

CHAPTER S12**SMALL TOWN WATER SUPPLY AND SANITATION LAW****ARRANGEMENT OF SECTIONS****SECTION**

1. Citation and commencement.
 2. Interpretation.
 3. Establishment.
 4. Composition of the Agency.
 5. Tenure of office.
 6. Co-option of persons.
 7. General function of the Agency.
 8. Power of the Agency.
 9. Power to confer additional function on the Agency.
 10. Control of existing water supply and sanitation facilities.
 11. Appointment of Managing Director.
 12. Other staff, etc., of the Agency.
 13. Power to make regulations relating to employees of the Agency.
 14. Funds and resources of the Agency.
 15. Loans and grants by the Government and advance account for working capital.
 16. Power to borrow.
 17. Operational regulations.
 18. Recovery of charge or fees.
 19. Bearing expenses.
 20. Account, audit and estimate.
 21. Annual report.
 22. Establishment of Local Government Rural Water Supply and Sanitation Unit.
 23. Offence and penalty.
 24. Execution of instruments.
 25. Standing orders.
 26. Service of Notice, etc.
 27. Procedure and meeting.
 28. Liability of members.
 29. Special direction.
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CHAPTER S12

SMALL TOWN WATER SUPPLY AND SANITATION LAW

A Law to establish a Small Town Water Supply and Sanitation.

[Amended by Law No. 14 of 2012.]

[Date of commencement: 7th February, 2000]

1. Citation and commencement

This Law may be cited as the Small Town Water Supply and Sanitation Law and shall come into force on the 7th day of February, 2000.

2. Interpretation

In this Law, unless the context otherwise requires—

“Agency” means the Agency established under section 3 of this Law;

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

“Governor” means the Governor of Jigawa State of Nigeria;

“Street” includes any square, court, highway, road, thoroughfare or public passage or place over which the public have a right of way;

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

“Water Works” include motorized boreholes, hand pump equipped boreholes, open wells, open hand dug wells, or cattle dams, tunnels, filters, conduits, main pipes, valves, engines or any other structure or conveyance, supply, measurement or regulation or rural water supply.

3. Establishment

(1) There is hereby established a body to be known as Jigawa State Small Town Water Supply and Sanitation Agency which shall be a body corporate with perpetual succession and a common seal and which shall have the power to sue and be sued in its corporate name.

(2) The agency shall have the power to enter into contracts and acquire, purchase, hold, sell and dispose of property of any kind.

4. Composition of the Agency

(1) The Board of the Agency shall consist of the following—

- (a) a Chairman;
- (b) five other members, three of whom shall be professionals in the field of Finance, Water Engineering, Sanitary Engineering or Public Health Engineering;
- (c) the Managing Director of the Agency who shall be an *ex officio* member.

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5. Tenure of office

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(2) The names of the Chairman and other members of the Agency shall be published in the *State Gazette*.

5. Tenure of office

(1) The Chairman and other members of the Board shall be appointed by the Governor on such terms of remuneration and other conditions of services as the Governor may determine.

(2) Subject to the provisions of subsection (1) of this section, a member who is an *ex officio* member shall hold office for a term of three years from the date of his appointment and shall be eligible for re-appointment for another term of three years.

(3) Each of such members shall be paid, out of the moneys at the disposal of the Agency, such remuneration and allowances as the Governor may determine.

(4) Without prejudice to section 31 of the Interpretation Law (which provides *inter alia*, for the removal of an appointee by the person who appointed him), the seat of a member shall become vacant on the occurrence of any of the following events—

- (a) death of the member;
- (b) conviction for a criminal offence involving fraud, dishonesty or moral turpitude;
- (c) resignation by a member;
- (d) on the dissolution of the Board;
- (e) he is discovered to have such financial or other interests in the operation of the agency or otherwise as, in the opinion of the Governor, may likely affect prejudicially the discharge by him of this official function; or
- (f) he has been absent from three consecutive meetings of the agency without good reason or excuse.

6. Co-option of persons

Where on any occasion the Agency desires to obtain the advice of any person on any particular matter, the Agency may co-opt such person to be a member for such meeting or meetings as may be required, and such person, whilst so co-opted, shall not be entitled to vote on any question.

7. General function of the Agency

The principal function of the Agency shall be—

- (a) the undertaking of planning, design, construction and maintenance of all Small Town Water Supply facilities including; Rural Motorised boreholes based scheme, hand pump equipped boreholes, open wells, open hand dug wells and cattle or earth dams; for residents under 5,000 inhabitants;
- (b) the planning, designing, or training for operation and maintenance of all aspects, of rural sanitary infrastructure including pit latrines, water closets, waste water disposal and solid waste disposal;
- (c) undertaking public enlightenment, training and mobilization for community participation in all its programmes;

- (d) determination of all activities in its administration and finance, as well as making inter-Governmental and non-Governmental linkages;
- (e) the undertaking of the Agency'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.

8. Power of the Agency

(1) For carrying out its functions under this Law, the Agency shall have the power to carry out all activities which it considers necessary, advantageous or incidental thereto.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section the powers of the Agency shall include powers—

- (a) to adopt with or without amendments such master plans for the maintenance and development of its undertakings as its officers may prepare from time to time;
- (b) to manufacture or purchase from anywhere such water supply facilities and sanitary infrastructure and spare parts as the Agency may consider necessary;
- (c) to carry any water pipe through, across or under any street or any place laid out or intended as a street, and after giving reasonable notice in writing to the owner or occupier thereof, into, through or under any land, whatsoever without paying any compensation but making good any damage done;
- (d) from time to time to determine any surface or underground waters for the purpose of determining whether any pollution exists and the causes thereof;
- (e) 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 time, to enter into or upon any tenement for the purpose of carrying out its functions under this Law;
- (f) to enter into such contract as may be necessary, advantageous or expedient for the performance of its functions under this Law;
- (g) to acquire, purchase, lease, mortgage, hold, construct, manufacture or maintain any property whatsoever, whether movable or immovable, required for or in connection with the performance of its function and to sell, dispose of or otherwise deal with such property or any part thereof;
- (h) to enter into any agreement with any person for the supply, construction, manufacture, maintenance or repair of any property whether movable or immovable;
- (i) to do anything for the purpose of advancing the skill of persons employed by the agency or the efficiency of equipment of the Agency or the manner in which the equipment is to be operated, including the provision of facilities for training, education and research;
- (j) to accept or acquire and hold any security of any kind in any form whatsoever;
- (k) to surrender, transfer or re-assign any security held by the Agency whether upon exchange for another security or upon discharge;

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(l) in relation to any security held by the Agency, to exercise any power, right or privilege in respect thereof which private individuals would be capable of exercising in like circumstances;

(m) to make, draw, accept or endorse negotiable instruments;

(n) to organize the conduct of comprehensive research for the purpose of the Agency from time to time on matters relating to its functions under this Law, and to submit the result of such research to the Chairman for the utilization of the same;

(o) to insure its property against all forms of risks;

(p) with the approval of the Governor, to write off bad debts;

(q) to collect operation and maintenance charges from the recipient community.

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

9. Power to confer additional function on the Agency

The Governor may by order confer on the Agency such other additional functions as he may think fit being either—

(a) functions of a kind similar to the functions specified in sections 7 and 10 of this Law;

(b) functions which in the opinion of the Governor can be conveniently exercised by the Agency in association with the functions so specified.

10. Control of existing water supply and sanitation facilities

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

(a) to control and manage all small town supply facilities and sanitary infrastructures vested in it under the provisions of this Law;

(b) to establish, manage, control, extend and develop new rural water supply facilities and sanitary infrastructures and develop such existing ones as the Agency may consider necessary for the purpose of providing water, sanitary infrastructure and health education to the general public in the rural areas of the state.

11. Appointment of Managing Director

(1) There shall be an officer of the Agency to be known as the Managing Director, who shall be professionally qualified as Water Engineer, Sanitary Engineer or Public Health Engineer with sound relevant experience.

(2) The Managing Director should be appointed by the Governor.

(3) The power to commence disciplinary action over the managing Director shall be vested in the Board.

(4) The exercise of the powers conferred by subsection (3) of this section shall be subject to the provisions of any regulations or rules that may be made under sections 17 and 18 of this Law.

12. Other staff, etc., of the Agency

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

(2) The staff of the Agency may be drawn from such agencies as JARDA, WARDA and other Ministries, Parastatals and Establishments in the State subject to the rules and procedure governing the secondment of public officers.

(3) Service in the Agency shall be Pensionable services accordingly, the Directorate of Establishment shall be responsible for the payment retiring benefits to all eligible staff of the Agency at the same rate as may be payable to Civil Servant in the State.

13. Power to make regulations relating to employees of the Agency

(1) The Agency may, with the approval of the Board and subject to the provisions of this Law make regulations with regard to the appointment, promotion, transfer and dismissal or the exercise of disciplinary control over its employees.

(2) Without prejudice to the generality of the foregoing provisions, the Agency may make regulations on any of the following matters—

- (a) the qualification required for appointment to any post;
- (b) the procedure of appointment (including probation and confirmation);
- (c) the form of any agreements to be entered into between the Agency and its employees;
- (d) the procedure and requirement for promotion of each cadre of staff;
- (e) the maintenance of discipline (including dismissal and termination of appointment);
- (f) the transfer of employees between the Agency and the Government of the State or any other State, Local Authority, Statutory Corporation or body; and
- (g) such other matters relating to departmental procedure, duties and responsibilities of employees as the Agency may deem fit.

14. Funds and resources of the Agency

(1) The funds and resources of the Agency shall consist of—

- (a) all sums, investment or other property whatsoever vested in the Agency by the government;
- (b) such sums or other property whatsoever as may from time to time be advanced by way of loan or grant to the Agency by the Government;

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- (c) such sums or other property whatsoever as may from time to time be Advanced by way of loan or grant to the Agency by any Government, Authority, Statutory Corporation or any Governmental Organization in Nigeria including International Organizations, Private Foundation or any Person whatsoever;

- (d) any fees or charges which the Agency may levy for its services.

(2) The following charges shall be defrayed out of the revenue of the Agency in any financial year—

- (a) the salaries, fees and allowances of the members;
- (b) the salaries, remuneration, fees, allowance of the officers, servants, other employees agents, and technical or other advisers or consultants to be employed by the Agency;
- (c) all expenses of managing the affair of the Agency and its properties, including proper provision for depreciation or renewal of assets;
- (d) such work of capital nature as the Agency may from time to time deem necessary;
- (e) such sums including compensation which may be payable by the Agency to any person or authority under the provisions of this Law or any other law;
- (f) interest on any loan raised by the Agency;
- (g) sums required for granting of loan to its officers and servants for such purposes and on such terms and conditions as the Agency may approve; and
- (h) such other sums as the Chairman may approve for payment out of the revenue account of the Agency in respect of any financial year.

15. Loans and grants by the Government and advance account for working capital

(1) It shall be lawful for the Government to make to the Agency—

- (a) grants of any sum or property as the government may deem fit; and
- (b) loans upon such terms as to repayment, payment of interest or otherwise as the Government may determine.

(2) The Agency shall in respect of any money (other than grants) advanced by the Government as working capital for the Agency, create an advance account in favour of the Government of an amount equal to the sum of money so advanced.

(3) The advance account referred to in subsection (2) shall be subject to such condition as to interest and repayment as the Governor may from time to time determine.

16. Power to borrow

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

(2) The power of the Agency to borrow shall be exercisable only with the approval of the Governor as to the amount of the loan, and the sources of borrowing; the approval given for the purpose of this subsection may be of a general nature or limited to a particular borrowing.

17. Operational regulations

The Agency may, with the approval of the Governor, make for the better carrying out of the provisions of this Law and, without prejudice to the generality of the foregoing, make regulations for all or any of the following matters—

- (a) the price of or charge for water supply or revenue collection from the recipient community for operation and maintenance of facilities;
- (b) contributions by the community for the capital cost of the provision of facilities;
- (c) the levying of a special rate or charge for the service of the Agency;
- (d) the officer to whom the office at the rate charge or rent shall be paid and whether such rate, charge or rent shall be payable monthly, quarterly, half-yearly or otherwise including payment in arrears, half-advance and the date on which the first payable of such rate or charge shall become due;
- (e) the charge or fees (if any) to be paid for refuse disposal; and
- (f) the way or manner of discharging its functions under this Law.

18. Recovery of charge or fees

If any person fails to pay any charge or fees for which he is liable within one month after the same has become due and payable, the Agency may recover the same costs in any Court of competent jurisdiction.

19. Bearing expenses

(1) If any person, governmental department or authority does any act or thing and such action necessitates the making of alternation in any area, equipment or facility for rural water supply or sanitary infrastructure of the Agency, such person, government, governmental department or authority shall bear the expense of the said alteration.

(2) In the event of any dispute arising as to the amount of such expenses between the parties an arbitrator may be appointed by the Chairman to arbitrate between the parties.

20. Account, audit and estimate

(1) The Agency shall—

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

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

(3) The said annual statement of account shall be audited by an Auditor or Auditors to be appointed annually by the Agency, and the remuneration of the Auditor shall be paid by the Agency on approval by the Board.

(4) As soon as the Agency shall be established, it shall submit to the Board with a copy of the

(5) Before the Board shall approve the estimate of its revenue and expenditure for the year, the Board shall provide under

21. Annual report

The Board shall submit to the Governor a report dealing with the

22. Establishment

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(4) As soon as the said annual statement of account has been audited as aforesaid, the Agency shall forward to the Governor a copy of the said statement of accounts together with a copy of the report made by the auditors.

(5) Before the commencement of each financial year the Agency shall prepare an estimate of its revenue and expenditure for that financial year and submit the same to the Board for approval so however that the Board shall have power to disallow or reduce the provision under any item in the estimate as may be considered necessary.

21. Annual report

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

22. Establishment of Local Government Rural Water Supply and Sanitation Unit

(1) There shall be established in each Local Government Area of the State a Rural Water Supply and Sanitation Unit which shall consist of the following officers—

- (i) Head of Works Department Chairman
- (ii) Head of Community & Social Department Member
- (iii) Sectional Head (Sanitary Inspection) Member
- (iv) Sectional Head (Buildings) Member
- (v) Staff Officer Secretary
- (vi) Account Officer Member
- (vii) and such other supporting staff as the Water Supply and Sanitation Unit shall determine.

(2) The functions of the Local Government Rural Water Supply and Sanitation Unit shall be—

- (i) to co-ordinate and support all activities of the sub-sector within the Local Government Area;
- (ii) to supervise, monitor and co-ordinate all activities on a day to day basis;
- (iii) to ensure universal access to safe Water Supply and Sanitation to all communities within its domain;
- (iv) to provide information on communities, technology options and designs for Water Supply and Sanitation;
- (v) to assist communities in the operation and maintenance of facilities and to provide support for solving technical problems;
- (vi) to monitor and report programme implementation on a monthly basis with regards to coverage and performance of the Water Supply and Sanitation programmes;
- (vii) to implement a programme of information, education, communication and community mobilization for the purpose of ensuring sustainability and impact of the sanitation and hygienic education programme;
- (viii) to develop and support a system of community procurement and maintenance of facilities through involvement of caretakers/mechanics, and other council organizations.

23. Offence and penalty

(1) Any person who—

- (a) wilfully or negligently damage any water supply facility or any sanitary infrastructure; or
- (b) pollutes any such water or allows any fuel, liquid, gas or, other noxious or injurious matter to enter into any water work,

shall be guilty of an offence and be liable on conviction to a fine not exceeding ten thousand naira (₦10,000.00) or imprisonment for a term not exceeding twelve months; where the offence is of a continuous nature, to a further fine of one thousand naira (₦1,000.00) for every day during which the offence continues after notice in writing requiring the same to be stopped.

[Paragraph (b) amended by Law No. 14 of 2012.]

(2) Any person who alters, causes or permits to be altered any service facility without the consent of the Agency or contrary to any regulation made under this Law, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand naira (₦5,000.00) or to imprisonment for a term not exceeding six months.

[Subsection (2) amended by Law No. 14 of 2012.]

24. Execution of instruments

(1) Any contract or instrument which if entered into or executed by a person not being a body corporate is not required to be under seal may be entered into and executed on behalf of the Agency by any person generally or specifically authorized in that behalf.

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

25. Standing orders

The Agency may, with the approval of the Government, from time to time make standing orders regulating the Proceedings of the Agency or any committee thereof for proper conduct of its business and in particular for—

- (a) the custody and use of the common seal;
- (b) the method of entering into agreement;
- (c) the signing of cheques and other instruments;
- (d) such other matters as the Government may direct.

26. Service of Notice, etc.

Service upon the Agency of any Notice, order or other documents may be effected by delivering the same or by sending it by registered post addressed to the Secretary of the Agency.

27. Procedure and me

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28. Liability of memb

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29. Special direction

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*Small Town Water Supply and Sanitation Law***27. Procedure and meeting**

(1) Subject to the provisions of this Law, the Board shall meet at such time as may be expedient for the transaction of business and such meetings shall be held at such places and time as the Board may determine.

(2) The Chairman, or any members of the Board may at any time call for a special meeting of the Board to discuss matters of special or urgent nature.

(3) All meetings of the Board shall be presided over by the Chairman or, in his absence, by any member present.

(4) The Chairman, or any other member presiding at a meeting of the Board, shall have original and casting vote.

(5) At any meeting of the board three members shall form a Quorum.

(6) The validity of any proceedings of the Board shall not be affected by any vacancy among its members or any defect in the appointment of a members.

28. Liability of members

No member of the Agency shall be personally liable for any act or default of the Agency done or omitted to be done in good faith in the course of the operation of the Agency.

29. Special direction

Notwithstanding anything contained in this Law the Governor may give the Agency general or special direction as to the exercise by the Agency of its powers under this Law especially the disbursement of its funds for any reason and the Agency shall comply with such direction.