations in Programmes designed to promote the improvement or construction of Water and Sanitation facilities in schools;
- l) Training of water supply and sanitation WASHCOM members to plan and implement water and sanitation services in Communities.
- m) Promoting environmentally friendly activities and awareness in Communities.

- n) Promoting good hygiene practices in the utilization and maintenance of Water and Sanitation of facilities.
- o) Upon application by WASHCOMS, obtain approval for Community water supply tariff from the Ministry

**110). Establishment of WASHCOMS**

- (1) There shall be for each Community in the Local Government Area, a Water Supply, Sanitation and Hygiene Committee (hereinafter called "*The WASHCOM*")
- (2) The Water Supply, Sanitation and Hygiene Committee shall comprise
  - a) Chairman
  - b) Secretary
  - c) Treasurer
  - d) Financial Secretary
  - e) PRO
  - f) Welfare Officer

Provided that at least two of the members in (a)-(f) shall be women.

**(3) The WASHCOMS shall:**

- a). register with the Local Government Authority
- b). Be formed in the rural areas as the water and sanitation Committees for the management of water supply facilities on behalf of the Community
- c). enhance Community ownership of WASH facilities and be responsible for the cost of operation and maintenance of water points in the rural areas,
- d). Be responsible for setting and collection of water point tariffs
- e). Be responsible for basic hygiene education, sensitization activities, and water conservation advocacy in the community.



- f). Collaborate with the WASH department of the Local Government Authority and the RUWASSA on water supply, sanitation and hygiene Programmes of the Federal, State or Local governments on behalf of the Community.
- g). Undertake all necessary and relevant hygiene/sanitation promotion, and education in the Community in collaboration with the RUWASSA and the LG WASH departments,
- h). Encourage development of skills of members to promote Community participation in the rural water supply and sanitation sector with the active involvement of women,
- i). Participate in planning, design, construction, operation of rural water supply and sanitation facilities;
- j). Promote household food and water security in the Community by encouraging prudent use of water and preventing wastage
- k). Contribute to the eradication of Water Supply and sanitation related diseases in the Community.
- l). Mobilize the Community to take active part in the construction of water supply and Sanitation facilities.
- m). contribute to the development of the WASH development Plans for the Community by the RUWASSA and the LG WASH departments in consultation with the members of the Community and shall be trained to perform this role by the RUWASSA
- n). shall promote Community led total sanitation
- o). ensure that the Community contributes to part financing of small scale water supply facilities or extension schemes as appropriate;
- p). Participate in project design and implementation;
- q). Be responsible for Policing of water infrastructure to report leakages and protect it against vandalism
- r). Ensure that every household, shopping complex, places of worship, markets and public places have toilets
- s). construct public toilets

- t). monitor water programmes and projects to ensure accountability and transparency

**MD, Secretary and other staff of the RUWASSA.**

**111). The MD**

- (1) There shall be appointed by the Governor an officer of the RUWASSA to be known as the Managing Director who shall, subject to the general direction of the Board;
  - (a) be the Chief Executive and Chief Accounting Officer of the RUWASSA (referred to in this Law as "the MD")
  - (b) be responsible for the implementation of the decisions and policies of the Board of the RUWASSA as well as the general administration of the RUWASSA
  - (c) perform such other duties as the Board or the Chairman may from time to time direct;
- (2) The MD shall
  - (a) be a person with a professional qualification in water engineering, sanitary engineering or public health engineering with sound relevant experience
  - (b) be appointed by the Governor

**112). Legal Adviser**

There shall be a Legal Adviser to the RUWASSA who shall be an officer of the State Ministry of Justice on level 12 and above (hereafter referred to as the "Legal Adviser")

**113). Other staff of the RUWASSA**

- (1) subject to the provisions of this section, RUWASSA shall have power to appoint and exercise disciplinary control over such other officers, servants and agents as it may think necessary for the discharge of its functions under this Law, and to determine their terms and conditions of service as to remuneration or otherwise;
- (2) The Staff of the RUWASSA may be drawn from such Ministries, Agencies and Departments in the State subject to the rules and procedures governing the secondment of public officers

- (3) Staff remuneration and allowances shall be as may be approved by the State Salaries and Wages Commission.
- (4) Service in RUWASSA shall be pensionable services accordingly, the Directorate of Establishment shall be responsible for the payment of retiring benefits to all eligible staff of the RUWASSA at the same rate as may be payable to all civil servants in Jigawa State.
- (5) The Board may recommend to the State Government for approval, additional terms and conditions of service for members of its staff.

#### **Financial Provisions and Assets of the RUWASSA**

##### **114). Funds of the RUWASSA-**

- (1) The funds and resources of the RUWASSA shall consist of
  - a). all fees, charges and other revenue accruing to the RUWASSA by virtue of its operations
  - b). all sums, investments, or other property whatsoever vested in the RUWASSA
  - c). such sums or other property whatsoever as may from time to time be advanced by way of Loans or grants to the RUWASSA by the State government, LGA or statutory Corporations in the State, the government of the federation or of another State, any international organization, any private foundation or any person whatsoever.
  - d). money earned or arising from any investments or other property whatsoever acquired by or vested in the RUWASSA
  - e). all other sums or other properties whatsoever which may in any manner become payable to or vested in the RUWASSA 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
  - f). all budgetary allocation approved for the RUWASSA by the State House of Assembly to be contributed equally between the State and all the Local Government councils.

**(2) Capital Projects**

- a). The funds of the RUWASSA for capital Projects for the provision of water supply and Sanitation facilities for the benefit of the Communities shall include contributions from:
  - (i) The State Government
  - (ii) The Local Government
  - (iii) Communities
- b). The Community, through RUWASSA may apply for contributions and support from the Federal, State or Local governments and donor Agencies for necessary funds for their capital Projects.
- c). Communities may be required to contribute an agreed percentage of such cost of the construction of the facilities which shall be owned by the Community
- d). The RUWASSA shall develop the subsector investment plan which shall derive from the input of the rural areas in the State Water sector development plans

**116). Bank Accounts**

RUWASSA shall operate Bank accounts for its funds with a reputable Bank or Banks and the signatories to the accounts shall be either the MD or in his absence his designated representatives as the case may be, and the Head of Administration and Finance, or in his absence his designated representative.

**117). Annual Budgets and accounts**

- 1). RUWASSA shall, not later than 30<sup>th</sup> September of each year, submit to the Governor, an estimate of its expenditure and income for the next succeeding year.
- 2). RUWASSA shall keep proper accounts, to conform with standard accounting practices, in respect to each year and proper records in relation to those accounts and shall cause its accounts to be audited within six months after the end of each year by auditors appointed from the list and in accordance with guidelines supplied by the Auditor – General for the State.

**118). Annual Reports and Returns**

RUWASSA shall at the end of each financial year submit to the Governor a report dealing with the activities of RUWASSA during that financial year.

**119). Borrowing Powers**

- 1). Subject to subsection 2 of this section, the RUWASSA may borrow any sum of money as it may require of the exercise of its functions under this Law.
- 2). The power of the RUWASSA to borrow money under subsection 1 of this section shall not be subject to the approval of the Governor unless the sum to be borrowed at any time exceeds a total of Two million naira
- 3). The Governor shall guarantee in such manner and on such conditions as may be agreed any Loan that may be borrowed by the RUWASSA with the approval of the Governor
- 4). In the event of the RUWASSA not being able to repay the Loan due, the same shall be chargeable to the consolidated revenue fund of the State

**120). Handover of completed facilities**

- 1). All projects initiated by the Community and constructed by the RUWASSA with contribution from the Community shall, when completed, be handed over to be operated and maintained by the WASHCOM of the beneficiary Community pursuant to a Transfer Agreement with Terms and Conditions of such transfer.
- 2). Benefiting Communities are to provide security on project sites during construction and after due handover by the RUWASSA.
- 3). every completed project shall be certified as to standards by the RUWASSA and the WASH department of the LGA as meeting standards for the construction of such works issued by the Ministry.

**121). Proper conduct of its business and the regulation of its proceedings or those of any of its Committees.**

The Board may make standing orders for the proper conduct of its business and the regulation of its proceedings or those of any of its Committees.

**122). Payment for RUWASSA's services**

- 1). The RUWASSA may propose fees and charges for any of its services for the approval of the Ministry or the supervising Ministry as follows:
  - a). Charges for access to or use of any of the resources or facilities of the RUWASSA related to water supply shall be submitted to the Ministry for approval

- b). charges for the provision of advisory or other services with respect to rural development by the RUWASSA shall be approved by the supervising Ministry.
- 2). The RUWASSA shall publish the water rates and levies approved under this section in the official gazette of the Jigawa State Government and may require the WASH department of the relevant Local Government authority to display same in its offices.

**123). Gifts, Grants, etc**

The RUWASSA shall not accept any gift, grant, bequest or devise, if the conditions attached by the person or organization making it are inconsistent with the functions of the RUWASSA.

**Proceedings of the Board**

**124). Meetings**

- 1). The Board shall hold meetings at least once every quarter to take decisions on matters within the powers of the Board to decide at times and places as the Chairman may determine
- 2). The Chairman shall preside at every meeting of the Board and in his absence the members present shall elect one of them of present to preside.
- 3). The Chairman may at any time call special or emergency meetings of the RUWASSA and shall do so upon request in writing by at least two members of the RUWASSA
- 4). The Chairman or the member presiding at a meeting of the RUWASSA in his absence shall have original and a casting vote
- 5). Subject to the preceding provisions of this Section, the RUWASSA shall have power to regulate its own proceedings and make standing orders for such purposes

**125). Quorum**

- 1). The quorum of the Board shall be five members.
- 2). Proceedings of the Board shall not be invalid only by reason of improper constitution of the Board or a defect in the appointment of members of the Board. Any such defect may be subsequently ratified by the Governor

**126). Committees of the Board**

The Board may appoint or constitute standing or ad-hoc committees, as the case may be, to perform any of its functions on its behalf, however, any decision of such committee shall become effective upon the confirmation of the Board.

**127). Status of co-opted members**

Where the Board desires to obtain the service of any person on any matter, the Board may co-opt the person to be a member of the Board for the meeting as the RUWASSA may decide and the person so co-opted shall have all the rights and privileges of a member except that he shall not vote on any question or count towards the quorum at the meeting.

**128). Disclosure of interest by members of the Board**

- 1). A member of the RUWASSA Board who is in any way directly or indirectly interested in a transaction of any project of the RUWASSA shall disclose the nature of his interest at a meeting of the RUWASSA, and the disclosure shall be recorded in the minute book of the RUWASSA and the member shall not take part in any deliberation or decision of the RUWASSA with respect to that transaction or project
- 2). for the purpose of sub-section (1) of this section, a general notice given at a meeting of the RUWASSA by a member to the effect that he is associated with any trade or business or is related to a member of a specified company or firm which is interested in any transaction or project of the RUWASSA shall be regarded as sufficient disclosure of his interest in relation to that transaction or project.
- 3). A member of the RUWASSA need not attend in person a meeting of the RUWASSA in order to make disclosure which he is required to make under this section if he takes reasonable steps to ensure that the disclosure is made by a notice which is brought up and read at the meeting.

**129). Authentication of documents**

- 1). The Common Seal of the RUWASSA shall not be used or affixed to a document unless in pursuance of a resolution duly passed at a meeting of the Board.
- 2). The seal of the RUWASSA shall be authenticated by the signature of the Chairman and the MD
- 3). Any contract or instrument, which would be required to be under seal if entered or executed by a person, may be entered into or executed on

behalf of the RUWASSA by any person generally or specifically authorized in that behalf by the Board.

- 4). Any document purported to be a document duly executed under the seal of the RUWASSA shall be received in evidence and shall unless the contrary is proved, be deemed to be so executed.

**130). Acquisition of land**

- 1). For the purpose of **S. 28 of the Land Use Act**, requirement of Land by the RUWASSA shall be deemed to be for an overriding public interest.
- 2). where title of land has been conferred upon the RUWASSA by virtue of this section, adequate and fair compensation shall be paid by the RUWASSA to the previous holders

**131). Service of Notices**

All notices to the RUWASSA shall be addressed to the MD and delivered to its head office.

**132). Directives by Governor**

The Governor may give to the RUWASSA directives of general or specific nature in respect of its functions under this law and the RUWASSA shall comply with such directives.

**133). Pensionable Service**

Service under the RUWASSA is pensionable under the State Pensions Law.

**134). Proof of Money Owed**

In any action for the recovery charge or other moneys under this Law a bill from the RUWASSA or any person appointed by the RUWASSA in that behalf, that any sum is due and that the defendant is liable to pay the same shall be prima facie evidence of such debt and the non-payment thereof.

**135). Power of Entry of Health Officer**

A Health Officer may enter any property, tenement or dwelling house between the hours of six O' clock in the morning and six O' clock in the evening or in an emergency at any time for the purposes of performing any of the functions of the RUWASSA provided herein including inspecting such water supply and sanitation facilities and taking samples of drinking water for laboratory analysis to determine its suitability for consumption.

**136). Service of motion**

Service on the RUWASSA of any notice, order other documents may be affected by delivering the notice or by sending it by registered post to the MD of the RUWASSA.



**137). Regulations**

The RUWASSA may, propose to the Ministry Regulations for the carrying into effect of the provisions of this law.

**138). Tenement rate**

Infrastructure vested in or the properties of the RUWASSA shall not be regarded as hereditaments or tenements to be valued for rating purposes under any law.

**139). Provisions with respect to RUWASSA**

**(1) Preliminary investigation in respect of land for rural infrastructures**

a). whenever it appears to the RUWASSA that any land in the rural areas of the State is likely to be needed for the purpose of any rural water supply and sanitation infrastructures, the RUWASSA may, by its servants and Agents, together with necessary workers enter upon any such land and

- (i) Survey and take levels of the land
- (ii) Dig or bore under the subsoil, and
- (iii) Do all other acts necessary to ascertain whether the land is suitable for such purposes
- (iv) clear, set out and make the boundaries of the land in respect of which it is proposed to make an application

Provided that no such agent, servant or workmen shall enter any building or upon any enclosed court or garden attached to a dwelling house (except with the consent of the occupier thereof) before at least six weeks notice of the intended entry has been given to such occupier.

- b). As soon as any entry has been made under (1) of this section, the RUWASSA shall pay compensation for all damages arising out of the exercise of any power conferred by (a) above referred to above
- c). in the case of a dispute by as to the amount of any compensation payable under this section, the amount may be determined by the Ministry and upon appeal, by the high court having jurisdiction in the are where land is situated.

**CHAPTER V**

**OFFENCES AND PENALTIES**

**140). Illegal construction of structures**

- (1) No person shall construct any illegal construction of structures within the waterworks premises
- (2) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine of N [10,000] or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment

**141). Offences relating to water diversion, pollution, etc**

Any person who –

- (a) willfully or negligently damages any water works, public fountain or service; or
- (b) unlawfully draws, diverts or takes water from any source or from any stream by which any waterworks is supplied, or
- (c) makes an unauthorized opening or closes any clock, cock, valve, sluice or manhole of any waterworks; or
- (d) allows or causes any foul liquid or gas or other noxious or toxic or injurious substance or matter to be discharged into any water source or any facility of any State owned or private water facilities

commits an offence and shall be liable on conviction to a fine of N[20,000] or to imprisonment for a term not exceeding [1] year or to both such fine and imprisonment and to a further penalty of N[5000] for each day that the act or omission that constitutes the offence continues.

**142). Offences relating to wastage**

Any person who alters, causes or permits to be altered any pipeline, fittings or fountains of any waterworks leading to wastage of treated water without the consent of any treated water supply utility, commits an offence and shall be liable on conviction to a fine of N [20,000] or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.

**143). Offences relating to fraudulent measurements**

Any person who alters, causes or permits to be altered, any pipeline, fittings, meters of any waterworks with the intent to –

- (a) avoid the accurate measurement or register of water by means of any Meter
- (b) obtain a greater supply of water than he is entitled to, or to avoid payment for such supply; or
- (c) willfully or negligently damages, alters, causes or permits to be damaged or altered any meter,

commits an offence and shall be liable on conviction to a fine of N[20,000] or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment

**144). Offences relating to nuisance**

- (1) Any person who puts, allows to be put or to remain, or to accumulate on any tenement owned or occupied by him or his servant or agent, any foul material or substance in such manner or place that it causes nuisance or may fall or be washed or be carried into or obstructs any water works of any water supply utility, commits an offence and shall be liable on conviction to a fine of N[20,000] or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.
- (2) Any person who allows any material or substance or any nuisance to remain after notice for the clean up or removal or remediation has been served on him by the Water Board, Ministry , STOWA or RUWASSA shall, in addition to the penalty specified in subsection (1) of this section, be liable to a further penalty of N5000 for each day that the act or omission that constitutes the offence continues.

**145). Obstruction of the staff**

Any person who obstructs or assaults any staff, officer or employee of the Government bodies or any other person authorized by such government bodies in the course of carrying into effect any of the provisions of this Law commits an offence and shall be liable on conviction to a fine of N[5,000] or imprisonment for a term not exceeding 3 months or to both such fine or imprisonment.

**146). Offences of impersonation**

Any person, including staff of any government bodies established under this law, who, not being lawfully authorized to carry out any function under this Law and who under any guise or cover holds out himself as having been authorized to enforce any part of this Law commits an offence and shall be liable on conviction

to a fine N[10,000] or to imprisonment for a term not exceeding 6 months or both such fine and imprisonment.

**147). Conspiracy**

Any person who conspires with, procures, instigates, aids, or facilitates another person to do anything or act prohibited under any of the provision of this Law, commits an offence and shall be liable under the relevant provisions of this Law relating to such offence and shall be punished as if he committed the offence himself.

**148). Unauthorized activities in relation to water supply facilities.**

- (1) No person shall-
  - (a) Bathe in any part of any reservoir
  - (b) Wash or throw clothes, materials or things into any reservoir;
  - (c) Wash or cause any horse, dog, goat, cow or any other animal to enter any reservoir; or
  - (d) Wrongfully open or close any lock, cork, valve, sluice or manhole belonging to or installed by the water supply utility
  - (e) construct an underground tank or reservoir in his premises without informing the water board unless such premises is served by a meter installed by the water Board
- (2) A person who contravenes any of the provisions of subsection(1) commits an offence and is liable on conviction to a fine of ten thousand naira or to imprisonment for six months or to both the fine and imprisonment.

## CHAPTER VI

### MISCELLANEOUS AND TRANSITIONAL PROVISIONS

#### 149). Savings and transfer of liability.

The statutory functions, rights, obligations and liabilities of the institutions pre-existing the Institutions created herein as they relate to the supply of water in the State existing before the commencement of this Law, under any contract or instrument, or in Law or in equity, apart from any contract or instrument, shall by virtue of this Law and without further assurance, be vested in the water Board established under this Law for urban areas, and STOWA for assets in small towns herein established.

#### 150). Repeal of Laws and savings

(1) The following Laws are hereby repealed:

- a). The Jigawa State Water Board Law, .....
- b). The Small Towns water supply and Sanitation Law, .....
- c). The Rural Water supply and Sanitation Law, .

(2) Anything done before the commencement of this Law by the State Water Board , STOWA and RUWASSA and any regulation made or condition set under or in terms of any law repealed by subsection (1) remain valid and is deemed to have been done, made or set under or in terms of the corresponding provision of this Law if:

- a) It is capable of being done, made or set under or in terms of this Law; and
- b) it is not in conflict with the main objects of this Law as set in Sections 1 and 2

## CHAPTER VII

### INTERPRETATION

In this Law, unless the context otherwise requires –

**“Abstraction”** in relation to water contained in any source of supply, means the doing of anything whereby any of that water is removed from that source of supply, whether temporarily or permanently, including anything whereby the water is so removed for the purpose of being transferred to another source of supply and “abstract” shall be construed accordingly;

**“Appropriate Local Government”** means any Local Government or Area Council having jurisdiction over a specific area for the purpose of this Law;

**“Authorised officer”** means any officer or any member of staff duly authorised in writing by any of the institutions, bodies or associations created pursuant to this Law;

**“Basic Water Supply”** means the prescribed minimum standard of water supply services necessary for the reliable supply of a sufficient quantity and equality of water to households, including informal households, to support life and personal hygiene, as specified from time to time by the Ministry .

**“Chairman”** means the Chairman of any of the Boards established pursuant to the relevant sections of this Law.

**“Managing Director” (MD)** means the Managing Director of the Water Board, STOWA and RUWASSA appointed under the relevant sections of this Law;

**“consumer”** means any person who is supplied with water and includes any person who applied to be supplied with water from any waterworks or any person who otherwise uses water and is liable for the payment of water rates, rents or charges;

**“Contravention”** includes a failure to comply

**“Water Board”** means the Jigawa State Water Board and its subsidiaries

**“Distribution System”** means the Water Board or any operator’s networks or mains, pipes, pumping stations and service reservoirs through which water is conveyed to consumers

**“Domestic supply”** means water from any waterworks used in any tenement for drinking, washing, cooking, or for baths or any other purpose of domestic life;

**"drain"** means any pipe or channel, etc, conveying only surface water or subsoil water or both;

**"Dwelling house"** means any premises used wholly or mainly for the purpose of private dwelling, with or without garage, out-house, garden, compound, yard, court, fore-court or other appurtenances belonging thereto or usually enjoyed therewith

**"Emergency Situation"** means any situation declared as such by the Governor.

**"Federal Government"** means the Federal Government of the Republic of Nigeria.

**"Federal Ministry"** means the relevant Ministry of the Federal Government including the Federal Ministry of Water Resources, the Ministry of Environment or other ministries as applicable.

**"financial year"** means every period of twelve months terminating on the 31<sup>st</sup> day of December;

**"functions"** includes objectives and duties;

**"Gazette"** means official gazette of Jigawa State.

**"Governor"** means the Governor of Jigawa State.

**"Ground water"** means water from underground sources

**"illegal connection"** means any connection to a water pipe without the explicit authorisation of the Water Board, STOWA, WCA and RUWASSA;

**"information"** includes anything contained in any record, estimate or returns

**"Law"** means Law and relevant Law within the context in which it is used.

**"LGA"** means the Local Government Authority in the relevant,

**"Leakage"** means the loss of water from the Water Board, STOWA, RUWASSA or any operators distribution system or from parts of service pipes for which consumers are responsible.

**"Manhole"** means any chamber constructed on a closed drain so as to provide access thereto for inspection and cleaning

**"member"** means a member of any Board established under this Law and includes the Chairman;

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

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

**"Ministry"** means the Ministry responsible for water resources

**"National Water Laws and Policies"** means all applicable Federal Water Laws and regulations, the National Water Policy and guidelines prescribed by Federal Ministries.

**"New Water services assets"** means those water services assets not yet in existence

**"occupier"** in relation to a tenement means the person in occupation of the whole or of any part of such tenement, but does not include a lodger;

**"owner"** includes the person for the time being occupying the premises as owner thereof or receiving the rent of the tenement in respect of which the water is used whether on his own account or as agent or trustee of any other person or who would receive the rent if such tenement were to be let to a tenant and includes the holder of a tenement from the Governor whether under lease, license or otherwise;

**"person"** means an individual, a statutory Corporation or any corporate entity, limited liability company or partnership duly registered under the Companies and Allied Matters Act

**"pollution"** means the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water;

**"premises"** means land with buildings or a distinct or separate holding or tenancy or any wharf or pier, or any tract of land used for any purpose;

**"private Sector participant (PSP)"** means any private entity, whether a natural person, body corporate or a consortium or joint venture entering into an agreement with a public sector party which for this purpose shall include a Community Association to whom operation and maintenance of government owned facilities has been transferred pursuant to a Transfer Agreement in accordance with this Law;

**"property"** includes buildings and appurtenances, accessories, stores, materials, investments, funds, loans and accounts receivable, claims;

**"public fountain"** means any fountain, standpipe, valve, tap of any 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 by any of the bodies or associations established pursuant to this Law and which is the property thereof;



**"records"** include computer records and other records kept otherwise than in a document;

**"Rural Area"** means Communities with a population of not more than 5,000 people.

**"Sanitation"** means the prescribed minimum standard of services necessary for the safe, hygienic and adequate collection, removal, disposal or purification of human and animal excreta, domestic waste water and sewage from households including informal households

**"service"** means all pipes, valves, cisterns, corks, fittings, and other appliances (except any meter as herein defined) by or through which water flows or is intended to flow from any waterworks or which are or may be used for the purpose of supplying any tenement from any waterworks, and being the property of the owner or occupier or such tenement'

**"Small Towns"** means Communities with population of between 5,000 and 20,000 people

**"State Government"** means the Government of Jigawa State.

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

**"substance"** includes microorganisms and any natural or artificial substance or other matter, whether it is in solid or liquid form of a gas or vapor

**"Supervising Ministry"** means the Ministry responsible for supervising RUWASSA

**"Tariffs"** means the charges for Water and sanitation Services set in accordance with this Law.

**"tenement"** means any land with or without buildings which is held or occupied as distinct or separate holdings or tenancy of any description;

**"treated water"** means water treated for domestic purposes

**"waterworks"** includes all reservoirs, ponds, boreholes or well, dams tanks, cisterns, channels, tunnel, filter beds, conduits, aqueducts, mains piped, fountains, sluices, used or constructed for the storage or conveyance, supply, measurement or regulation of water.

**"Water and Sanitation Services Development Plan"** means a water and sanitation services development plan created and implemented in accordance with this Law.

**Water Consumer Consultative Forum (WCCF)** shall mean any association of water consumers in urban areas duly registered in accordance with the Law and recognized by the Water board as being so registered representing the interest of the water consumers in that urban area and shall not include WCAs in small towns and WASHCOMs in rural areas in accordance with this Law.

**"Urban area"** means a settlement with population of above 20, 000 people including all Local Government Area Headquarters

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## SCHEDULE 1

### SUPPLEMENTARY PROVISIONS, RELATING TO THE WCA E.T.C.

#### *Proceedings of the WCA*

1. Subject to this Act and section 27 of the Interpretation Act (which provides for decisions of statutory body to be taken by a majority of its members and for the person presiding at any meeting, when a vote is ordered, to have a second or casting vote), the WCA may make standing orders regulating its proceedings or that of any committees.
2. At every meeting of the WCA, the Chairman shall preside and in his absence the members present at the meeting shall appoint one of their number to preside at the meeting.
3. The quorum at a meeting of the WCA shall be not less than one-third of the total number of members of WCA at the date of the meeting and the quorum of a committee of the WCA shall be as determined by the WCA.
4. The WCA shall for the purposes of this Act, meet not less than three times in each year and subject, thereto, the WCA shall meet whenever it summoned by the Chairman, and if required to do so, by notice given to him by not less than 5 other members, he shall summon a meeting of the WCA to be held within 14 days from the date on which the notice is given.
5. Where the WCA desires to obtain the advice of any person on a particular matter, the WCA may co-opt him to the WCA for such period as it thinks fit, but a person who is a member by virtue of this paragraph shall not be entitled to vote at any meeting of the WCA and shall not count towards a quorum.
6. A member of the WCA who is directly or indirectly interested in any matter being deliberated on by the WCA, or is interested in contract made or proposed to be made by the WCA shall, as soon as possible after the relevant facts have come to his knowledge disclose the nature of his interest at a meeting of the WCA.
7. A disclosure under this paragraph shall be recorded in the Minutes of Meetings of the WCA and the member concerned shall –
  - (a) not, after the disclosure, take part in any deliberation or decision of the WCA, and

- (b) be excluded for the purpose of consulting a quorum of any meeting of the WCA for any deliberation or decision, with regard to the subject matter in respect of which his interest is so disclosed.

### **Committees**

8. (1) Subject to its standing orders, the WCA may appoint such number of standing and *ad hoc* committees as it thinks fit to consider and report on any matter with which the WCA is concerned.
- (2) A committee appointed under this paragraph shall consist of such number of persons (not necessarily members of the WCA as may be determined by the WCA), and a person, other than a member of the WCA, shall hold office on the committee in accordance with the terms of his appointment and the committee shall be preside over by a member of the WCA.
- (3) The quorum of any committee set up by the WCA shall be as may be determined by the WCA.
- (4) A decision of a committee of WCA shall be of no effect until it is confirmed by the WCA.

### **Miscellaneous**

9. The fixing of the seal of the WCA shall be authenticated by the signature of the Chairman or any other person generally or specifically authorized by the WCA to act for that purpose and that of the Secretary.
10. Any contract or instrument which, if made by a person not being a body corporate, would not be required to be under seal may be or executed on behalf of the WCA by the Secretary or by any other person generally or specially authorized by the WCA to act for that purpose.
11. Any document purporting to be a contract, instrument or other document duly signed or sealed on the behalf of the Institute shall be received in evidence and shall, unless the contrary is proved, be presumed without further proof to have been so signed or sealed.
12. The validity of any proceedings of the WCA or of any of its committees shall not be affected by—
- (a) any vacancy in the membership of the WCA, or committee, or
- (b) any defect in the appointment of member of the WCA or committee: or

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

13. A member of a committee who has a personal interest in any contract or arrangement entered into or proposed to be considered by the committee shall forthwith disclose his interest to the committee and shall not vote on any question relating to the contract or arrangement.
14. No member of the WCA shall be personally liable for any or omission done or made in good faith while engaged in the business of the WCA.

SCHEDULE II  
DRAFT MODEL WCA CONSTITUTION

XXXX TOWN WATER CONSUMER ASSOCIATION AND SELF-HELP GROUP

CONSTITUTION

September 2011

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## DECLARATION

We, the Patrons and Members of this Association in order to provide a clean, safe, improved and reliable supply of potable water and sustainable sanitation practices to our members and to our immediate community at affordable cost within the framework of the approved Kano State Water Policy, and to do all such other activities as to improve the health and general well being of our members, do enact and establish this Constitution for the Association.

We declare that the Association is a voluntary, non-profit, non-ethnic, non-political, non-religious and non-governmental organization.

We declare further that this constitution shall be supreme and binding on all members herein represented and falling within the description of water consumers in XXXX town, subject to the Provisions of all relevant Laws and said members hereby covenant to abide with, observe and obey the rules and Regulations set forth herein.



**Article 1: NAME AND LEGAL PERSONALITY**

1.1 The Association shall be known and addressed as **XXXX TOWN WATER CONSUMER ASSOCIATION AND SELF-HELP GROUP** and shall hereinafter be referred to as '*The Association*.'

1.2 The Association shall be registered in accordance with the Kano state Self- help Groups (Registration) Law, 1987

**Article 2: Objects**

- 2.1: To provide adequate, affordable and safe water in a sustainable manner.
- 2.2 To identify the appropriate technology option(s) for Water Supply.
- 2.3: To own or manage and operate water supply facilities for the Community.
- 2.4: To collect from water consumers within XXXX town, water rates approved by the Congress of the Association to cover its administration, operation and maintenance costs. Any disputes with respect to the rates may be submitted to the relevant Government Agency for adjudication
- 2.5: To improve environmental health conditions in the prescribed area and thereby improve the health and hygiene of the members.
- 2.6: To build consensus, initiative and leadership among members.
- 2.7: To co-operate with governments, NGOs and other agencies for the construction, operation and maintenance of water schemes as may be considered necessary.

**Article 3: Functions of the Association**

- 1) In consultation with the WASH Departments of the LGA, and other relevant state Agency, design and agree appropriate technology for water supply to the community and coordinate the construction and supervision of same.
- 2) design, maintain, and enforce the use of appropriate sanitation facilities in the community and support any Rural Environmental Sanitation and Hygiene initiative introduced by the Government or other Organisation.;
- 3) Undertake Water, Sanitation, and Hygiene (WASH) education and create awareness of WASH principles amongst members, particularly in schools and

amongst women and children

- 4) Organise technical training of local artisans for the operation and maintenance of the water supply schemes and other activities in Association with the LGA WASH Department and relevant state Agency
- 5) Promote improvement of traditional sources of community water supply (protected spring orifices, protected hand dug wells, rain water harvesting etc).
- 6) Promote construction and maintenance of public and household toilet facilities.
- 7) Ensure the compliance with the National standards for drinking water quality.
- 8) Monitor and protect the quality of raw water sources by pollution prevention monitoring
- 9) Ensure community participation and feedback in design and implementation of Projects and undertake sustained stakeholder and community consultation and information
- 10) collect and manage community contributions for constructing and operating water supply scheme(s).
- 11) training of relevant persons in Finance and administration to enable them effectively undertake the Association's functions and achieve its objectives where necessary
- 12) To ensure all residents in XXXX have access to sufficient clean drinking water at a price they can afford

#### **Article 4: Area of operation**

The area of operation of the Association shall be XXXX Town

#### **Article 5: Membership**

5.1 All residents in the area of operation of the Association shall be entitled to be members of the Association. However, two members of each household not being below the age of 18 shall be entitled to be registered as members of the Association one of whom may be a woman.

5.2 The members recognize that there is an economic cost to improved water supply and hereby agree to pay such tariff as may be necessary.

5.4 There shall be a register showing, as a minimum, for each household, the names, addresses, amount(s) contributed with date(s), balance(s) due, date of joining. Other relevant particulars will be recorded at the discretion of the Association

5.5 There shall be an attendance register for the purpose of recording attendance at meetings

#### Article 6: TERMINATION OF REGISTERED MEMBERSHIP

Registered membership of the Association shall be terminated in the following circumstances:

- 1) Death
- 2) Proven acts intended to subvert and sabotage the objectives of the Association including but not limited to incitement of members against payment of water rate without cause
- 3) If the whole household moves away from the area;
- 4) Misconduct or other acts contrary to the stated Objects of the Association.

#### Article 7: Structure of the Association

There shall be for the Association the following organs for the effective administration of the functions and objects of the Association:

##### 7.1 THE CONGRESS

- (1) The Congress is the highest decision-making and policy approving authority of the Association which shall consist of all registered members.
- (2) The Congress shall convene at least once every year to:
  - a) Formulate Policy in accordance with the stated objects of the Association
  - b) Approve any modifications or amendments to the Constitution of the Association by at least a two-third majority of the members present, while for other issues decisions shall be by consensus or simple majority,
  - c) Elect new members or ratify existing members into the body of Patrons or Executive Committee as required
  - d) Approve the Association's Budget for the coming year
  - e) Discuss and adopt reports and propose actions for the Association's Executive Committee

- f) Approve the Association's annual work plan, the water development plan, and the report of activities of the Association for the preceding year
- g) Disseminate and gather any other information relevant to check the performance of the operations team and the Executive Committee and ensure the accountability of its members to those they represent in the Congress,
- h) Consider the admission and/or expulsion of members
- i) Approve water rates
- j) Deliberate on any issues of interest to the Association
- k) Approve the removal and appointment of Auditors and approve the Auditor's report.

## 7.2 THE PATRONS

### (1) Composition

There shall be a body of Patrons ("**Patrons**") for the Association which shall consist of a maximum of eight members drawn from registered members who shall be persons of honour and proven integrity in the society and able to uphold the vision, mission and strategic objectives of the Association, one of which shall be the Chairman. The body of PATRONS should be independent and will not be members of the Executive Committee or operators of the system and should not receive remuneration, allowances or payments in kind.

### (2) Women representation

There shall be at least two women representatives on the body of *Patrons* who shall be nominated by the women leaders of the community

### (3) Registration

This Association shall be known hereinafter as the Registered Association of **THE XXXX TOWN WATER CONSUMER ASSOCIATION AND SELF-HELP GROUP**

### (4) Election

The *Patrons* of the Association shall, for the purpose of the Kano State Self-Help Groups (Regt.) Law 1987 be elected at the Congress of the Association. Nomination shall be received at the Congress and the nominees who obtain the highest number of votes shall be elected to the body of *Patrons* in accordance with the number of vacancies

**(5) Chairman of the body of PATRONS**

The Chairman of the body of PATRONS shall always be the current District Head of the XXXX Community. This position shall therefore not be an elective one.

**(6) Other provisions on the body of Patrons.**

The PATRONS shall:

- a. Give advice to the Executive Committee on annual plans and policy and on other critical matters that are capable of being an impediment to the achievement of the objectives and aims of the Association and give final approval on the audited accounts
- b. hold in trust for the community, upon the winding up of the Association, all properties of the Association and shall transfer same to any succeeding association or subject to the approval of Congress, another Association with similar objectives operating within the same area or in the absence of such, to the Local Government Council pending the establishment of another self-help group.
- c. meet at least once every year
- d. be the custodians of assets and liabilities of the Association and therefore play an essential role in the Association's affairs
- e. chair all Congress meetings, through its Chairman or in his absence any other Patron so delegated to act in that regard.
- f. uphold at all times the Association's Constitution and by-laws,
- g. handle other tasks as may be assigned to it by the Congress.

**(7) The terms and conditions of Patron's appointment are as follows:**

**Tenure**

- a. A Patron shall hold office for a term of 5 years from the date of election and may be eligible to be reappointed for a further term of 3 years, provided that no Patron shall hold office continuously for more than 8 years.
- b. A Patron may resign his/her membership of the body of Patrons by giving at least one month notice in writing to the Chairman
- c. A Patron shall cease to hold office if he/she:
  - Is officially declared bankrupt,

- Is convicted of a criminal offence involving dishonesty by a court of competent jurisdiction,
- Resigns his/her office, after the expiration of one month's notice in writing to the Chairman of the body of Patrons,
- Is recommended for removal from office by a two thirds majority vote of the members in congress
- Ceases to reside in Nigeria.

d. Vacancies in the body of Patrons as may occur during the tenure of the Body shall be filled by election at a special meeting of the PATRONS and the Executive Committee to be held as soon as practicable after the vacancy occurs from amongst the nominations received during the last annual congress. Election shall be held in accordance with the provisions as to voting contained in Article 10 and a Patron so elected shall hold office only for the remainder of the outgoing Patron's term.

### 7.3 Executive Committee (EC)

1) There shall be an Executive Committee (EC) to be elected by simple majority at congress and assigned the responsibility for the administration of the affairs of the Association, at least two of whom shall be women. The members of the EC will not be members of the PATRONS or operators of the system and should not receive remuneration, allowances or payments in kind.

2)

(a) President

Vice President

General Secretary

Deputy General Secretary

Financial Secretary

Treasurer

Water officer

Hygiene and Sanitation Officer

Public Relations Officer

(b) Three other members to be known as public interest officers to assist with the administration of the affairs of the Committee and ensure supervision of community projects on a daily basis

(c) The positions above shall be ratified by the Congress each year and a position may be added or removed by two thirds majority as with any other adjustment to the Constitution.

3) The duties of the EC shall include:

- a. Observe in all their transactions, the constitution, regulations and resolutions of the Association.
- b. To ensure the maintenance of true and accurate accounts of all money received and expended and all the assets and liabilities of the Association
- c. To keep an accurate register of members and their contributions correct and up-to-date.
- d. To present before the Congress an income and expenditure account and an audited balance sheet for the Association
- e. monitor and admit new members subject to the criteria in Article 5.
- f. To summon General Meetings of Congress.
- g. To institute, conduct, defend, refer to arbitration or abandon legal proceedings by or against the Association, its officers or employees in matters concerning the affairs of the Association
- h. To appoint, confirm and fix the remuneration and conditions of appointment of any employee or contractor of the Association
- i. To put in place an internal administrative support system to foster the Association's collective strength.
- j. Define the actions to be undertaken by the operators of the Water Scheme.
- k. Prepare annual report and budget to be presented to the PATRONS and Congress.
- l. Active participation in the planning, organising and conducting of the main Congress
- m. Oversee the operations of the operators of the Scheme and report to congress.

3) The terms and conditions of the appointment of EC members by the Association are as follows:

- a. The EC member shall hold office for a term of three (3) years from the date of his election at the congress and may be eligible for reappointment for a further term of three (3) years and no more.
- b. The EC member may resign his/her membership by giving at least one month notice in writing to the PATRONS.
- c. The EC member shall cease to hold the office if he/she;
  - is officially declared bankrupt
  - is convicted of a criminal offence involving dishonesty by a court of competent jurisdiction.
  - Resigns his/her office after the expiration of one month notice in writing to the PATRONS
  - Is recommended for recall from office by the interests that he represents.
- d. In the conduct of the affairs of the Association, the members of the EC shall exercise prudence and diligence and shall be responsible for any loss sustained through acts or omissions contrary to the resolutions, regulations and constitution of the Association.

#### 7.4 OPERATIONS TEAM FOR THE WATER SCHEME

1. There shall be recruited by the EC, a team of staff to undertake the operation of the water supply Scheme (s). This team shall be headed by the Water Officer who shall be a member of the EC and shall be paid from the funds/revenue of the Association.
  2. The Water officer shall report all matters concerning the running of the scheme to the EC and obtain necessary approvals from the EC and the body of Patrons.
  3. The operations team shall be under the supervision of a foreman who shall report to the water officer. The foreman and all other members of the operations Team shall be staff of the Association
- (2) The duties of the Operations Team shall include:
- a. To operate and manage the water supply scheme, including maintenance and revenue collection and other commercial activities in accordance with the terms of the MOU
  - b. To implement and execute all policies and decisions of the Congress, the body of Patrons and the ECs and any other such organs as may be advised by the EC.
  - c. To ensure the realization of the Association's vision, mission and strategic objectives.



- d. With the prior consultation and approval of the body of Patrons, to acquire landed property on behalf of the Association, to employ, supervise, promote and discipline staff to be engaged for the operation of the Scheme
- 3) The Foreman to be employed shall,
- a. possess a university degree or equivalent in a relevant field
  - b. shall be a member of the Association.

#### **Article 8: POWERS OF ASSOCIATION**

The PATRONS and the EC shall exercise all the powers of the Association except those reserved for the Congress, subject to any regulations duly laid down by the Association.

#### **Article 9: MEETINGS**

- 1) The Congress shall meet at least once a year and may convene upon any emergency, so defined by two-thirds majority of the body of patrons, and the Chairman of the body of Patrons shall preside at the meeting provided that any meeting of the Congress must be convened within two months of the publication of the auditors' report/annual statement of account of the Association
- 2) The Body of Patrons shall meet at least once a year and may convene upon any emergency so defined by two-thirds majority of the body, and the Chairman of the body of Patrons shall preside at the meeting.
- 3) The President and water Officer of the EC shall be in attendance at all meetings of the body of Patrons.
- 4) In the absence of the Chairman at any of the above meetings, any member nominated by the chairman, or in the absence of such nomination, appointed by other members present at such meeting shall preside.
- 5) The Operations Team of the Water Scheme headed by the Water Officer in the EC shall meet at least once a week and the Water Officer shall preside at such meetings.

#### **ARTICLE 10: VOTING**

- 1) All questions shall be determined by simple majority of votes of the Members present at the Congress meeting. Each registered Member shall have one vote only.
- 2) A household may nominate a Proxy from amongst the members of the household

provided that the Proxy fulfils the Membership conditions in Art 5 of this Constitution.

3) In addition to his/her ordinary vote, the Chairperson of every meeting shall have a casting vote. This shall not apply to votes at congress.

4) At any meeting of the Congress at which a vote on proposed amendment to the Constitution is to be taken, the quorum for such meeting shall be a minimum of 70% of members attending and a two thirds majority vote in favour of such amendment

#### ARTICLE 11: COMMON SEAL

1) The Association shall have a common seal and any instrument to which the Common Seal has been affixed shall be binding on the Association.

2) The common seal shall be in the safe custody of the Secretary to the EC.

3) All contracts and other documents issued by the Association shall only be valid upon the affixing of the Common Seal in the presence of the Chairman of the body of Patrons or the President of the EC. A member of the EC or the body of Patrons shall witness the affixing of the seal to contracts above the sum of N10,000 while contracts below N10,000 may be signed by the Water officer and the treasurer.

#### ARTICLE 12: DISCIPLINE

1) Discipline shall be maintained by the imposition of penalties or sanctions for breach of rules and regulations by a Member. Such sanction shall be proportionate to the gravity of the offence committed and shall be determined by an ad hoc Disciplinary Committee which shall be set up to try an offender or group of offenders.

2) Offences shall include:

- a. Absence from meetings of the Association without reasonable cause.
- b. Rowdiness or disruptive behaviour at meetings
- c. Obstruction of, or assault of Association officials in the course of performing their lawful assignments on behalf of the Association
- d. proven cases of scandalous acts against members to the detriment of the collective goals and aspirations of the Association.

- e. divulging matters confidential to the Association
- f. Fighting during meetings of the Association
- g. Engaging in conduct prejudicial to the interests of Association

3) **Disciplinary Committee**

The Executive Committee shall have powers to empanel a Disciplinary Committee of five members who shall be persons of proven integrity, varied background and experience to investigate and adjudicate upon any reported offence(s). The Disciplinary Committee shall be empowered to apportion sanctions and penalties according to the gravity or seriousness of the offence. Such sanctions and penalties could range from fines to expulsion from the Association.

- 4) A Member who is not satisfied with the decision of the Disciplinary Committee may make a formal written appeal against the decision to the body of Patrons within four (4) weeks of the decision. The body of Patrons will consider the appeal and rule on the matter at its next meeting. The ruling of the body of Patrons at that time shall be final.

## ARTICLE 13: FINANCIAL PROVISIONS

1) **Banking**

- a) The Association shall have power to open and maintain bank accounts
- b) Any account to be opened for the purpose of the Association shall be authorised by the Patrons and the resolution signed by the Chairman of the body of Patrons together with the Secretary, or any other member as may be agreed at a meeting of all members of the body of Patrons.
- c) Two accounts shall be opened
  - i. *An account into which all revenue received from the sale of water shall be paid. Withdrawals from this account shall be approved by the Chairman of the body of Patrons on the recommendation of the Treasurer (the "revenue account") and may only be made to the "expense account" via direct banking transfer.*
  - ii. *An account from which running costs of the scheme and investments shall be paid (the "expense account"). Withdrawals from this account shall be made upon co-signatory of the EC President and the EC chief financial officer or his/her nominee subject to prior approval of the Chairman of the body of Patrons.*
- d) All members of the Association and the body of Patrons shall have the right to review the Association's Bank statements and a copy of the most recent published accounts at any time during normal office hours. These documents shall be kept in a public place at the XXXX Local Government Offices and also the premises used by the Association.

2) Sources of Funds:

The sources of funds shall be:

- a. Contribution of Federal, State and Local Governments
- b. Proceeds from sale of water to consumers
- c. Donations from Members and non-members.
- d. Loans from Members and non-members
- e. Launching of appeals or development funds.
- f. Miscellaneous sources approved by the FMWRRD and the General Meeting.
- g. Commercial Bank Loans
- h. Proceeds from bond issues.

3) Revenue Collection

The Association shall collect revenue in the manner recommended by the EC and approved by the Body of Patrons and at the Congress.

4) Tariffs and revenue

The EC of the Association shall set water rates as approved by the Congress and by the Body of Patrons, after consultation with the Operators and subject to arbitration in the event of dispute by the relevant Government Agency responsible for regulating the water sector in Kano state.

ARTICLE 14: AUDITORS

- 1) The Association shall make provision for an independent Auditor to audit the accounts of the Association once in every year.
- 2) The Body of Patrons, shall appoint such Auditors who shall audit the accounts of the Association and its Organs within three (3) months after the end of each financial year and the Auditor shall present his/her report through the Body of Patrons at the next meeting of the General Congress for the approval of Congress.

ARTICLE 15: OPERATION AND MAINTENANCE

- 1) The Association shall have the responsibility to manage, operate and maintain the water Scheme, all water points and all the assets, head works, spares, pumps and other appurtenances so as to ensure regular supply of water to consumers.

- 1) The Association shall have the responsibility to manage, operate and maintain the water Scheme, all water points and all the assets, head works, spares, pumps and other appurtenances so as to ensure regular supply of water to consumers.
- 2) The Association may, however, contract qualified and skilled Private Sector Mangers or Operators to undertake any aspect of the operation and Maintenance of the water Scheme on behalf of the Association subject to the approval of the LGA

#### **ARTICLE 16: Planning for the Water and Sanitation in the prescribed area**

The EC shall collaborate with the LGA WASH Department to prepare plans for the improvement of access and quality of water supply to the members of the Association

#### **ARTICLE 17: Health, hygiene and sanitation issues**

The Association shall collaborate with the LGAs and the Ministry for Environment and Ministry of health on all health and sanitation issues. The Association shall ensure that all its members participate in an annual health and hygiene education training sessions.

#### **ARTICLE 18: AMENDMENTS**

- 1) This Constitution shall be subject to amendment or repeal only by a two-third majority vote of Members present at an Annual Congress Meeting.
- 2) Such an amendment may be proposed by ten ordinary members of the Association, or by a majority of EC members. The Body of Patrons may not propose amendments to the Constitution, as its role is to enforce the constitution of the Association

#### **ARTICLE 19: DEFINITION OF TERMS**

#### **ARTICLE 20: EFFECTIVENESS**

This Constitution is dated ..... day of ..... 20..... and shall become effective from that date as amongst the members of the Association irrespective of the date of registration of the Association pursuant to the Jigawa state Self-help Groups (Regt.) Law 1987.