
CHAPTER 137

**WATER BOARD
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CHAPTER 136

WATER BOARD

YBS 1 of 1997.

WATER BOARD LAW

[30 August 1996]

Date of
Commencement

BE IT ENACTED BY THE OF YOBE STATE HOUSE OF
ASSEMBLY as follows:-

Enactment.

PART I -PRELIMINARY

1.-(1) This Law may be cited as the Yobe State Water Board
Law and shall come into force on the 30th day of August 1996.

Citation and
Application.

(2) This Law shall not apply to:-

(a) Water from such sources as may be declared under the
Constitution of the Federation to be sources affecting more than
one territory as defined in such constitution and;

(b) Water which is or may be used for such purposes as may be
specified in any order made by the Governor.

2. In this Law, unless the context otherwise requires:-

"**appointed date**" means the date on which this Law shall come into
operation.

"**assessed value**" in relation to a tenement means the capital,
annual or un-improved value at which the tenement is for
the time being assessed in accordance with the provision of the
Assessment Law.

"**the Board**" means the Yobe State Water Board.

"**catchment area**" means any area of land or water from which
water contributions to the supply of any water-works.

"the Chairman" means the Chairman appointed under section 4.

"the Commissioner" means the Commissioner for Agriculture and Natural Resources.

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

"excess consumption" means-

(a) in the case of a tenement in respect of which the general water rate is not payable, any quantity of water ascertained by meters as having been used in such tenement.

(b) in case of a tenement in respect of which the general waste rate is paid any quantity of water ascertained by meters as having been used in such tenement in excess of such monthly allowances as may be prescribed:

"financial year" means the twelve calendar months ending on the 31st day of December, of any year

"gathering ground" means any surface of land or water for the purpose of any water-works.

"the Government" means the Yobe State Government.

"health officer" includes a medical officer of health, a health inspector or other person acting under the authority, whether general or special, of the medical officer of health and, whether such health inspector or other person is serving in the medical or health departments of the state government or in the service of the local government.

"member" means a member of the Board and includes the chairman.

"meter" means any appliance used for measuring, ascertaining or regulating the amount of water taken or used from any water-works by means of any service.

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

"the Governor" means the Governor of the State.

"occupier" means the person in occupation of a tenement, but does not include a lodger.

"owner" means the person for the time being receiving the rent of the tenement in respect of which the word used, whether on his own account or as agent or trustee for any other person, or who would receive the rent if such tenement were let to a tenant, and includes the holders of a tenement direct from the State whether under a certificate of occupancy, lease, license or otherwise.

"Private supply" means a supply by means of service to and tenement for the purpose of supplying water to be used solely within the area of such tenement.

"public fountain" means any fountain, stand pipe, valve, tap or appliance used or intended to be used for or in any connection with the supply of water to the public from any water-works, and vested in or erected or hereafter to be erected by the Board and which is the property thereof.

"public supply" means a supply by means of any public fountain, stand pipe, valve, tap or other appliance for supplying water to the public other than a private supply.

"service" means all pipes, valves, cisterns, cocks, fittings and other appliances, other than a meter, by or through which water flows or is intended to flow from a water-works.

"the State" means the Yobe 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" means all reservoirs, ponds, bore-holes, galleries and wells which are used with a dam, weir, tanks, cistern, tunnel, filter-bed, conduit, aqueduct, main-pipe, fountain, sluice-valve, pump, engine or any other structure or appliance used or constructed for the storage, conveyance, supply, measurement or regulation of water.

PART II - ESTABLISHMENT, CONSTITUTION AND FUNCTION OF THE BOARD

Establishment of
the Board.

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

Constitution
of the Board

4.-[1] The Board shall consist of a Chairman and the following other members:-

(a) The General Manager.

(b) The Permanent Secretaries of the following Ministries:-

(i) Water Resources.

(ii) Finance and Economic Planning.

and

(iii) Health.

(c) Representative of the Governor's office.

(d) One person from the Federal Ministry of Water Resources, resident in the State.

(e) Other persons chosen in such a way that each of the Local Government areas of the State is represented. Such persons should be retired civil servants, persons of proven integrity and fairly educated.

[2] The Chairman and other members shall be appointed by the Governor and shall hold office for a period of four years from the date of appointment and may be eligible for re-appointment. There shall be a Secretary to the Board whose functions will include among others:

(i) Facilitation and coordination of all activities pertaining to Board meeting.

(ii) Taking minutes and making available all proceedings of Board meetings to members.

(iii) Taking custody of Board's seal.

(iv) Any other function as directed by the Board.

Supplementary
provisions

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

6. It shall be the duty of the Board subject to the provisions of this Law:-

Functions of the
Board

(a) To control and manage all water-works vested in the Board under the provisions of this Law.

(b) To establish, control, manage, extend and develop such new water-works and to extend and develop such existing ones as the Board may consider necessary for the purpose of providing water, in order to meet the requirements of the general public, livestock, agriculture, trade and industry in the State.

(c) To organise the conduct of comprehensive research for the purpose of the Board from time to time on matters relating to its functions under this Law and to provide the result of such research for the utilization of the same in the formulation of policy relating to the supply and usage of water in the State, and:

(d) To ensure that water is supplied to the consumers thereof at reasonable charges and in potable quality and adequate quantity.

(e) To make arrangements and enter into agreements with any persons, department or office of the Government or any other body, institution, or to delegate authority to any of its members, officers, employees, servant, or agents, for the exercise, performance, or provision by that person, department, office, body, institution, member, officer, employee, servant or facilities which may be exercised, performed or provided by the board under this Law.

(f) To provide technical and consultancy services, training, publication, etc as it may relate to water resources development and management.

7.-[1] Subject to the provisions of this Law, the Board shall for the purpose of carrying out its functions under this Law have power to carry on all activities which are necessary, advantageous or convenient.

Powers of the
Board

[2] Without prejudice to the generality of the provisions of the subsection (1), the powers of the Board include power:-

(a) To adopt with or without amendments such master plans for the maintenance and development of its undertakings as its

officers may prepare and submit from time to time:

- (b) To construct, reconstruct, maintain and operate water-works and all other stations, building and works, necessary for the discharge of its functions under this Law.
- (c) To carry any water pipe through, across or under any street or any place laid out or intended as a street, and, after giving reasonable notice in writing to the owner or occupier thereof, into, through or under land whatsoever without paying any compensation but making good any damage done.
- (d) To abstract water from any Lake, river, stream or other natural sources and construct water dams.
- (e) From time to time, to examine any surface or underground waters for the purpose of determining what, if any, pollution exists and the causes thereof.
- (f) To enter upon any land at any time for the purposes of laying, examining, repairing or removing any water-pipe the property of the Board.
- (g) Construct public fountains in any street or other public place.
- (h) At any time between the hours of six o'clock in the morning and six o'clock in the afternoon, or in cases of urgency at any other time, to enter into or upon any treatment into or upon which water from any water-works supplied or flows, so as:
 - (i) to inspect any service or meter and ascertain whether there is any waste, leakage, obstruction or damage to any service or meter therein or anything in connection therewith;
 - (ii) to ascertain the amount of water taken or used or;
 - (iii) to disconnect the supply of water to any tenement, or to diminish, withhold, or divert the supply of water to any tenement through or by means of any service, either wholly or in part;
- (i) To diminish, withhold, or suspend, stop, turn off or divert the supply of water through or by means of any service or public fountain either wholly or in part whenever the Board shall think necessary or proper and without prejudice to any liability to pay any water rate, meter rate, or other sums due or to become due under

(r) With the approval of the Governor, to invest money standing to its credit, and not for the time being required for its purpose under this Law, in stocks, shares, debentures or other securities whatsoever to sell such stocks, shares, debentures or other securities.

(s) To enter into any commitments, agreement or other arrangement in respect of the provision, supply or sale of water.

(t) To insure its property against all forms of risk.

(u) with the approval of the Governor, to write off bad debts.

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

Appointment of
Ad Hoc
Committee

8[1] Subject to the provision of this section the Board may appoint one or more committees to advise or make any other action as to the initiation, administration or progress of any project which the Board may undertake or in which it may participate, or for any other purpose, whether general or special, relating to the function of the Board, which in the opinion of the Board would be better regulated or managed by means of a committee, and may delegate or a committee so appointed, with or without restriction or conditions any function exercisable by the Board under this Law. Provided that the power to make rules or regulations or to borrow money shall not be delegated to any committee by the Board.

[2] The number of members of any committee appointed under this section, the Chairman of the committee, the term of office and remuneration of the members shall be such as the Board may

specify

[3] Any committee appointed under this section may include persons who are not members of the Board but who possess such special qualifications or experience as in the opinion of the Board would prove beneficial to the work or purpose of the Committee. Provided that majority at least of the members of every Committee shall be members or officers of the Board.

9[1] The Governor may, after consultation with the Board, give to the Board such general directions as to the discharge by the Board of its functions under this Law as it appears to the Governor to be necessary to ensure conformity by the Board with the policy of the Government for the time being in force in respect of the supply and distribution of water in the State, and the Board shall give effect to any such directions.

Powers of the
Governor to give
directive.

[2] The Governor may, after consultation with the Board, give to the Board specific directions for the purposes of remedying any defect which may be disclosed in the arrangements of the Board for discharge of its functions under this Law and the board shall give effect to any such directions.

[3] The power conferred by sub-section [2] on the Governor shall include power to give directions prohibiting or limiting any expenditure proposed to be incurred by the board which appears to the Governor to be excessive or unnecessary.

[4] The Board shall afford to the Governor facilities for obtaining information relating to the assets and liabilities and functions of the board, and shall furnish him with returns, accounts, meetings, and other information relating thereto, and shall afford to him facilities for verification of the information furnished, in such manner and at such time as he may require.

PART III - FINANCIAL PROVISIONS, ASSETS AND LIABILITIES OF THE BOARD

Assets of the
Board

10[1] All water-works which are used or have been constructed by or on behalf of the Government and are the property thereof immediately before the commencement of this Law, shall, as from the commencement of this Law vest in the Board by virtue of this Law and without further assurance, and such vesting shall extend to the whole of the water-works (hereinafter referred to as the transferred water-works) including all lands, works and other property, assets, powers and privileges appertaining thereto or held or enjoyed in connection therewith.

[2] All liabilities and obligations of the Government in respect of any transferred water-works falling due to be discharged on or after the appointed date shall, as from that date, become the liabilities and obligations of the Board.

[3] Every deed, bond, agreement, instrument and working arrangement to which the Government as a party for the construction or otherwise in respect of any transferred water-works, shall subject to the provisions of this section, and unless the circumstances otherwise require, have effect as from the appointed day as if:-

(a) the Board has been a party thereto;

(b) for any reference to the Government therein there were substituted as respects anything falling to be done on or after the appointed day a reference to the Board.

[4] Where, by the operation of any of the foregoing provisions of this section, any water-works, lands, works or other property, assets, powers, rights and privileges, are vested in the board, the Board and all other persons shall, as from the appointed day, have the same rights, powers and remedies (and in particular the same rights, and powers as to the taking and resisting of legal proceeding) for ascertaining, perfecting, protecting or enforcing as the circumstances may require, such water works, lands, works or other properties, assets, powers, rights or privileges of the board, and any legal proceeding by or against the Government pending on the appointed day in respect of the

same shall be continued by or against the board.

[5] In the section:-

"property", without prejudice to the generality of its meaning, includes buildings and appurtenance, stocks of fuel, parts, accessories, stores, materials, investment, funds, loans and accounts receivable and claims and liens.

11[1] The funds and resources of the Board shall consist of:

Funds of the
Board

(a) all sums, investments or other property whatsoever vested in the Board by the provision of section 10;

(b) such sums or other property whatsoever, as may from time to time be advanced by way of loan or grant to the Board by the Government or any local Government or Statutory Board in the State, or the Government of the Federation or any other Government in Nigeria or any agency or institution, any private foundation or any person;

(c) any investments or other property whatsoever acquired by or vested in the Board;

(d) money earned or arising from any investment or other property whatsoever acquired by or in the Board;

(e) all other sums (whether as water rates or water charges or otherwise) or other property whatsoever which may in any manner become payable to or vested in the Board in respect of its powers and duties or of any matter incidental thereto under this Law or by Virtue of the provisions of any other law.

[2] The following charges shall be defrayed out of the revenue of the Board or for any financial year:-

(a) The salaries, fees and allowances of the members;

(b) The salaries, remuneration, fees, allowances, pensions, gratuities and other retirement benefits of the officers, servants, other employees and agents, technical or other advisers of, or consultants to the board.

(c) all expenses of working and management of the Board and its water-works and other properties including proper provision for depreciation or renewal of assets:

- (d) such minor works of capital nature as the Board may deem necessary from time to time;
- (e) such sums including compensation which may be payable by the Board to any person or authority under the provisions of this Law or any other law;
- (f) taxes, rates and other levies payable by the Board under any law;
- (g) interest on any loan raised by the Board;
- (h) sums required to be transferred to any sinking fund or otherwise set aside for the purpose of debentures, stocks or other securities or the repayment of other loan;
- (i) such other sums as the Board may approve for payment out of the revenue account of the Board.

[3] The balance of the revenue of the Board for any financial year shall be applied:-

- (a) to the creation of a general reserve or such other reserve as the Governor may from time to time approve both in regard to their maximum amount and in other respects;
- (b) to the repayment of such interest or part thereto on the advance account referred to in section 12 as the State of the Board's affairs appears, in the opinion of the Board and with the approval of the Governor to warrant.

Grants
and Loans

12[1] It shall be lawful for the Government to make to the Board:

- (a) grants of any sums or property as the Government shall deem fit;
- (b) loans on such terms as to repayment of interest or otherwise as the Government may determine.

[2] The Governor may, if he deems it expedient so to do, waive in favour of the Board any right of or liability to the Government in respect of any property vested in the Board by or under the provisions of section 10.

[3] So soon as may be after the appointed date, the Board shall in respect of any moneys (other than grants advanced by the Government to provide working capital for the Board) create an advance account in favour of the Government of an amount equal to total sum of money so advanced.

[4] The advance account referred to in sub-section [3] of this section shall be subject to such conditions as to interest and repayment as the Governor may from time to time determine.

13[1] Subject to the provisions of this section, the Board may, by issuing debentures, stocks or other securities, or in any other manner, borrow sums required by it for meeting any of its obligations or discharging any of its functions under this Law.

Powers of the
Board to borrow
Money

[2](a) The power of the Board to borrow shall be exercisable only with the approval of the Governor as to the amount of the loan, the sources of the borrowing and the terms on which the borrowing may be affected, and the amount given for the purpose of this sub-section may be either general or limited to a particular borrowing:

(b) Approval of the Governor for the purpose of this section may be subject to such conditions other than conditions that may be imposed under paragraph (a), as he may specify.

[3] A person lending money to the Board shall not be bound to enquire whether the borrowing of the money is within the power of the Board.

14[1] if the Government makes a loans to the Board at any time in accordance with the provision of this Law, the Board shall, if required by the Governor, issue to the Government a debenture, or debentures of a nominal value equivalent to the sum of loaned.

Debenture of the
Government

[2] Debentures issued in accordance with the provisions of sub-section [1] shall bear interest at such rate, if any, and from such date as the Governor may specify.

PART IV - ADMINISTRATIVE ORGANISATION OF THE BOARD.

15[1] The Chief Executive Officer of the Board shall be the General manager who shall have ultimate responsibility for the carrying out of the policies and decisions of the Board in accordance with the provisions of this Law.

Appointment/tenure of Office of General Manager

[2] The General Manager shall be a person with relevant qualification and cognate experience in the Water Industry.

[3] The General Manager shall have secured tenure of office and may be eligible for re-appointment

[4] Power to appoint and exercise disciplinary control over the General Manager and to determine the terms and conditions of service as to remuneration or otherwise, shall vest with the Governor, and shall also be subject to the provisions of any regulations or rules that may be made under section 18 or 19 of this Law respectively.

[5] (a) There shall be an Establishments Committee which shall comprise some selected Board members and shall be charged with the responsibility of making recommendations to the Board in respect of the appointments, promotions and disciplinary control of all officers of the board earning a salary of grade level 14 and above.

(b) The Chairman of the Establishment Committee of the Board shall be selected within the Board.

[6] In the absence of the Board, the General Manager together with the Heads of Departments shall exercise the powers of the Board.

Staff Matters

16[1] Subject to the provisions of this section, the Board 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 exercise of the powers vested in the Board by sub-section [1] shall be subject to the provisions of any regulations or rules that may be made under section 18.

[3] As regards any officer or servant in whose case it may determine to do so, to pay to or in respect of such officer or servant such pensions and gratuities as are payable to persons of equivalent grade in the public service of the State.

[4] (a) There shall be an Establishments Committee which shall comprise the General Manager and all departmental heads and shall be charged with the responsibility of making appointments, promotions and disciplinary control of all officers of the board earning a salary of grade level 7 to 13, not being such officers as are referred to in sub-section[3] of section 15.

(b) The General Manager shall be the Chairman of the Establishments Committee.

[5] The General Manager shall have power to appoint, promote, and exercise disciplinary control in respect of established and un-established employees of the board earning a salary of less than grade level 7, and he shall be assisted in exercising these powers by a committee comprising such officers as he may direct, provided that the General Manager may delegate his powers of appointment, promotion and disciplinary control in respect of established and un-established employees earning a salary of less than grade level 07 to the Heads of Departments.

17. The Board may employ or deploy on secondment such officer of the public service of the State and in the services of any other State, Local Government or Federal Government as may, with the agreement of such officer, be seconded to the

Secondment
and transfer of
employees

service of the board in accordance with the procedure applicable to the secondment of the officers.

Powers to make regulations

18. The Board may, with the approval of the Governor and subject to the provisions of the Law make regulations with respect to the appointment, promotion, transfer and dismissal of, and exercise of disciplinary control over, its employees, and without prejudice to the generality of the foregoing provisions, make regulations for any of the following matters:-

- (a) the qualifications to be required for appointment;
- (b) the method of appointment including probation and confirmation;
- (c) the form of any agreement to be entered into between the Board and its employees;
- (d) the terms and conditions of service including, without prejudice to the generality of that expression, the salaries and allowances, the grant of advances, the provision of quarters, leave and medical treatment;
- (e) the procedure and requirements for promotion;
- (f) the maintenance of discipline including dismissal and the termination of appointments;
- (g) the transfer of employees between the Board and the Government of the State, any other State, Local Government, or any Statutory Board;
- (h) such other matters relating to departmental procedure and duties and responsibilities of employees as the Board considers can be best provided for by regulations.

PART V - POWERS AND PROCEDURE IN RESPECT OF WATER SUPPLY AND WATER RATES

Water rates and scale of charges

19[1] The rates and scales of charges for water shall be such as the Board may, from time to time, with the approval of the Governor, determine.

[2] Subject to the provisions of sub-section [1], all charges for water sold in bulk or direct to consumers and for services related by the Board shall be fixed at such rates and at such scales that the revenue for such year from every sources will be sufficient as nearly as may be to pay:-

- (a) the working expenses and other outlays of the Board properly chargeable to income in that year.
- (b) the payments falling to be made in such year by the Board in respect of the interest on or repayment of the principal of any money borrowed by the Board:
- (c) such sums as the board may think proper to set aside in that year for a general reserve, extensions, renewals, deprivation, loans and other like purposes.

[3] Charges for water or services may, if the Board thinks fit, be fixed at different rates and scales for different services and localities.

20 [1] The Board may, in any area, with the approval of the Governor, by order direct:-

Power of the
Board
to levy general
water
rate

- (a) that there shall be levied and paid a general water rate or an amount and assessed in the manner hereinafter described:-
 - (i) the rate shall be levied in respect of tenements in such area, and in such case it shall be assessed on the assessed value of the tenements and shall be such percentage of that value as the order may prescribe;
 - (ii) every person or any class or person, of 18 years of age and over resident in such area shall pay annually such sum in general water rate as the order may prescribe;
 - (iii) there shall be levied annually in respect of every tenement such sums as general water rate as the order may prescribe;
 - (iv) persons resident within a defined area may be divided into classes, such classes being assessed for general water rate on one or other of the methods of assessment herein before described as the order may prescribe and shall pay general water rate accordingly.

Provided always that no person shall be assessed for general rate in more than one of the various manners herein before

mentioned:

- (b) that there shall be exempt from such general water rate any tenement or class of tenements, or any person or class of persons;
- (c) that where assessment of the general water rate are to be made as provided in sub-paragraph (i) or (iii) of paragraph (a) such higher rate as the order may prescribe shall be levied and paid in respect of a non-domestic supply;
- (d) whether payments of general water rate are to be made monthly, quarterly, half yearly or yearly and that the first payment of such general water rate shall become due on such date as the order may prescribe;
- (e) that such general water rate shall be paid with retrospective effect;
- (f) the officer to whom or the office at which the general water rate shall be paid and the times during which such payment may be made.

[2] Any other order made under this section may be given retrospective effect.

Provided that:

- (a) Subject to the provisions of paragraph (1) of sub section (2) of section 7 and section 26, water has in fact been supplied in respect of the period for which any order, whereby any general water rate is levied, is to be given retrospective effect;
- (b) Nothing in such order contained or by virtue of any of the provisions of this Law shall constitute or be construed as purporting to constitute an offence committed by any person any act or omission by him which was not such an offence by virtue of the provisions such order of this Law only in so far as the same has taken all place or has been in the State Gazette.

[3] The application of any order made under this section may be general or may be limited as to area or time or otherwise.

Power of the
Board
to make
regulations

21[1] The Board may, with the approval of the Governor make regulation for the better carrying out of the provisions of this Law, and without prejudice to the generality of the foregoing provisions make regulations with respect to all or any of the following

matters:-

(a) the price of, or charge for, water supplied

(i) by means of public supply

(ii) by meter:

(iii) by means of a private supply to a tenement:

(iv) to any office, barracks, institution, undertaking or building whether of a public or private nature;

(v) to a site of any building under construction:

(b) levy or impose a special rate or charge:

(c) the amount of rent to be paid for meters:

(d) the officer to whom or the office at which the rate, charge or rent shall be paid, and whether such rate, charges or rent shall be paid monthly, quarterly, half yearly or yearly in arrears or in advance, and the date on which the first payment of such rate, charge or rent shall become due, or in the case of water supplied by a public supply the manner in which the charge for such water shall be payable:

(e) exceptions from any water rate or charge of any tenement or class of tenements, or any person or class of persons:

(f) the method and manner in which water may be taken from public fountains or public supply:

(g) the price to be paid for all services constructed or laid by the Board and the time and place for the payment of the same:

(h) the construction, laying, fitting, alteration and re-adjustment of services, and nature, quality, size and pattern thereof and of meters used therewith:

(i) the forms of all notices required to be given or sent under this Law and the issuing and service thereof:

(j) the control, whether or not by prohibition, of boating on or fishing in any water-works or any other form of activities that may pollute the water:

(k) the prevention of the wrongful opening or closing of any lock, cock, valve, sluice or manhole appertaining to any water works or otherwise belonging thereto:

(l) the prevention of waste of water:

(m) the prevention of the commission of any offence or

nuisance in or about any of the works, plants, buildings or premises of the Board:

(n) the prevention of trespass upon or injury to stations, works, plants, buildings or premises appertaining to any water-works or otherwise belong thereto:

(o) generally for regulating the operation and the maintenance of the water-works and the governance thereof and maintenance of good order thereon:

(p) generally for the preservation and the conservation of the sources of water in catchment areas:

(q) the prescription of penalties for offenses against any regulations made under this section.

[2] Regulations made under this section may be given retrospective effect:

Provided that:-

(a) subject to the provisions of paragraph (i) of sub-section [2] of section 7 and section 26 water has in fact been supplied in respect of the period for which any regulation, whereby any prices, charge or amount for water supplied or rent for meters is to be payable, are to be given retrospective effect:

(b) nothing in such regulations contained or by virtue of any of the provisions of this Law shall constitute or be construed as purporting to constitute, as an offense committed by any person any act or commission by him which was not such an offense at the time it took place and any act or omission may constitute an offense by virtue of the provisions of such regulations of this Law only in so far as the same has taken place or has been construed on or after the date of the publication of the regulations in the State Gazette.

[3] If any person contravenes or fails to comply with the provisions of any regulations made under the provisions of this section, the Board may, without prejudice to its rights to take proceedings for a fine or other penalty in respect of such contravention or non-compliance, cut off the supply and in addition (in the alternative) may, after such notice in writing as it may think fit, enter and cause any water fittings belonging to or used by that person which

are not in accordance with the requirements of the regulations to be altered, repaired or removed, and may recover the expenses reasonably incurred by it in so doing from the person in default in the manner provided for the recovery of water rates.

[4] The application of any of the regulations made under this section may be general or may be limited as to area or time or otherwise.

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

Prohibition of
double payment

23. The owner or occupier of every tenement not exempted from a rate or charge shall be liable to the Board for payment of the rate or charge, but unless otherwise prescribed in order or regulations imposing such rate or charge the same shall be deemed an owner's rate, and as between the occupier and the owner of any such tenement, shall in the absence of any agreement to the contrary, be borne by the owner, and the owner in an action for money paid to this use, or may be deducted from any rent due or to become due in respect of the tenement.

Liability for
payment of water
rate or charge

24. If any person fails to pay any rate or charges for which he is liable within one month after the same becomes payable, the Board may recover the same with costs in any court of competent jurisdiction.

Penalty for
default

25. The Board shall as far as possible maintain a continuity of supply of water;

Exemption
from liability

Provided that:-

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

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

[2] The Board shall in no case be under any obligation to pay damages or compensation for loss, damage or inconvenience caused to a consumer through any suspension, failure, discontinuance or a whole or partial interruption of supply for water however caused.

26. The Board may purchase in bulk and may re-sell such water whether in bulk or by distribution direct to individual consumers.

Powers of the Board to supply water through any services and impose sanctions on any defaulter

27[1] The Board may, subject to the provisions of any regulations made under section 22, supply water through any service to any tenement or application being made by the owner or occupier thereof who shall pay to the Board any charges the Board may require for the laying of a service to such tenement.

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

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

[4] The Board shall as soon as may conveniently be after the end of each month notify the occupier of a tenement supplied with water of the amount due from him for excess consumption and for meter rent, and the amount payable for excess consumption and the meter rent shall be paid by such occupier within fourteen days of the service upon him of such notice and if the same is not paid the Board may disconnect the service to the tenement.

[5] If any person fails to pay the amount due from him for excess consumption or meter rent, the Board may recover the same with cost, together with the expense of disconnecting the service to the tenement, in any court of competent jurisdiction.

28. The Board shall not by virtue of making any inspection or test of a consumer's pipes, fittings, appliances and apparatus in accordance with this Law or any regulations made thereunder, whether in accordance with this Law or any regulations made thereunder whether during process of the work of installation of the consumer's premises or after its completion, be deemed to be responsible for the efficiency or safety of the consumer's pipes, fittings, appliances and apparatus so inspected or tested, or for the use or misuse of apparatus by the consumer or any other person other than an employee of the Board.

Exemption from liability for safety of consumers pipes

29. Except in so far as is otherwise provided by this Law, where a supply of water is provided by the Board in any part of an area, for private purposes, every person within that part of the area shall, upon application to the Board, be entitled to a supply on the same terms on which other persons in such part of the area are entitled under similar circumstances to a corresponding supply, provided that in the case of a fresh connection adequate water can be made available without detriment to existing supplies to persons or institutions in the area.

Right of a consumer

30 [1] If any person or any department of the Government or any other authority does any matter or thing which such person, department or authority is by or under any law authorised to do and which necessitates an alteration in any part of any water works or of any distribution system vested in the property of the Board, the Board shall on reasonable notice being given to it by such person, department or authority make such alteration and the expenses incurred thereby shall be borne by such person, department or authority.

Expenses on alteration of water works

[2] In the event of any dispute arising as to the amount of such expenses, the same may be referred by the person, department or authority as aforesaid or the Board to an arbitrator to be appointed by the Board.

PART VI-ACCOUNTS AND REPORTS OF THE BOARD

31[1] The Board shall:-

(a) cause to be kept proper accounts in respect of its functions under this Law and other records in relation thereto, and:

(b) prepare, in respect of each financial year, a statement of accounts in such form as may be approved by the General Manager.

[2] The said annual statement of account shall be accurate, true and fair statement of the financial transactions and of the result of the operations of the board for the financial year to which it relates.

[3] The said annual statement of accounts shall be audited by an auditor or auditors to be appointed annually by General Manager after consultation with the Auditor-General of the State, and the remuneration to be paid by the Board to the auditor or auditors so appointed shall be approved by the General Manager.

[4] As soon as the said annual statement of accounts has been audited as aforesaid the General Manager shall forward to the Board a copy of the report made by the auditors.

[5] Before the commencement of each financial year the General Manager shall prepare an estimate of its revenue and expenditure for the financial year and submit the same to the Board for its approval and the General Manager shall have power to disallow or reduce the provisions under any item in the estimate as it may consider necessary.

32 [1] The General Manager shall, within six months after the end of each financial year make to the Board a report in such form and containing such particulars as it may from time to time direct, dealing with the activities of the board during that financial year.

Accounts of the
Board

Annual reports

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

PART VII - OFFENCES

33[1] No individual or organisation shall construct a water-works without the approval of the Governor.

Restrictions,
offences and
punishment

[2] This section shall not apply to the construction of wells having a diameter not exceeding 12m and a depth not exceeding 70m.

[3] Notwithstanding the provisions of subsection [2] of this section no person shall pump water or permit artesian water to flow from a well which have a diameter not exceeding 1.2m and a depth not exceeding 70m or any borehole within 1 km of a water works, unless permitted in writing so to do by the Governor.

Provided that the Board may by notice in the State Gazette specify any area being further than 1 km from any water-works where water shall not be pumped or artesian water permitted to flow from any such well or borehole without the permission in writing of the Governor.

[4] Nothing in this section shall affect the rights of any person under this law and other written law.

[5] Any person who contravene any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand Naira or to imprisonment to a term not exceeding six months (or to both such fine and imprisonment).

34. Any person who:-

(a) Willfully or negligently damages any waterworks, public fountain, and service or water meter;

Liability for
damage and
pollution

(b) unlawfully draws off, diverts or takes water from the same, or from a stream or water by which any water works are supplied, or;

(c) pollutes any such water, or allow any foul liquid, gas or other noxious or injurious matters or enter into any water works or any service connected therewith: shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand Naira or to imprisonment for term not exceeding six months or both such fine and imprisonment.

Liability for waste
and altering
services

35 [1] Any person who willfully or negligently misuses, wastes or causes or allows to be misused or waste any water passing into, through, upon or near any tenement from any water-works shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand Naira or to imprisonment for a term not exceeding three months.

[2] Any person who alters, or causes, or permits to be altered, any service without the consent of the Board or contrary to any regulations made under this Law, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand Naira or to imprisonment for a term not exceeding three month.

Liability for
alteration of water
works

36. Any person who alters, or causes, or permits to be altered any service with intent to avoid the accurate measurement or register of water by means of any meter or obtain a greater supply of water than he is entitled to, or to avoid payment thereof, or who willfully or negligently damages, alters or causes or permits to be damaged or altered any meter, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand naira or to imprisonment for term not exceeding six months, and any service so altered or meter damaged or altered shall be replaced or repaired by the Board at the expense of the person convicted.

and the cost of replacing any such service or meter may be recovered upon the order of a court in the same manner as any penalty may be recovered upon conviction.

37. Any person who puts, or allows to be put, to remain or to accumulate on any tenement owned or occupied by him or his servant or who fails to remove or caused to be removed or to take such steps as may be necessary to prevent, upon notice in writing from the board any foul, or injurious matter or any earth deposited or excavated material in such manner or place that it may be washed, fall or be carried into any water-works or the gathering grounds thereof, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand Naira and in respect of any period during which such matter, earth deposit or excavated materials is allowed to remain after notice in writing from the Board requiring the same to be removed to a penalty of one thousand Naira for each day while the offence continues.

Liability for accumulation of any matter/earth in water works

38. Any person who:-

(a) bathes in any water-works;

(b) washes, throws or causes to enter therein any animal or any Clothes materials or thing;

(c) wrongfully opens or closes any lock, cork, valve, sluice or manhole belonging to any water works; shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand Naira or to imprisonment for a term not exceeding four months.

Liability for washing and bathing in the water works

39. Where any person fails to pay the rate, or rent payable by him by virtue of this Law, the Board may cut off any supply and may recover the expenses from the person in default with cost in any court of competent jurisdiction.

Power of the Board to disconnect or recover expenses

40. Any person who without lawful jurisdiction or excuse, the proof of which shall lie on the person charged:

(a) in cites any person to refuse to pay any rate or charge payable by

Liability for inciting persons to refuse to pay rates or charges

him by virtue of this Law, or:

(b) incites or assist any person to misrepresent in anyway his ratable capacity or any information material to the assessment of or rating upon any tenement of which he is owner or occupier: shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand Naira or imprisonment for a term not exceeding three month or both such fine and imprisonment.

PART VIII - MISCELLANEOUS AND GENERAL

Power of the
Board to appoint
any person to
institute action

41[1] In any action for the recovery of any rate, charge or other moneys other than fines and penalties, due payable or recoverable under this Law, a certificate from the Board or of any person appointed by the Board in that behalf that any sum of money is due and that the defendant is the person liable to pay the sum, shall, in the absence of any evidence to the contrary, be conclusive evidence of such debt and of the non-payment thereof, and that the defendant is the person liable to pay the sum.

[2] Every such action may be instituted by the Board or by any person authorised by the Board to institute such action on its behalf.

Power of the Health
Officer to inspect
works

42. A health officer or any person authorised in writing by him may enter any water-works between six o'clock in the morning and six o'clock in the afternoon or in an emergency at any other time for the purpose of inspecting such water-works or any part thereof, and of taking samples of the water supplied from such water-works.

Powers of the Board
to surcharge

43[1] Where upon considering any audit report on accounts or in any other case, the General Manager is satisfied that in respect of the functions of the Board under this Law:-

(a) any sum due to the Board has not been duly brought to account by any person by whom such sum ought to have been brought into account, or;

(b) any loss of or deficiency in the moneys, or loss or destruction of any other property, of the Board has occurred

by reason of the negligence, breach of official duty or other misconduct of any person;

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

[2] Before exercising any of his powers under sub-section [1], the General Manager may by writing under his hand authorise any person to conduct an enquiry, for the purposes of this section and to take evidence and examine witnesses upon oath or affirmation (which oath or affirmation that person is hereby empowered to administer) and that person may by summons under his hand, require all such persons as he may deem fit to appear before him at a time and place so stated in such summons and to produce all such books, records, accounts and other documents and materials as he may consider necessary for the purpose of the inquiry.

[3] If the General Manager decides to surcharge any amount upon any person under sub-section [1] he shall cause a notice to be served upon him, or on his legal representatives in the event of his death requiring him or such representatives to pay the amount surcharged within such period from the date of the service of the notice as may be specified therein.

[4] Notwithstanding any of the provisions of sub-section [3] no liability to surcharge shall be incurred by any officer, other employee or agent of the Board who can prove to the satisfaction of the General Manager that he acted in pursuance of and in accordance with the terms of a resolution of the Board or of any committee duly appointed under this Law, or on the written instructions of any officer, other employee or agent of the Board to whose orders, in relation to the matter in question, he was subject:-

Provided that nothing in this sub-section shall exempt any person

from liability to surcharge in accordance with the provisions of this section where that person knew or ought reasonably to have known that the terms of any resolution or any written instructions as aforesaid were not in accordance with the provisions of this Law or any regulations or rule made or directions given hereunder:

Recovery of
surcharge

44. Any amount notified as a surcharge in accordance with the provisions of sub-section [3] of section 43 shall be debt due to the Board, and may be sued for any recovery in any court of competent jurisdiction at the suit of the General Manager.

Appeal against
surcharge

45 [1] Any person who is aggrieved by any decision of the General Manager to surcharge any amount upon him may, if the decision relates to an amount exceeding five thousand Naira, within thirty days of such decision, appeal to the High Court.

[2] The High Court on such appeal shall have power to confirm, vary or quash the decision of the General Manager and to give such directions as the Court may deem fit in the matter.

Powers of the
Board to
investigate land
for water works

46 [1] Whenever it appears to the Board that any land in the State is likely to be needed for the purpose of any water-work the Board may by its servants and agent together, with all necessary workmen enter upon any such land and:-

(a) survey and take levels of the land;

(b) dig or bore under the sub-soil, and;

(c) do all other necessary to ascertain whether the land is adapted for such purposes: Provided that no such agent, servant or workmen shall enter any building or any enclosed court or garden attached to a dwelling house (except with the consent of the occupier thereto) unless at least seven days notice of the intended entry has been given to such occupier.

[2] As soon as conveniently may be after any entry made under subsection (1) the board shall pay compensation for all damages

arising out of the exercise of any power conferred by that subsection.

[3] In the case of disputes as to the amount of any compensations payable under this section the amount may be determined by the High Court or a Magistrate Court having jurisdiction in respect of the place where the land is situated.

47[1] Nothing in this Law shall preclude any fire authority or fire brigade from abstracting water, for the purpose of the prevention or control of fire, from any public fountain, service or water-works of the Board.

Power of fire
authority to draw
water without
restriction

[2] Water shall not be abstracted by any fire authority or fire brigade for the purpose of testing any fire-fighting appliance except with the consent of the Board, which consent shall not be unreasonably with-held.

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

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

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

48[1] Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into executed on behalf

Power of the
Board to execute
contracts

of the Board by any person generally or specially authorised by the Board for that purpose.

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

Service of Notice

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

Restriction on
execution against
Board's water-
works

50. No execution or attachment or process in the nature thereof shall be issued against any water-works vested in or the property of the Board, but any sums of money which may be the judgment of any court awarded against the board, shall, subject to any direction given by the Board in respect of the said judgment be paid by the Board from its funds.

Exclusion of water
works from rate

51. Water-works vested in or the property of the Board shall not be regarded as hereditaments or tenements to be valued for rating purpose under any law.

Repeal of Water
Resources Law.

52. The Water Resources law Cap. 141 Laws of Yobe State, 1994 is hereby repealed.

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

SCHEDULE

Section 5.

CONSTITUTION AND PROCEEDINGS OF THE BOARD

1. Every member of the board (other than an ex-officio member) shall, subject to the provisions of this schedule, hold office for a period of four years from the date of his appointment.

2. A member of the Board who has ceased to be such member shall be eligible for re-appointment.

3[1] If the Governor is satisfied that a member of the Board:-

(a) has been absent from three consecutive meetings of the Board without the permission of the Governor in the case of the Chairman, or of the Chairman in the case of any other member;

(b) has become bankrupt or made an arrangement with his creditors;

(c) has been convicted of an offence involving or necessarily implying fraud or dishonesty and has undergone a sentence of imprisonment thereof;

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

(e) has such financial or other interest in the operation of the Board or otherwise as in the opinion of the Governor is likely to affect prejudicially the discharge by him of his functions as a member. The Governor may terminate the appointment of such member.

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

[3] Notwithstanding the provisions of paragraph [1] the Governor may at any time remove any member from his office.

4. No act or proceedings of the Board shall be questioned on account

of any vacancy amongst its member or on account of the appointment of any member having been defective.

5. Where any member of the Board is temporarily incapacitated by illness from performing the functions of his office or is temporarily absent from Nigeria, the Governor may appoint any person to hold temporarily the office held by such incapacitated or absentee member and all the functions of such member under this Law shall devolve upon the persons so temporarily appointed.

6. Whereupon any special occasion the Board desires to obtain the advice of any person on any particular matter, the Board may co-opt such person to be a member for such meeting or meetings as may be required and such person whilst so co-opted shall have all the rights and privileges of a member save that he shall not be entitled to vote on any question.

7. [1] The Board shall hold such and do so many meetings as may be necessary for the due fulfillment of its functions so, however, that it shall hold at least two meetings in every year.

[2] At a meeting of the board:-

(a) the Chairman of the Board shall, if present be Chairman of the meeting;

(b) if and so long as the Chairman of the board is not present or if the office of Chairman is vacant, the members of the board who are present shall choose one of their members to be the Chairman at the meeting.

[3] Every question at a meeting of the Board shall be determined by a majority of the vote of members present and voting on the question, and in case of any equal division of votes, the Chairman of the meeting shall have a second or casting vote.

[4] Any five members of the Board may, by notice in writing signed by them request the Chairman to call a special meeting of the Board for the purposes set out in such notice and the Chairman

shall thereupon call a special meeting.

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

9[1] The Board shall as soon as may be after its establishment provide itself with a common seal.

[2] The common seal of the Board shall be authenticated by the signature of the Chairman or such other member thereof or other person authorised by the Board to act in that behalf.

[3] Judicial Notice shall be taken of the common seal of the board and every document purporting to be an instrument made by the Board and sealed with common seal purporting to be authenticated in accordance with this paragraph of the Board shall be received in evidence and be deemed to be such instrument without further proof unless the contrary is shown.

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

EXPLANATORY NOTE

(This does not form part of this Law and has no legal effect)

The purpose of this Law is to establish the Yobe State Water Board as a body corporate for the purpose of controlling and managing the Water-Works in the State. The main functions of the Board will be to provide an adequate supply of water at reasonable charges. The Law will not apply to water used for any purposes specified in any order made by the Governor under section 1(2)(b).

The Board will consist of the Chairman and other Members. Part III contains Financial Provisions governing the Board.

this Law.

(j) To enter into such contracts as may be necessary, advantageous or expedient for the performance of its functions under this Law, including contracts for the construction or extension of water-works or the bulk supply of materials.

(k) To acquire, purchase, lease, mortgage hold, construct, manufacture or maintain any property whatsoever whether movable or immovable, required for or in connection with the performance of its functions and to sell, dispose of or otherwise deal with such property or any part thereof.

(l) Enter into any agreement with any person for the supply, construction, manufacture, maintenance or repair, by that person of any property whether movable or immovable, which is necessary or appropriate for the purpose of the board: subject to the same provision as in paragraph (h) of this subsection whose provisions shall apply in respect of this paragraph with any necessary adaptations and modifications.

(m) To do anything for the purpose of advancing the skill of persons employed by the Board or the efficiency of the equipment of the Board or the manner in which the equipment is operated, including the provision of facilities for training, education and research.

(n) To accept or acquire and hold any security of any kind in any form whatsoever.

(o) To surrender, re-transfer or re-assign any security or upon discharge.

(p) In relation to any security held by the Board, to exercise any power, right or privilege in respect thereof which a private individual would be capable of exercising in like circumstances.

(q) To make, draw, accept or endorse, negotiable instruments.