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1997

CHAPTER 142

WATER BOARD

ARRANGEMENT OF SECTIONS

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CHAPTER 142

WATER BOARD

A LAW TO ESTABLISH A WATER BOARD FOR THE STATE, TO PROVIDE
FOR ITS OBJECTIVES, POWERS AND FUNCTIONS AND FOR OTHER
MATTERS CONNECTED THEREWITH

ADS 4 of
1992.

[2 August 1992] Date of
commence-
ment.

PART I—PRELIMINARY

1. This Law may be cited as the State Water Board Law. Citation.
2. In this Law, unless the context otherwise requires:—
 - “assessed value” in relation to a tenement means the capital annual or unimproved value at which the tenement is for the time being assessed in accordance with the provisions of the Tenement Rate Law; Interpretation. GGS 2 of 1989.
 - “catchment area” means an area of land or water from which water contributes to the supply of waterworks; Cap. 134.
 - “Commissioner” means the State Commissioner who, for the time being is charged with the responsibility of Agriculture, Water Resources and Rural Development;
 - “dwelling house” means premises used wholly or mainly for the purpose of private dwelling with or without any garage, out-house, garden, compound, yard, forecourt or other appurtenances belonging to or usually enjoyed with it;
 - “excess consumption” means:—
 - (a) in the case of a tenement in respect of which general water rate is not payable, quantity of water ascertained by metre as having been consumed in the tenement; and
 - (b) in the case of a tenement in respect of which general water rate is payable, quantity of water ascertained by metre as having been consumed in the tenement in excess of such monthly allowance may be prescribed;

"financial year" means a period of twelve months commencing on 1st January;

"gathering ground" include any area of land or water which contributes to the supply of any waterworks;

"Government" means any authority by which the executive authority of the State is duly exercised;

"Governor" means the Governor of the State;

"Health Officer" includes a Medical Officer of Health, a Health Inspector or any other person acting on the authority of the Medical Officer of Health;

"House of Assembly" means the State House of Assembly;

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

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

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

"owner" includes:-

(a) the person for the time being receiving the rent of the tenement in respect of which the work is used, whether on his own account or an agent or trustee for any other person, or who would receive the rent if such tenement were let to a tenant; and

(b) the holder of a tenement from the State whether under a certificate of occupancy, lease, licence or otherwise;

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

"public fountain" means a fountain, stand-pipe, valve, tap or other device, natural or constructed, from which water squirts or is made to squirt;

"public supply" means a supply by means of any public fountain, stand-pipe, valve, tap or other appliance for supplying water to the public other than a meter, by or through which water flows or is intended to flow from waterworks;

"service" means a system of waterworks, boreholes, wells and fountains and includes severally and collectively all the complementary pumps, plants, equipment, instruments, main and distribution pipe-lines, taps and civil constructions which are all connected with the production (or procurement) and supply of water;

"State" means Adamawa State of Nigeria;

"street" includes a road, highway, bridge, thoroughfare, access road, avenue, alley, square, court or other passage or place over or to which the public have a right of way or access;

"tenement" means any land (including an island, cave, lake or other water surface) with or without buildings which is held or occupied as a distinct or separate holding or tenancy, or any wharf, pier or jetty similarly held or occupied;

"undertaking" means the system of all the materials, plants, equipment, constructions, instruments and other devices used together in the production, supply and distribution of water;

"waterworks" means all reservoirs, ponds, boreholes, wells and other subterranean water sources which are used with any dam, weir, tank, stem, tunnel, conduit, aqueduct, fountain, main-pipe, sluice, valve, pump, engine, filter-bed, treatment plant, or other structure or appliances constructed or used for the production, storage, supply, distribution, measurement or regulation of water.

PART II—ESTABLISHMENT OF WATER BOARD

3.—(1) There is hereby established in the State a Board to be known as the Water Board, in this Law referred to as "the Board".

Establishment of Water Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

4.—(1) The Board shall consist of the following members:—

Composition of the Board.

- (a) a part-time Chairman;
- (b) three persons of the public;

(c) the General Manager referred to in section 14 of this Law;

(d) a representative each of the following:—

- (i) the State Ministry of Finance;
- (ii) the State Ministry of Agriculture, Water Resources and Rural Development; and
- (iii) the State Ministry of Justice.

(2) The persons referred to in paragraphs (a) and (b) of subsection (1) of this section shall be appointed to the Board by the Governor.

Qualifica-
tions and
disqualifica-
tions of
members of
the Board.

5.—(1) No person shall be qualified to be a member of the Board who:—

(a) has been adjudged or otherwise declared:—

- (i) a bankrupt under any Law in force in Nigeria and has not been discharged; or
- (ii) liable to pay a certain amount of money by a court of competent jurisdiction and is unable to do so within 30 days of such declaration;
- (iii) to be of unsound mind; or

(b) is detained as a criminal lunatic under any Law for the time being in force in Nigeria; or

(c) has been convicted:—

- (i) for an offence involving the security of the State, fraud, dishonesty or moral turpitude; or
- (ii) for any other offence, and has not been granted a free pardon; or

(d) has been found by the report of a Commission or a committee of inquiry to be incompetent to hold public office or in respect of whom a Commission or committee of inquiry has found that while being a public officer he acquired assets unlawfully or defrauded the State or misused or abused his office or wilfully acted in a manner prejudicial to the interest of the State; and such findings have not been set aside on appeal or judicial review; or

(e) has had his property confiscated as a result of the findings of a Commission or committee of inquiry; and such findings have not been set aside on appeal or judicial review; or

(f) is under sentence of death or sentence of imprisonment imposed upon him by any court.

(2) Without prejudice to the provisions of subsection (1) of this section, any member of the Board shall cease to be a member if:—

(a) he is absent from three consecutive meetings of the Board without sufficient reason; or

(b) in the case of a person possessed of professional qualifications he is disqualified from practising his profession in Nigeria by order of any competent authority made in respect of him personally.

6.—(1) All the members of the Board, other than *ex-officio* members, shall, subject to subsection (2) of this section, hold office for a term of four years.

Tenure of office of members of the Board.

(2) A member may at any time resign his office in writing addressed to the Governor.

(3) The Governor may revoke the appointment of a member if the Governor is satisfied that such member:—

(a) is incapacitated by physical or mental illness from performing his functions as a member; or

(b) is otherwise unable or unfit to discharge the functions of a member.

(4) Members of the Board ceasing to hold office shall, subject to subsections (2) and (3) of this section be eligible for reappointment.

(5) The Chairman of the Board shall notify the Governor of all vacancies occurring in the membership of the Board.

(6) Where any member of the Board is incapacitated by illness or any other cause from performing the functions of his office, the Governor may appoint another person to act in his office until the member is able to resume the performance of his functions.

7. There shall be paid to each member of the Board and any of its committees and any co-opted person such allowances in respect of travelling and other reasonable expenses at such rates as may, from time to time, be fixed by the Governor.

Emoluments of members of the Board.

PART III—OBJECT, FUNCTIONS AND POWERS OF THE BOARD

Object of the Board.

8. The object of the Board shall be consistent formulation and execution of schemes for the provision of water in the State.

Functions of the Board.

9.—(1) Without prejudice to the general effect of section 8 and subject to the provisions of this Law, the functions of the Board shall be:—

- (a) to control and manage all waterworks vested in the Board under this Law;
- (b) to establish, control, manage, extend and develop waterworks as the Board 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;
- (c) to ensure that adequate wholesome water is supplied to its consumers regularly and at such charges as the Board may, from time to time, determine;
- (d) to conduct or organise the conduct of research in respect of water supply, water development and matters connected therewith and submit the results of such research to the Commissioner for the purpose of formulation of policy relating to the supply, development and utilisation of water; and
- (e) to develop, maintain and beneficially exploit water resources, both natural and artificial.

(2) The Board may also do all such acts as may appear to it expedient for the purposes of achieving the object set out in section 8 of this Law and implementing the functions specified in subsection (1) of this section.

Powers of the Board.

10.—(1) Subject to the provisions of this Law and for the attainment of the object and functions of the Board under this Law, the Board shall have power:—

- (a) to construct, re-construct, maintain and operate waterworks, public fountains and all other stations, buildings and works necessary for the discharge of its functions under this Law;

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- (b) to extract water from any lake, river, stream or other natural source;
- (c) to extract water from underground sources by means of sinking boreholes, wells or artesian wells and the construction of their supporting structures;
- (d) to examine any surface or underground water for the purpose of determining its productive quality and quantity including the existence and extent of pollution, the cause of such pollution and remedies thereof;
- (e) to enter land or premises at any time of the day for the purpose of laying, examining, repairing or removing any water-pipe or hose, provided that before entry is made on any such land or premises, notice shall first be given to the owner or occupier thereof;
- (f) to enter any land or premises after giving notice, where practicable, to the owner or occupier for the purpose of:-
 - (i) inspecting any service or meter to ascertain whether there is any wastage, obstruction or damage to any service or meter or anything connected therewith;
 - (ii) laying pipes or installing meter or other instruments or appliances;
 - (iii) ascertaining the amount of water used or taken; and
 - (iv) connecting, disconnecting or otherwise controlling the supply of water to a tenement;
- (g) to diminish, withhold or suspend, stop, turn off or divert the supply of water through or by means of a water service stop-cock, valves, sluices, conduits, aqueducts either wholly or partly whenever the Board considers it necessary so to do;
- (h) to enter into any commitments, agreements or other arrangements in respect of the provisions, distribution, supply or sale of water;
- (i) to enter into any contract or other legal transaction; and
- (j) to acquire and hold any movable or immovable property and to dispose of such property and where there is any hindrance to the acquisition of the property, the property may be acquired for the Board under the Land Use Act or 6 of 1978. any other Law that may be enacted.

(2) In addition to the powers conferred by subsection (1) if it appears to the Board that any land in the State is likely to be needed for the purposes of any waterworks, the Board may by its employees with all necessary workmen enter on any such land and may, subject to the Board giving, where practicable, seven days notice to the owner or occupier of the land on which it is intended to enter:-

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

Committees
of the
Board.

11.—(1) Subject to subsection (2) of this section, the Board may appoint one or more committees of the Board to advise it on or take any other action:-

- (a) as to the initiation, execution, administration or progress of any project, scheme or activity which the Board may undertake or which it may participate; or
- (b) for any other purpose whether general or specific relating to the functions of the Board, which in the opinion of the Board, is better regulated or managed by means of committee.

(2) The Board may on such terms and conditions as it may think fit delegate to a committee appointed under subsection (1) of this section, any of its functions under this Law except that such delegation shall not include:-

- (a) making extraordinary expenditure;
- (b) borrowing money; and
- (c) making standing orders, rules or regulations.

(3) The composition, tenure of office and remuneration of members of the committee appointed pursuant to subsection (1) of this section, shall be determined by the Board with the approval of the Commissioner.

(4) A committee appointed under subsection (1) of this section may include persons who are not members or officers or employees of the Board, but who possess such special qualification or

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experience as in the opinion of the Board shall prove beneficial to the work of the committee.

12.—(1) The Board shall ordinarily meet for the despatch of business at such times and places as the Chairman may, from time to time, appoint, but shall meet at least four times in every year. Meetings of
the Board.

(2) The Chairman shall upon the request in writing signed by not less than four members of the Board summon a special meeting of the Board within fourteen days on receipt of such request.

(3) At every meeting of the Board the Chairman shall preside and in his absence, the members present shall elect a person from among their number to preside at that meeting.

(4) Every question coming before the Board at any meeting shall be decided by a simple majority of the votes of the members present and voting; and in the case of an equality of votes the Chairman or the other person presiding shall have a second or casting vote.

(5) The quorum for any meeting of the Board shall be four including the Chairman or the other person presiding and two *ex-officio* members.

(6) The Board may at any time co-opt any person or persons to act as an adviser or advisers at any of its meetings, but no person so co-opted shall be entitled to vote at any such meeting on any matter for decision by the Board.

(7) A member of the Board who is in any way directly or indirectly interested in any contract or transaction or project of the Board shall disclose the nature of his interest at a meeting of the Board and the disclosure shall be recorded in the minutes of the Board and the member:—

(a) shall not take any part in any deliberation or decision of the Board with respect to that contract or transaction or project; and

(b) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

(8) For the purposes of subsection (7) of this section, a general notice given at a meeting of the Board by a member of the Board to the effect that he is a member of a specified company or firm and is

to be regarded as interested in any contract or transaction or project of the Board concerning the company or firm, shall be regarded as a sufficient disclosure of his interest in relation to that contract or transaction or project.

(9) A member of the Board need not attend in person at a meeting of the Board in order to make any disclosure which he is required to make under subsection (7) of this section if he takes reasonable steps to secure that the disclosure is made by notice which is brought up and read at the meeting.

(10) Any member who infringes subsections (7) and (8) of this section shall be liable to be removed from the Board.

(11) The validity of the proceedings of the Board shall not be affected:-

- (a) by any vacancy among its members or by any defect in the appointment of any of them; or
- (b) by inadvertent omission to send any notice, inadvertent error in addressing it or failure in the delivery thereof.

(12) Except as otherwise expressly provided under this section, and subject to this Law the Board may make standing orders for the purpose of regulating its own procedure.

PART IV—MANAGEMENT AND STAFF OF THE BOARD

Management
of affairs of
the Board.

13. Members of the Board shall be charged with the responsibility of:-

- (a) managing the property, business and finances; and
- (b) laying down general policies in respect of the execution of all the functions of the Board under this Law.

General
Manager.

14.—(1) The Board shall have an officer to be designated as "the General Manager" who shall be the Chief Executive of the Board.

(2) The General Manager shall be appointed or removed by the Governor subject to the confirmation by a simple majority of the Members of the House of Assembly and shall hold office upon such terms and conditions as may be specified in his instrument of appointment.

15. The General Manager shall, subject to the general control of the Board on matters of policy and subject in particular to such regulations as the Board may make in that behalf under section 47 of this Law, be charged with overall responsibilities for carrying out the policies and decisions of the Board as well as the routine administration and the control of all the employees of the Board.

Management of the Board's business and administration.

16.—(1) The Board may, from time to time, engage such employees as may be necessary for the proper and efficient conduct of the business of the Board.

Staff of the Board.

(2) The Board may also engage the services of consultants and advisers as the Board may determine.

(3) The Board shall be responsible for the appointment, promotion and discipline of officers and employees of the Board.

(4) Subject to the provisions of this Law, the officers and employees and advisers of the Board shall be engaged on such terms and conditions as the Board may determine.

(5) Public officers may be transferred or seconded to the Board or may otherwise give assistance thereto.

17.—(1) The use of the common seal of the Board shall be authenticated by two signatures, namely:—

Execution of contracts authentication of documents.

(a) the signature of the Chairman of the Board or some other member of the Board authorised by the Board to authenticate the application of the seal; and

(b) the signature of the Secretary of the Board or some other officer of the Board authorised by the Board to act in the Secretary's place for that purpose.

(2) The Board may by instrument in writing under its common seal empower any person either generally or in respect of any specified matters as its attorney, to execute deeds on its behalf in any place not situated in the State; and every deed signed by such attorney on behalf of the Board and under his seal, shall be binding on the Board and have the same effect as if it were under the common seal of the Board.

(3) Any instrument or contract which, if executed or entered

into by a person other than a body corporate, would not require to be under seal, may be executed or entered into on behalf of the Board by any member of the Board if such person has previously been authorised by a resolution of the Board to execute or enter into that particular instrument or contract.

(4) The Board, if it thinks fit, may by writing under its common seal appoint any person outside the State as agent to execute an instrument or enter into a contract and the instrument or contract if executed or entered into on behalf of the Board shall have effect as if it had been duly executed or entered into as prescribed for the purpose of this subsection.

(5) Every document purporting to be an instrument executed or issued by or on behalf of the Board and purporting to be:-

- (a) sealed with the common seal of the Board authenticated in the manner provided by subsection (1) of this section; or
- (b) signed by and under the seal of a person appointed as attorney under subsection (2) of this section; or
- (c) signed by a member of the Board or other person authorised in accordance with subsection (3) of this section to act for that purpose,

shall be deemed to be so executed or issued until the contrary is shown.

Secretary of
the Board.

18.—(1) The Board shall have an officer to be designated as “the Secretary of the Board” who shall be appointed by the Governor.

(2) The Secretary shall act as Secretary to the Board at its meetings and shall subject to the directions of the Board, arrange the business for and cause to be recorded and kept minutes of all meetings of the Board and have custody of the common seal of the Board.

(3) The Secretary shall also perform such functions as the Board may by writing direct or as the General Manager may by writing delegate to him and shall be assisted in his functions by such of the employees of the Board as the General Manager may direct.

19.—(1) The Board shall have an Internal Auditor.

Internal Auditor.

(2) Subject to the provisions of this Law, the Internal Auditor shall be responsible to the General Manager for the performance of his functions.

(3) As part of his functions under this Law, the Internal Auditor shall, at intervals of three months prepare a report on the internal audit work carried out by him during the period of three months immediately preceding the preparation of the report, and submit the report to the General Manager who shall convene a meeting of the Board as soon as possible to discuss the Internal Auditor's report.

(4) The Internal Auditor's report shall cover the financial transactions of the Board.

(5) Without prejudice to the general effect of subsection (3) of this section, the Internal Auditor shall make in each report such observations as appear to him necessary as to the conduct of the financial affairs of the Board during the period to which the report relates.

(6) The Internal Auditor shall send a copy of each report prepared by him under this section to the Governor and also to each of the following:—

- (a) the Commissioners responsible for Finance, Trade, Commerce and Industry;
- (b) the Director of Audit; and
- (c) the Chairman of the Board.

PART V—FINANCIAL PROVISIONS

20. The funds and resources of the Board shall consist of:—

Funds and resources of the Board.

- (a) all funds, assets, resources, undertakings and such rights and interests as the Board may, from time to time, acquire;
- (b) such sums as may, from time to time, be lent, granted or appropriated to the Board by the Government, Federal Government of Nigeria or any other Government institution;
- (c) all properties and investments acquired by, or vested in, the

Board and all moneys, dividends and other benefits derived, earned or arising therefrom;

- (d) all sums from time to time received by or falling due to the Board in respect of the repayment of any loan or advance made by the Board;
- (e) all charges, rates, rents and other payments accruing to the Board for the services it renders; and
- (f) all other sums of money or properties which may in any manner become payable to, or vested in, the Board in respect of any matter incidental to its functions and powers under this Law.

Estimates of
income and
expenditure.

21.—(1) The Board shall submit to the Governor at such times and in such form as the Governor may, in consultation with the State Commissioner responsible for Finance, Trade, Commerce and Industry, direct, detailed estimates of the Board's income and expenditure for the next following financial year.

(2) The expenditure of the Board shall be in accordance with the estimates as approved by the Governor acting in consultation with the State Commissioner responsible for Finance, Trade, Commerce and Industry.

Bank
accounts and
borrowing
powers of
the Board.

22.—(1) The Board may have bank accounts in such banks as the Board may determine.

(2) The Board may, with the consent of the Governor, borrow, whether by way of mortgage or otherwise on such terms and conditions as the Board may determine, any such sums of money as may be required in the execution of the functions conferred on the Board by this Law or by any other Law.

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

Debentures
to the Gov-
ernment.

23.—(1) If the Government gives any loans to the Board at any time in accordance with the provisions of this Law, the Board shall, if so required by the Governor, issue to the Government a debenture or debentures of nominal value equivalent to the sum lent.

(2) Debentures issued under this section shall bear interest at such rates and from such dates as the Governor may specify.

24. Subject to the approval of the Governor, the Board may:—

- (a) invest money standing to the credit and not for the time being required for the purpose of the Board's functions in stocks, shares, debentures or any other securities; and
- (b) sell, dispose of or otherwise deal with all or any of such securities.

Investments
in stocks,
etc.

25. Without prejudice to section 24 at the end of each financial year, after the Board has made provision for:—

- (a) bad and doubtful debts;
- (b) depreciation of assets;
- (c) contributions to staff and superannuation funds; and
- (d) other contingencies, if any,

Board to pay
sums into
State Con-
solidated
Revenue
Fund.

and after appropriation has been made to any contributory scheme for officers and employees of the Board under section 32 of this Law such part of the net profits of the Board remaining as the Governor may by writing direct, after consultation with the Board and with the Commissioner responsible for Finance, Trade, Commerce and Industry, shall be paid into the State Consolidated Revenue Fund.

26. The following charges shall be defrayed out of the revenues of the Board for any financial year:—

- (a) salaries, fees and allowances of members of the Board;
- (b) salaries, remuneration, fees, allowances, pensions, gratuities and other retirement benefits of the officers, employees and agents of the Board including technical or other advisers of, or consultants to, the Board;
- (c) all working and management expenses of the Board and all charges relating to its works, assets and other properties including proper provisions for depreciation and renewal of assets;
- (d) such expenses or minor works of capital nature as the Board considers necessary;
- (e) such sums of money including compensation which may be

Defraying of
charges etc.

payable by the Board to any person or authority under this Law or any other Law;

- (f) taxes, rates and other levies payable by the Board under any applicable law;
- (g) interest on any loan raised by the Board;
- (h) sums of money required to be transferred to any sinking funds or otherwise set aside for the purpose of making provisions for the redemption of debentures, stocks or other securities or for the repayment of other loans; and
- (i) such other sums of money as the Government may approve for payment out of revenue account of the Board in respect of any financial year.

Reserve
Fund.

27. The Board shall establish and maintain a General Reserve Fund and shall, subject to the directions given by the Governor under section 35 and subsection (3) of this section and after defraying the charges mentioned in section 26, pay into such fund any net profit earned by the Board.

(2) The General Reserve Fund shall be applied by the Board in making good any loss or deficiency which may occur in any of the transactions of the Board.

(3) The Governor may, with the concurrence of the Commissioners for the time being responsible for Finance, Trade, Commerce and Industry, give directions to the Board as to the balance to be maintained in the General Reserve Fund and, where such directions are given, the Board shall not be required to pay any of its net profits into the Fund whereby the balance thereof would exceed the amount directed by the Governor.

Bad and
doubtful
debts to be
written off.

28. The Board may, subject to the approval by a resolution passed by a simple majority of the members of the House of Assembly, write off bad and doubtful debts of the Board.

Accounts
and audit.

29.—(1) The Board shall keep proper books of account and proper records in relation thereto.

(2) The books and accounts of the Board shall, within three months after the end of each financial year, be audited in accordance with the Constitution of the Federal Republic of Nigeria

1979 as amended by the Constitution (Suspension and Modification) (Amendment) Decree 1986 and any other Constitutional provision of the Federal Republic of Nigeria that may come into force.

(3) The Board shall pay fees in respect of the audit to the External Auditor appointed by the Board.

(4) For the purposes of subsection (3) of this section the Director of Audit may provide a guideline on the level of fees to be paid to the External Auditor so appointed.

(5) It shall be the duty of the Board as soon as possible upon receiving the External Auditor's report under this section, to forward a copy of the report to the Governor.

(6) The Governor shall, as soon as practicable upon receipt of the report thereof, cause to be laid before the State House of Assembly a copy of the External Auditor's report forwarded to him under this section.

(7) The State Director of Audit may comment on the Board's annual accounts and the External Auditor's report thereon.

(8) Where the State Director of Audit comments on the annual accounts and the External Auditor's report thereon, he shall submit his comments to the State House of Assembly.

30.—(1) Where after receiving a copy of the Auditor's report the Commissioner is satisfied that:—

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

the Commissioner may surcharge the amount of such loss or the destruction of the property upon that person.

(2) Before exercising his power under subsection (1) the Commissioner may by writing appoint a person to conduct an inquiry

for the purpose of determining the cause, extent or value of the deficiency, loss or destruction referred to in subsection (1).

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

(4) Notwithstanding subsections (1) and (3), no liability to surcharge shall be incurred by any person who can prove to the satisfaction of the Commissioner that he acted:-

(a) in pursuance of, or in accordance with, the terms of a resolution of:-

(i) the Board; or

(ii) any committee duly appointed under this Law; or

(b) on lawful instructions of a superior officer of the Board.

Recovery of
surcharge.

31. Any amount notified as a surcharge under subsection (3) of section 30 shall be sued for and recovered in any court of competent jurisdiction by the Board with full costs of action from the person upon whom the amount is surcharged as a debt due to the Board.

Contribu-
tory, etc.
scheme for
officers and
employees of
Board.

32.—(1) The Board shall within one year after the coming into force of this Law, establish a contributory scheme for its officers or employees.

(2) For the purpose of subsection (1), the Board shall:-

(a) grant pensions, gratuities or other retiring benefits to any of the officers or employees of the Board and their dependants and may require such officers or employees to contribute to any pension or contributory scheme;

(b) grant loans to any of the officers or employees of the Board for such purposes as the Board may approve;

(c) provide welfare facilities to its officers or employees.

(3) The Board shall make regulations to give effect to this section.

PART VI—GENERAL

33. No member, agent, officer or other employee of the Board or member of any committee appointed by the Board under this Law shall be personally liable for an act or default of the Board done or omitted to be done in good faith and without negligence in the course of the operations of the Board.

Personal immunity of members, agents, etc.

34. Any person:—

- (a) who is aggrieved by the decision of the Commissioner to surcharge any amount upon him; or
- (b) who is dissatisfied as to the amount of compensation payable to him under this Law,

Appeal against surcharge and compensation.

may appeal to the High Court within 30 days from the date of the decision or the award of the compensation.

35. The Governor may, after consultation with the Board, give to the Board in writing directions of a general character not being inconsistent with the provisions of this Law or with the contractual or other legal obligation of the Board relating to the performance by the Board of its functions under this Law and the Board shall give effect to such directions.

Directions by Governor.

36.—(1) The Board shall, as soon as possible after the expiration of each financial year but within six months after the termination of that year, cause to be submitted to the Governor an annual report of the Board dealing generally with the activities and operations of the Board within that year which shall, without prejudice to the generality of the foregoing, include:—

Annual report.

- (a) a copy of the audited accounts of the Board;
- (b) a statement of all directions given to the Board under section 35 of this Law;
- (c) each report submitted by the Internal Auditor under section 19 of this Law in relation to that financial year; and
- (d) such other information as the Governor may request.

(2) A copy of the annual report shall be forwarded by the Board to:—

- (a) the Commissioners responsible for Finance, Trade, Commerce and Industry; and
- (b) the Commissioner.

(3) The Board shall also submit to the Governor such other reports on the Board's financial affairs as the Governor may by writing reasonably request from time to time.

Use and
payment and
non-payment
of water by
Fire Service.

37.—(1) Subject to subsection (2) no Fire Service shall be permitted to abstract water from any public fountain, service or waterworks of the Board save for the purpose of preventing or controlling fire.

(2) No water shall be abstracted from any public fountain, service or waterworks of the Board by the Fire Service for the purpose of testing any fire fighting appliance without the consent of the Board, which consent shall not be unreasonably withheld by the Board.

(3) No charge shall be prescribed by the Board for water abstracted by any Fire Service under subsections (1) and (2) of this section.

(4) Any main, pipe, valve, hydrant, service or other waterworks required by any Fire Service for the purpose of preventing or controlling fire shall be provided by the Board upon payment by the Fire Service therefor.

(5) Any main, pipe, valve, hydrant, service or other waterworks supplied by the Board to any Fire Service on request shall vest in the Board in perpetuity and shall be maintained and renewed by the Board at the expense of such Fire Service.

Waterworks
and property
of Board not
to be rated.

38. Any waterworks vested in or the property of the Board shall not be regarded as hereditaments or tenements and such hereditaments or property shall not be valued for rating purposes under any existing enactment.

No person to
construct
waterworks
without per-
mission.

39.—(1) No person shall construct any waterworks without the approval of the Commissioner.

(2) This section shall not apply to the construction of a well having a diameter not exceeding 1.22 metres and a depth not exceeding 61 metres. Construction of water-works.

(3) Notwithstanding subsection (2), no person shall pump water or permit artesian water to flow from:-

- (a) a well having a diameter not exceeding 1.22 metres and a depth not exceeding 61 metres; or
- (b) a borehole within 2 kilometres of waterworks, without the permission of the Commissioner.

(4) The Commissioner may by notice published in the State Gazette specify any area being further than 2 kilometres from any waterworks where water shall not be pumped or artesian water permitted to flow from any well or borehole without the permission in writing of the Commissioner.

(5) Any person who contravenes any of the provisions of this section commits an offence under this Law and is liable on summary conviction to a fine not exceeding one thousand naira or to a term of imprisonment not exceeding 6 months.

40.—(1) No person shall:-

- (a) wilfully or negligently damage any waterworks, public fountain, service or meter; or
- (b) unlawfully draw off, or divert water from any waterworks, public fountain, stream or water by which any waterworks are supplied; or
- (c) pollute water in any waterworks, public fountain, stream, well, borehole or allow any foul liquid, gas or other noxious or injurious matter to enter into any such water or service connected therewith.

No person to damage, etc. waterworks, etc.

(2) Any person who contravenes any of the provisions of this section commits an offence under this Law and is liable on summary conviction to a fine not exceeding one thousand naira or to a term of imprisonment not exceeding 6 months; and, in the case of a continuing offence, after a notice in writing to that person requiring him to stop committing the offence, to an additional fine not exceeding one hundred naira in respect of each day on which the offence continues and to a term of imprisonment not exceeding 1 month.

No person to misuse water or alter service, etc.

41.—(1) No person shall:—

- (a) wilfully or negligently misuse or waste or cause or permit to be misused or wasted any water passing into, through, upon or near any tenement; or
- (b) alter or cause or permit to be altered any service without the written permission of the Board.

(2) Any person who contravenes subsection (1) commits an offence under this Law and is liable on summary conviction to a fine not exceeding five hundred naira or to a term of imprisonment not exceeding 1 month.

No person to alter or damage service or metre to avoid payment, etc.

42.—(1) No person shall:—

- (a) alter or cause or permit to be altered any service with intent to:—
 - (i) avoid the accounts measurement or register of water; or
 - (ii) obtain greater supply of water than he is entitled to; or
 - (iii) avoid payment of water supplied to him; or
- (b) wilfully or negligently alter or damage or cause or permit to be altered or damaged any metre or service.

(2) Any person who contravenes subsection (1) commits an offence under this Law and is liable on summary conviction to a term of imprisonment not exceeding 4 months without a fine.

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

Foul accumulation of earth, etc., an offence.

43.—(1) Any person who puts, or permits to be put or to remain, or to accumulate on any tenement owned or occupied by him or his servant, or who fails to remove or to cause to be removed, or to take such steps as may be necessary to prevent, upon notice in writing from the Board, any foul noisome or injurious matters, or any earth, deposit or excavated material in such manner or place that it may be washed, fall or be carried into any waterworks or the gathering ground thereof commits an offence under this Law.

(2) Any person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding one thousand naira or to a term of imprisonment not exceeding four months; and, in the case of a continuing offence, to an additional fine not exceeding one hundred naira in respect of each day on which the offence continues.

44.—(1) Any person who:—

- (a) bathes or washes in any part of any waterworks; or
- (b) throws or causes to enter any waterworks, any dog, horse, goat, pig or any other animal, or any bird or any cloth, material or things; or
- (c) wrongfully opens or closes any lock, cock, valve, sluice or man hole belonging to any waterworks, commits an offence under this Law.

Bathing,
washing, etc.
in water-
works, an
offence.

(2) Any person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding one thousand naira or to a term of imprisonment not exceeding four months.

45. Any person who contravenes any provision of this Law in respect of which an offence has not been prescribed, commits an offence and is liable on summary conviction to a fine not exceeding one thousand naira or to a term of imprisonment not exceeding six months; and, in the case of a continuing offence, to an additional one hundred naira in respect of each day on which the offence continues.

General
penalties.

46.—(1) Subject to subsection (2), where an offence is committed under this Law or under regulations made thereunder by a body of persons, then:—

Offences by
bodies of
persons.

- (a) in the case of a body corporate, other than a partnership every Director, Secretary or suchlike officer of the body; and
- (b) in the case of a partnership every partner of the partnership, commits an offence.

(2) No person commits an offence by virtue of subsection (1) if he proves to the satisfaction of the Court:—

- (a) that he did not consent to or connive at the commission of the offence; and
- (b) that he did all in his power to prevent the commission of the offence having regard to all the circumstances.

Regulations.

47.—(1) The Governor may, after consultation with the Board make such regulations as he may think fit for the purpose of giving effect to the provisions of this Law.

(2) Without prejudice to the generality of subsection (1), regulations made thereunder may prescribe fees or rates to be charged under this Law.

(3) Regulations made under this section may prescribe in relation to any contravention of the regulations:—

(a) penalties not exceeding a fine of one thousand naira or six months imprisonment;

(b) additional penalties not exceeding one hundred naira per day in respect of continuing offences.

Bye-laws and administrative instructions.

48. The Board may from time to time issue bye-laws or administrative instructions in writing for regulating the internal operations of the Board including but without prejudice to the general effect of the foregoing, the regulation of the conditions of service of the employees of the Board and the operation of the contributory scheme.

Service of notice, etc.

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

Restriction on execution against Board.

50. No execution or attachment or process in the nature thereof shall be issued against any waterworks vested in or the property of the Board, until the expiration of three months from the date of judgement of the Court.

Restrictions on suit against Board.

51.—(1) No suit shall be commenced against the Board until one month has elapsed since a written notice to commence the suit shall have been served on the Board by the complainant or his agent.

(2) A notice under subsection (1) shall state:—

(a) the cause of action;

(b) the relief sought; and

(c) the name and place of abode of the complainant.

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52.—(1) The Development Board Edict No. 14 of 1984 and the Development Board (Amendment) Edict No. 11 of 1985 are hereby repealed and, accordingly, the Development Board existing immediately before the commencement of this Law, is hereby dissolved.

Repeals, dissolution and savings, etc.

(2) All assets, rights, obligations and liabilities of the dissolved Development Board relating to water supply and the development of water resources, housing and rural electrification are hereby transferred respectively to the Board, Urban Planning and Development Authority and the State Ministry of Works, Transport, Land and Survey without further assurance.

(3) Notwithstanding the repeal of the Edict, any agreement executed thereunder relating to water supply, housing or rural electrification and in force immediately before the commencement of this Law shall continue in force as if made under this Law or by the Urban Planning and Development Authority or by the State Ministry of Works, Transport, Land and Survey, except that agreements continued in force by this subsection shall, unless modified by any new agreements entered into with the Board, the Authority, or the Ministry confer only the benefits previously enjoyed under the agreements before the commencement of this Law.

(4) Without prejudice to the general effect of section 12 of the Interpretation Law the repeal of the Edict shall not affect any obligation or penalty incurred by any person before the repeal whether in relation to the supply of water, housing or electrification.

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(5) Notwithstanding the repeal of the Edict, any statutory instruments made thereunder relating to supply of water, housing or electrification and in force immediately before the commencement of this Law shall continue in force as if they were regulations made under section 47 of this Law or by the Authority or the State Ministry of Agriculture, Water Resources and Rural Development and may accordingly be amended or revoked under that section or by the Authority or the Ministry.

(6) Any employee engaged for the exercise of the functions and powers in respect of water supply and development of water resources, housing or electrification shall, with effect from the commencement of this Law, be deemed to be an employee of the

Board, the Authority or the Ministry on the same terms and conditions of service as those on which he was employed by the dissolved Board.
