

CHAPTER 42

ENVIRONMENTAL PROTECTION

ENVIRONMENTAL PROTECTION AGENCY LAW

(17 September 1996)

Citation and
commencement

1. The Law may be cited as the Yobe State Environmental Protection Agency Law and shall come into force on the 17th day of September 1996.

Interpretation.

2. In this Law unless the context otherwise require:

“Agency” means Yobe State Environmental Protection Agency set up under section 3 of this Law;

“Council” means the governing council body set up under section 4 of the Law;

“General Manager” Means the Chief Executive of the Agency under section 10 of this Law;

“NGO” Means non-governmental Organization;

“Commissioner” means Commissioner for Health;

“Court” means the Environmental Sanitation Court, for the avoidance of doubt any reference in this Law to any court shall be construed to a reference to the Environmental Sanitation court;

“Government” means Yobe State Government;

“Health Officer” includes a medical officer, a sanitary inspector, a sanitary overseer, a health inspector and other health staff whether in the service of the State or Local Government;

“Medical Officer” means a qualified medical practitioner employed in the service of the State Government;

“Nuisance” means any of things listed in schedule 1 to this Law;

“Person” includes any company or association or body of persons, whether incorporated or not;

“Secretary” means the Secretary of the Agency appointed under section 13 of this law;

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

"Technical Committee" means the Yobe State Environmental Protection Agency Technical Committee;

"Unhealthy food" means any food unfit for human consumption and includes carcass, contaminated food etc.

"Premises" includes buildings, land, vehicles, tents, drains, ditches and places whether open or enclosed; and

"State" means the Yobe State of Nigeria.

Establishment.

3. (1) There is hereby established a body to be known as the State Environmental Protection Agency (hereinafter in this Law referred to as "Agency") which shall be a body corporate with a perpetual succession and a common seal, and may sue and be sued in its corporate name.

(2) The Agency shall have such functions set out in section 7 of this Law.

Constitution of
the Governing
Council

4. (1) There shall be as the governing body of the Council, a Council which shall consist of the commissioner for Health who shall be the Chairman and representative of the Departments.

- (a) Agriculture;
- (b) Works;
- (c) Housing;
- (d) Health;
- (e) Finance;
- (f) Justice;
- (g) Land and survey;
- (h) Education;
- (i) Trade and Industries;
- (j) Police;
- (k) Department of Local Government Affairs;
- (l) 2 members from the private sector or who distinguished themselves in environmental matters; and
- (m) General Manager (SEPA).

(2) Where the Chairman is unable to attend a meeting of the council, the Permanent Secretary Ministry of Health shall preside the meeting;

(3) Subject to section 2 of this Law a member who is not a public officer:

(a) Shall hold office for a period of four years from the date of his appointment and shall be eligible for reappointment for one further term of four years only;

(b) Shall be paid such remuneration and allowances as the Governor may from time to time determine.

(4) The supplementary provisions contained in the schedule 3 of this Law shall have effect with respect to the proceedings of the agency and the other matters therein mentioned.

5. Any member other than ex-officio member may at any time resign his office by notice in writing under his hand addressed to the Governor.

Resignation of
members.

6. (1) There is hereby established an Environmental Protection Committee.

Establishment of
the Technical
Committee.

(2) The Technical committee shall consist of the following members, that is :

(a) a chairman who shall be the General Manager and Chief Executive of the Agency.

(b) Three persons having a wide knowledge and possession of skills and expertise in environmental matters to be appointed by the Governor.

(c) One representative from each of the following ministries and departments not below the rank of Director, that is:

(i) Agriculture;

(ii) Works

(iii) Housing;

(iv) Health;

(v) Finance;

- (vi) Justice;
- (vii) Lands and Survey;
- (viii) Education;
- (ix) Commerce, Industries and Tourism
- (d) a representative from each of the following:
 - (i) Manufacturers Association of Nigeria;
 - (ii) a renowned NGO
 - (iii) Federal Environmental Protection Agency (FEPA)
- Zonal or Field Officer;

(3) The functions of the Technical Committee shall be:

- (e) to assist and advise the council and the Agency in the performance of their functions under the Agency, and
- (f) to give technical opinion on issues referred to it or delegated by the Council.

Function of the
Agency.

7. The Committee shall have the following functions:
- (1) Collection and disposal of both wet and dry refuse including human waste;
 - (2) Street cleaning and maintenance;
 - (3) Cleaning and maintenance of township drainage;
 - (4) Enforcement of all the provisions of this Law;
 - (5) Sanitary inspection of all premises including abattoirs;
 - (6) Control and abatement of nuisance;
 - (7) Control and sanitary inspection of all food premises;
 - (8) Industrial and residential premises hygiene;
 - (9) Control of industrial waste (liquid emission) and air pollution;
 - (10) Control of air and water pollution;
 - (11) Burial of paupers;
 - (12) Control of insects, vermin, flies, mosquitoes, etc;
 - (13) Investigation and reporting of infectious diseases;
 - (14) Disinfection and disinfestations of premises and articles;
 - (15) Market sanitation;
 - (16) Installation of refuse collection devices at appropriate points in the town;
 - (17) Arrest of stray animals;

- (18) Prevention of consumption of unhealthy and dangerous foods;
 - (19) Protection and development of the environment in the state;
 - (20) In consultation with FEPA, ensure implementation and enforcement of FEPA'S regulations in the states;
 - (21) Ensure the production of annual state of the environment report;
 - (22) Collaborate with FEPA in conducting public investigation on major environmental pollution;
 - (23) Co-operate with Federal and State Ministries, Local Government Councils, statutory bodies, research and educational institutions on matters relating to environmental protection;
 - (24) Carry out such other activities as are necessary or expedient for the full discharge of the functions of the Agency under this Law;
 - (25) Establish programmes for the protection of the State environment;
 - (26) Encourage and promote the coordination of environment related activities at all Local Government levels; and
 - (27) In collaboration with FEPA, conduct public investigation on pollution.
8. In carrying out the functions prescribed in section 7 of this Law and in other provisions therein, it shall be lawful for the Agency to:
- i. make grants to NGOs and other bodies with similar functions for demonstrations and for such other purposes as may be determined appropriate to further the purpose and provisions of this Law;
 - ii. collect and make available through publications and other appropriate means and in cooperation with public or private organizations, basic scientific data and other information pertaining to pollution and environmental protection matters in the area;
 - iii. enter into contract with public or private organization or individuals for the purpose of executing and fulfilling its functions and responsibilities pursuant to this Law;

Powers of the
Agency.

- (4.) establish, encourage and promote training programme for its staff; and other appropriate individuals from public or private organizations;
- (5.) enter into agreements with public or private organizations and individuals to develop, utilize, coordinate and share environmental monitoring programmes, research, basic data on chemical, physical and biological effects of various activities on the environment and other environmental related activities as appropriate;
- (6.) establish advisory bodies composed of administrative, technical or other experts in such environmental areas as the Agency may consider useful and appropriate to assist it in carrying out the purposes and provisions of this Law.
- (7.) Advise the government on bye-laws for the protection of the state environment, subject to FEPA's criteria, guidelines and standards.

Powers of the Agency.

9. Subject to this Law, the Governor may give to the Agency directions of a general nature or relating generally to particular matters, but not to any particular individuals or case with regard to the performance by the Agency to comply with the directions.

Appointment of General Manager.

10. The Governor shall appoint General Manager for the Agency upon such terms as to emoluments or otherwise as may be determined.

Appointment of General Manager.

11. (1). The General Manager shall be the Chief Executive Officer of the Agency who shall be a qualified Public Health Officer and shall have ultimate responsibility for:

- 1. execution of policies laid down in respect of all projects of the Agency.
- 2. General supervision and organization of the various divisions of the Agency.
- 3. Coordination of the projects and accounts of the various divisions of the Agency.
- 4. Performing any other duties as the Agency may from time to time determine ; and

5. Carrying out any of the Agency functions specially assigned to him by the Agency or the Chairman.

(2). The Agency may appoint such other persons to be employees of the Agency as it may deem fit.

(3) The remuneration and tenure of office of employees (other than the General Manager) shall be determined by the Agency with approval of the Governor.

(4) Agency shall have the power to make, with the approval of Governor staff regulations governing conditions of service of its employees.

12. - (1) It is hereby declared that service in the Agency shall be public service for the purposes of the Yobe State Pensions Law and accordingly officers and other staff Agency in respect of their services be entitled to such pensions, gratuities and other retirement benefits as prescribed thereunder.

Pension Law.

13. (1) The Agency shall appoint a Secretary on terms provided for in section 18.

Appointment and duties of the Secretary.

(2) It shall be the duty of the Secretary to conduct the correspondence of the Agency and generally to assist the coordinator in the implementation and execution of the policies and decisions of the Agency.

(3) Without prejudice to the foregoing provisions of this section the Secretary shall be responsible for the following matters, that is to say;

- (a) making arrangements for meetings of the Agency.
- (b) preparing the agenda and recording the minutes of meetings of the Agency.
- (c) conveying decisions of the Agency to members;
- (d) arranging for payment of fees and allowances of meetings and all other matters affecting the members of the Agency and

shall perform all other duties which may be specially assigned to him by the General Manager.

14. - (1) Subject to the provisions of this Law, the Agency at the initial stage may employ such officer of the public service of the State or Local Government Councils as may with agreement of the officers be seconded to the services of the Agency for two years.

Secondment of
Employees.

Appointment of
other staff.

(2) Such Officer's emoluments and allowances shall be paid by their respective Ministries until the expiration of the secondment:

(3) Subject to the provisions of this Law, the Staff of the Agency shall be appointed by the Civil Service Commission in conjunction with the General Manager of the Agency.

State Power to
accept gifts.

15. (1) Subject to subsection 2 of this section, the Agency may accept gifts of lands, money, books or other properties upon such terms and conditions, if any, as may be specified by the person making the gift.

(2) The Agency shall not accept any gift if the conditions attached thereto by the person making the gift are inconsistent with the functions of the Agency under this Law.

Sources of
funding

16. (1) The Agency shall establish and maintain a fund from which shall be defrayed all expenses incurred by the Agency.

(1) grant from the State Government:

(2) such sums as may, from time to time, be granted to the Agency by the Federal Government (State).

(3) All moneys raised for the purposes of the Agency by way of gifts, grants-in-aid, testamentary disposition and sales of publications;

(4) All subscriptions, fees and charges for services rendered by the Agency from any source except fines and sanctions.

Annual Estimates
Account and
Audit.

17. (1) The Agency shall prepare, not later than 6 months before the end of each year, an estimate of the expenditure and income of the Agency during the next succeeding financial year and when prepared, shall be submitted to the Environmental Governing Body.

- (2) The Agency shall cause to be prepared accounts and records in relations thereto, and when certified by the Agency such accounts shall be audited.

State
Environmental
Standards.

18. The Agency shall implement National Standards on quality controls as set by FEPA as its minimum.

19. There is hereby established for each Local Government in the State, Local Government Environmental Protection Committee and Local Government Environmental Protection Technical Committee.

Local
Government
Environmental
Protection
Agency

20. (1) Save the Ex-officio members the Chairman and 3 members mentioned in paragraph (h) of section 21 shall be appointed by the Governor.

21. The Committee shall comprise of the following:

- (a) the Chairman.
- (b) Ministry of Health
- (c) Ministry of Land and Survey
- (d) Ministry of Justice
- (e) Ministry of Information
- (f) Business Community
- (g) Representative of NGOs
- (h) 3 other persons representing vary interest group to be appointed by the Governor.
- (i) State Environmental Protection Agency

22. The Local government Environmental Protection Committee shall have the power to carry out all the functions of the agency as enumerated in section 7 of the principal Law as far as it is practicable but shall be subject to the control and direction of the State Agency.

23. The Local Government Technical Committee shall consist of the Councilor for Health as Chairman and following representative

as members:-

- (a) The Coordinator for Health
- (b) Representative of Works Department
- (c) Representative of Finance Department
- (d) Representative of Police, SSS and other Para-military Organizations.
- (e) NOA
- (f) State Environmental Protection Agency field officer.

24. The function of the Local Government Technical Committee shall be:-

- (a) to assist the Local Government Environmental Protection Committee and the council in the performance of their duty under this Law, and
- (b) to give technical opinion on issue referred to it or delegated by the Local Government Committee.

Powers to make standing order.

25. Each Local Government Council shall be encouraged to set aside certain percentage of their allocation from Federation Accounts not exceeding 2% to be reserved for Environmental Protection.

Ad-hoc Committee.

26. The LGEPC shall cooperate with FEPA in the enforcement of Decrees number 58 of 1988 (as amended) which established FEPA.

27. The Committee may make standing orders for the regulations of its proceedings.

Quorum.

28. - (1) Subject to its standing orders, the LGEPC may appoint such number of Standing Committees as it thinks fit to consider any matters with which the LGEPC is concerned.

- (2) Every Committee appointed under the foregoing provisions of this section shall be presided over by a member of the Committee and shall be made up of such number of other persons as the committee may determine in each case.

- (3) The quorum of any Committee set up by the LGEPC shall be as may be determined by the LGEPC.
- (4) Where standing orders made pursuant to paragraph 1 of schedule 3 provide for a Committee of the LGEPC to consist of co-opted persons who are not members of the Committee, the Co-opted members may advise the LGEPC on any matter and the members thereof may attend any meeting of the LGEPC for that purpose.

29. – (1) The seal of the LGEPC shall be such as may be determined by the Council and shall be authenticated by the Chairman and Secretary.

Seal of the
Agency.

(2) The Seal shall be judicially noticed.

(3) 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 executed on behalf of the Agency by the coordinator or by any other person generally or specially authorized to act for the purpose by the Committee.

(4) Any document purporting to be a contract instrument or other document duly signed or sealed on behalf of the LGEPC shall be received in evidence and shall, unless the contrary is proved, be presumed without further proof to have been so signed or sealed.

30. The validity of any proceedings of the council or of a Committee thereof shall not be adversely affected by:

Validity of
Proceedings

- a. any vacancy in the membership of the Council or any committee thereof; or
- b. any defect in the appointment of a member of the council or a committee thereof.

31. Any member of the Council thereof who has a personal interest in any contract agreement entered into or proposed to be considered by the Agency shall forthwith disclose such interest to the council and shall not vote on any question relating to the contract agreement.

32. No staff/member of the Agency shall be held personally liable for any act done or omission made in good faith while in the business of the Agency.

Liability of
Members and
Staff of the
Agency.

33. The Agency may assign a Medical Officer to be in charge of any area, for the purposes of this Law.

Appointment of
Medical Officer.

34. A Medical Officer shall have the power, personally or through other Health Officers to:-

Powers of a
Medical Officer

- a. enter and inspect premises at reasonable hours in order to detect any nuisance;
- b. direct sanitary work and give instructions generally to sanitary inspectors and occupiers of premises;
- c. order the destruction of any animal which he has reason to believe is likely to be agent in the transmission of an infectious disease; and
- d. cause any person suffering or suspected to be suffering from an infectious disease, to be moved to any other designated place to be detained there until he is no longer a danger to the public.

35. It shall be the duty of a Medical officer to:

- a. exercise the powers vested in him by this Law;
- b. inspect the area to which he is assigned and to abate any nuisance on it;
- c. serve an abatement notice on any person from whose act or default a nuisance or its continues, or on the owner or occupiers of the premises on which the nuisance arises, requiring him to abate the nuisance within a specified time, and to prevent a recurrence of the nuisance;
- d. inspect at reasonable hours any meat, poultry, game, fish, vegetables, grains, bread, flour or other provisions exposed for sale or any preparation for sale intended for human consumption; and

- e. where any of the things mentioned in (d) above is found to be unfit for human consumption, condemn and order same to be destroyed.

Right of Entry

36. – (1) A Health Officer may enter any premises and inspect at any time between the hours of six in the morning and six in the evening, for the purpose of examining a nuisance, to determine whether an abatement notice has been complied with or for serving an abatement notice.

(2) Where admission to premises is denied, any court of law may direct the person having custody of the premises to admit the Health officer into the premises, and if no person having custody of the premises is found, the court may authorize the Health officer to forcibly enter the premises.

37. – (1) It shall be the duty of every owner and occupier of any premises, to clear and keep free from all undergrowth, weeds, filth, rubbish and refuse of any description, the streets at the front, back and both sides of the premises, together with the drains, gutters and channels on the streets.

(2) Where there are two or more premises contiguous to any street, drain, gutter or channel and facing each other, the owner and occupiers of each premises shall be responsible for keeping clean only part of the street, drain, gutter or channel nearest to their premises.

38. Every owner or occupier of premises shall provide proper rubbish receptacles for the purposes of keeping rubbish, prior to removal of the rubbish to an authorized collection site.

Rubbish
Receptacles.

39. Every Local Government responsible for the collection of refuse shall make adequate provision for public dustbins for the purpose of receiving and incinerating rubbish.

Public Dustbin

40. – (1) It shall be the duty of every Local Government to make adequate provision for public conveniences at all strategic public places.

Provision of
Public
Conveniences.

(2) A person shall not defecate in an open space or public place.

41. – (1) There is hereby established for the purposes of this Law the Environmental Sanitation Courts to be presided over by a legal practitioner to be appointed by the Governor on the recommendation of Attorney General of the State.

Establishment of
Court.

(3) It shall be the duty of the Courts to speedily try and determine cases arising from or under this Law. For this purpose the State is divided into five Zones (as set out in schedule 2 hereto) with a Court for each Zone.

(4) A State counsel or a Police Officer shall prosecute all cases under this Law.

(5) The Court shall have all the powers, immunities and privileges of a Magistrate's Court.

Jurisdiction of
the Court.

42. The Court shall have the jurisdiction to try all cases or matters arising under this Law within its area of Jurisdiction.

Provided that an appeal from the decision of the Court shall lie to the High Court.

Power and
procedure of the
Agency

43. – (1) The Court shall have powers to try and to impose punishment provided by this Law and in addition the Court shall have powers:

- (a) to fine on the spot any person or body corporate that commits an offence under this Law.
- (b) To issue an abatement notice in appropriate cases on any owner, caretaker or occupier of any premises in respect of any nuisance:
 - (i) giving particulars of nuisance to be abated and

(ii) stating the period within which such nuisance shall be abated.

(2) Without prejudice to the provision of this Law, where at the expiration of the period stated under sub-paragraph (ii) of paragraph (b) of subsection (1) of section 36 of this Law, the Court shall summarily try the offender and impose appropriate penalty.

(3) The procedure of the court shall be the same as the procedure of the Magistrate Court.

Power of Arrest

44. A medical Officer, Health Officer or any other person authorized by the Court may arrest without warrant any person who commits an offence under this Law and that person so arrested may be arraigned before the Court for prosecution.

45. Any person who contravenes the provisions of this Law, or refuses to comply with an order or a directive by a Health Officer, commits an offence. Offences.

46. Any person who commits an offence provided by this Law, shall be liable: Penalty

(a) for the first offence, to a term of imprisonment not exceeding one month or to a fine not exceeding five thousand naira or both; in the case of a body corporate, to a fine not exceeding ten thousand naira and

(b) for subsequent offences, to a term of imprisonment not exceeding one month or to a fine not exceeding one thousand naira or both; in the case of a body corporate, to a fine not exceeding five thousand naira.

SCHEDULE 1

(a) Obstruction, excavation, throwing or laying on any street or tenement whether occupied or not, or on any space, other than place set out by the proper authorities for such purposes, any rubbish or offensive matter.

- (b) premises in such a condition as to be injurious to the health of person;
- (c) any noxious matter into any public street or into gutter or side channel of any street;
- (d) accumulation or deposit of rubbish of any kind, decaying animal or vegetable matter, whether in the form of refuse, manure, decayed or tainted food, or in any form whatsoever;
- (e) any stable, cow house, pigsty or other premises for the use of animals or birds which are in such a condition as to be injurious to the health of man, animals or birds;
- (f) any offensive trade not sited at an authorised place (dying pits, tannery, soap making etc);
- (g) premises on which helper or workmen are employed and where suitable and adequate sanitary conveniences are not provided;
- (h) any act, commission, place which is or may be dangerous to health, life or property;
- (i) excessive noise-making, misuse of public address system or indiscriminate blowing of horn; and
- (j) excessive air pollution by emission of smoke, fumes of dangerous gases and effluent by factories and manufacturing houses.

SCHEDDULE 2

ZONES	COMPOSITION	HEADQUARTERS
1.	Damaturu, Bursari, and Gujba	Damaturu
2.	Fika, Fune and Nangere.	Potiskum
3.	Bade, Jakusko and Yusufari	Gashu'a
4.	Machina and Nguru.	Nguru
5.	Gaidam and Yunusari	Gaidam

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SCHEDULE 3

SUPPLEMENTARY PROVISIONS RELATING TO THE AGENCY PROCEEDINGS

- 1 Subject to this Law and section 26 of the Environmental Protection Act (which provides for decisions of statutory body to be taken by a majority of its members and for the person presiding to have a second or casting vote), the Agency may make standing orders regulating the proceedings of the Agency or any Committee thereof.
- 2 Every meeting of the Agency shall be presided over by the Chairman or in his absence the meeting shall be presided by the Director General of the Agency.
- 3 The quorum of the meeting of the Agency shall consist of the Director General (or in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this schedule) and six other members.
- 4 Where upon any special occasion, the Agency desires to obtain the advice of any person on any particular matter, the Agency may co-opt that person to be a member for as many meetings as may be necessary; and that person so co-opted shall have all the rights and privileges of a member except that he shall not be entitled to vote.

