

CHAPTER 71

ENUGU STATE RURAL WATER SUPPLY AND SANITATION AGENCY  
LAW

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CHAPTER 71

ENUGU STATE RURAL WATER SUPPLY AND SANITATION  
AGENCY LAW

A Law to make provision for the establishment, function and administration of a rural agency for water supply and sanitation in the State and for related matters.

ENSL 2001  
No.5

(14<sup>th</sup> June 2001)

PART 1. —PRELIMINARY

1. This Law may be cited as the Enugu State Rural Water Supply and Sanitation Agency Law.

Short title

2. In this Law —

Interpretation

“Agency” means Enugu State Rural Water Supply and Sanitation Agency established by section 3 of this Law;

“appropriate authority” means Ministry or Department of the State Government for the time being charged with responsibility for matters relating to water supply;

“Authorized undertaker” means any person or body of person whom an annual licence is granted by the Agency to carry out of the functions of the Agency or to sink a well or borehole or to operate any other private water works or device by which any of the functions of the Agency under this Law is carried out;

“Board” means Board of the Agency;

“Chairman” means Chairman of the Board;

“Corporation” means Enugu State Water Corporation established by section 3 of the Enugu State Water Corporation Law,

“domestic supply” means water from any waterworks used in any tenement for drinking, washing, cooking, bathing or for any other domestic purpose within the Rural areas of the State.

“dwelling house” means any premises used wholly or mainly for the purpose of private dwelling, with or without any garage, outhouse, garden, forecourt or other appurtenances belonging thereto or usually enjoyed therewith;

“Executive Council” means Executive Council of the State;

“Fire Authority” means Department of Government responsible for the fire service of the State, and also the body of fire men established and maintained by such Department of Government;

“financial year” means the period of twelve months starting from 1<sup>st</sup> January

and terminating on the 31<sup>st</sup> day of December;

“Government” means Government of Enugu State;

“Governor” means Government of Enugu State;

“industrial purpose” means a purpose relating to the establishment or operation of any industry or commercial enterprise;

“Managing Director” means Managing Director of the Agency;

“member” in relation to the Board includes the Chairman;

“meter” means any appliances used for measuring, ascertaining or regulating the amount of water taken or used from any waterworks by any service or any office, gauge or other appliance used in estimating the flow of water in or from any part of any waterworks.

“non domestic supply” means any water supply from any waterworks used for the purpose of or in carrying on, any trade, business or manufacture, or for watering fields or gardens cultivated or occupied as a means of pecuniary profit, or for private fountains, or for any ornamental purpose, or for the supply of ponds or tanks, or for laundries or public wash-houses or public baths, vessels ships, boats or machinery; and also water used or consumed by any person resident in, or occupying any premises where a non-domestic supply is given, or any water taken or used from any waterworks for the use of any Government or department thereof;

“occupier” in relation to a tenement means the person other than a lodger, who is in occupation of any part of the tenement;

“owner” in relation to a tenement includes the holder of a tenement direct from the State whether under a certificate of occupancy; license or otherwise and any person deemed to be a holder of a certificate of occupancy over any tenement;

“public fountain” means any fountain, standpipe, valve, tap or appliances used or intended to be used for or in connection with the supply of water to the public from any waterworks and vested in or erected for the public from any waterworks and vested in or erected and owned by the Agency;

“rural area” includes all communities in the State except Enugu urban, Nsukka urban, Obollo Afor, 9<sup>th</sup> Mile Corner, Oji River urban and all other communities as may be designated urban areas, by the Governor for purposes of this Law.

“service” means all pipes, valves, cisterns, fittings and other appliances (excepting any meter) by or through which water flows or is intended to flow from any waterworks or which are or may be used for the purpose of supplying any tenement from the waterworks and being the property of the owner or occupier of such tenement;

“State” means Enugu State of Nigeria;

“street” includes any square, court, highway, road, public passage or place over which the public have a right of way, whether a thoroughfare or not; “tenement” means land with or without building thereon which is held or occupied as a distinct or separate holding or tenancy, or any wharf or pier; “waterworks” includes all reservoirs, dams, weirs, tanks, cistern, tunnels, treatment plant, conduits, aqueducts, mains, pipes, fountains, sluice valve, pumps, engines, or other sources of supply and all other structures, or appliances used or constructed for the storage, conveyance, supply, measurement, or regulation of water which are vested on the Agency by virtue of this Law, or are required by the Agency or erected, used or constructed by or on behalf of the Agency and are property of the Agency.

**PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF THE AGENCY**

3. There is hereby established a body to be known as the Enugu State Rural Water Supply and Sanitation Agency which shall be a body corporate with perpetual succession and a common seal and with power to sue or be sued in its corporate name and to acquire, hold and dispose of movable and immovable property.

Establishment of agency.

4.(1) The functions of the Agency shall be —

Function of Agency

- (a) in collaboration with the appropriate Authority to develop, provide, conserve and distribute in the rural areas of the State water for public, domestic and industrial purposes and charging adequate fees therefor; and
- (b) in collaboration with appropriate Authority to provide and maintain solid waste and sewage disposal facilities in the rural areas of the State.

(2) For the purpose of carrying out the functions set out in subsection (1) of this section, the Agency shall have power —

- (a) to prepare all plans necessary for the maintenance and development of its undertakings;
- (b) to construct, reconstruct, operate and maintain waterworks, stations, buildings and other works necessary for the discharge of its functions under this Law;
- (c) to carry any water-pipe along, through, across or under any street, but in so doing the relevant regulations of the competent authorities shall be complied with.
- (d) after giving a reasonable notice in writing to the owner or occupier thereof, to carry any water pipe into, through or under any land without paying any compensation in respect thereof, but making good any damage done to such land;
- (e) to abstract water from any lake, river, stream or other natural water sources within the State, and by arrangement with the authorities concerned from any other waters in or outside the State but in accordance with the provision of any Law or act in that respect;
- (f) from time to time, to examine any surface or underground waters within the rural areas of the State for the purpose of determining what, if any, pollution exists and the cause thereof and, by arrangement with the authorities concerned, to do likewise with respect to other waters in accordance with the provisions of any law or act in that respect.
- (g) to construct public fountains in any street or other public place within any rural area;
- (h) at any time between the hours of six o'clock in the morning and six o'clock in the evening or, in case of emergency, at any other time, to enter into or upon any tenement or land upon which any service has been laid or any water from any waterworks flows in order to —

- (i) inspect any service and ascertain any wastage, leakage, obstruction or damage to any service or meter therein and anything in connection therewith; or
  - (ii) ascertain the amount of water taken or used therein; or
  - (iii) disconnect the supply of water thereto or diminish, withhold or divert the supply of water thereto through or by means of any service, either wholly or in part;
- (i) to diminish, withhold, 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 Agency thinks it necessary or proper so to do, and without prejudice to any liability to pay any water rate, meter rent or other sums due or to become due under 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 waterworks or for the bulk supply of materials;
  - (k) to acquire, purchase, lease, hold, construct, manufacture or maintain any property whatsoever whether movable or immovable, as the case may be, 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) to 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 Agency.

- (m) to do anything lawful for the purpose of advancing the skills of persons employed by the Agency, including the provision of facilities for training, education and research; or for securing the efficient running of the service and waterworks of the Agency; or for improving the manner in which the same are operated;
- (n) to accept or acquire and hold any security;
- (o) to surrender; re-transfer or recover any security held by the Agency whether upon exchange for another security or upon discharge;
- (p) in relation to any security held by the Agency, to exercise any power; right or privilege in respect thereof in like manner as a private individual would be capable of exercising in like circumstances;
- (q) to invest money standing to its credit and not, for the time being, required for its purpose under this Law, in lands, buildings, housing estates, shares, debentures or other securities whatsoever approved by the Board and to sell such buildings, stocks, shares, debentures or other securities;
- (r) to enter into any commitment, agreements or other arrangements in respect of the provision, distribution, supply or sale of water in the rural areas;
- (s) to insure its property against all forms of risks;
- (t) to conduct researches relative to water-supply, sewage and related subjects;
- (u) to determine adequate fees or charges and effective method for collection thereof for water-supply, and collect such fees or charges, so however that any such fees or charges shall be approved by the Governor;

- (v) to set up standards relative to water supply in collaboration with the State Water Corporation and the Federal Ministry for the time being charged with responsibility for water; and
- (w) to manufacture, acquire, sell and instal within the State, meters for use by any person, authority, Company, or body (corporate or unincorporate) whether in respect of the waterworks of the Agency or any other waterworks.
- (x) to establish and control all water treatment systems in the rural areas;
- (y) to provide, distribute and conserve, in the rural areas, water for public, domestic, industrial and commercial purposes;
- (z) to procure and maintain shops and showrooms for display and sale of water equipment of all kinds;
- (aa) to establish, operate and control water treatment system in respect of the works and services mentioned in this section;
- (bb) to maintain all equipment and plant of the Agency;
- (cc) to liaise and co-operate with all other Government Agencies with similar objectives;
- (dd) to perform such other functions as may from time to time be assigned to it by the Governor, and
- (ee) to do anything which in its opinion is requisite, advantageous or convenient for the carrying on of its functions under this Law.

Establishment  
and  
composition of  
Board.

5. (1) There is hereby established for the Agency a Board to be known at the Board of Enugu State Rural Water Supply and Sanitation Agency which shall consist of the following members —

- (a) a part-time Chairman who shall have experience in water-supply industry and who shall be appointed by the Governor;
- (b) the Permanent Secretary of the Ministry of Finance or his representative;
- (c) the Permanent Secretary of the Ministry of Health or his representative;
- (d) the Permanent Secretary of the Ministry charged with responsibility for public water-supplies or his representative who shall be an officer not below the rank of Director.
- (e) Permanent Secretary of the Ministry in-charge of rural development or his representative;
- (f) the Managing Director of the Agency;
- (g) the Executive Director of the Department of Finance and Supplies;
- (h) the Executive Director of the Commercial Department.
- (i) the Executive Director of the Engineering Department; and
- (j) three other persons; who in the opinion of the Governor are of unquestionable integrity appointed on part-time basis by the Governor.

(2) The Executive Director of Administration shall be Secretary to the Board.

(3) Officers in (b) (c) (d) (e) (f) (g) (h) and (i) shall be *ex-officio* members

(4) The Board shall be the governing body of the Agency and shall in that capacity —

- (a) exercise all the functions of the Agency; and
- (b) do or carry out all acts or things which the Agency is, by this Law, or may by any Law, be required to do or carry out.

6.(1) The Board may delegate to any person or persons any of its functions under this Law as the Board thinks may be more conveniently dealt with by such person or persons so as to enhance the efficient conduct of the affairs of the Agency.

Delegation of Function

(2) Notwithstanding the provision of subsection (1) of this section, the Board may delegate its functions of collecting water rates and charges or other revenue to a Local Government in whose area of authority such rates, charges or other revenue may be payable.

7. (1) Subject to the pleasure of the Governor, a member shall hold office for such period not exceeding three years as may be specified in the instrument by which he is appointed:

Tenure of office

Provided that every such member shall be eligible for re-appointment for not be more than one further term of three years.

(2) Notwithstanding anything contained in the instrument by which he is appointed a member of the Board other than an *ex-officio* member may resign his appointment in writing addressed to the Governor and upon receipt by the Governor of letter of resignation the appointment of the member shall determine.

8. The remuneration and allowances including terms and conditions of service of members of the Board shall be as specified in the letter by which they are appointed.

Remuneration and allowances

9. (1) The Board shall hold meetings as and when the need arises provided that there shall be at least four meetings of the Board in any one year.

Meetings of the Board quorum

(2) All meetings of the Board shall be summoned upon the direction of the Chairman.

Provided that where —

- (a) the Chairman neglects or fails to summon a meeting within three months from the date of the last meeting; or
  - (b) the Chairman is away for a period of three months or more; or
  - (c) the Chairman is ill or incapacitated or for any reason unable to discharge the functions of a chairman;
- any two more members may by notice in writing signed by them and served on the other members summon a meeting and give reasons for their doing so.

(3) Every meeting of the Board shall be presided over by the Chairman but in his absence or incapacity, the members present shall elect from among their number one person to preside at the meeting and the person so elected shall have all the powers and privileges of the Chairman for that meeting.

(4) The quorum at a meeting of the Board shall be the Chairman and four other members or at least any five members.

(5) The Board may make standing orders to regulate its procedure.

(6) The Board may co-opt any person to be a member for such meeting or meetings as may be required and such person while co-opted shall have all the rights and privileges of a member save that he shall not be entitled to vote upon any question.

Validity of proceedings

10. The validity of any act or proceeding of the Board shall not be affected by any vacancy among members thereof, or by reason that some person who was not entitled to do so, took part therein.

Common seal

11. The affixing of the seal of the Agency shall be authenticated by the signatures of the Managing Director or some other members of the Board authorized, either generally or specifically, by the Board to act in his stead for the purpose, and of the Secretary to the Board or some other person authorized either generally or specifically by the Board to act in his stead for the purpose.

12. 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 or executed on behalf of the Board by any person generally or specifically authorised by it for that purpose.

Contract not requiring seal.

13. A member of the Board who has any interest in any company or concern shall disclose to the Board the fact of such interest and the nature thereof, and such member shall not participate in any deliberation or decision of the Board relating to such contract or arrangement.

Disclosure of interest.

14. Any document purporting to be duly executed under the seal of the Agency shall on production in any court proceedings be *prima facie* evidence that it was so executed.

Proof of documents.

15. (1) The Board may with the approval of the Governor appoint a fit and proper person who shall be the Managing Director of the Agency under such terms and conditions as may be specified in his instrument of appointment.

Appointment and functions of Managing Director

(2) The Managing Director shall —

(a) be responsible for carrying out the policy decisions of the Board and for the co-ordination and direction of all functions of the departments of the Agency;

(b) be responsible for the proper management of all business of the Agency, the up-keep and preservation of all properties of the Agency as well as the overall supervision of staff matters.

(3) The Managing Director shall carry out such other functions as may from time to time be delegated to him by the Board.

(4) In the discharge of his functions, the Managing Director shall be assisted by a Managing Committee set up by him consisting of the following members —

- (c) The Managing Director as chairman
- (d) Executive Director in-charge of Administration;
- (e) Executive Director in charge of Finance and Supplies,
- (d) Executive Director in charge of Engineering/Technical;
- (e) Executive Director in-charge of Commercial and
- (f) such other Executive Directors as may be appointed by the Board from time to time.

(5) Executive Directors shall be subjected to the ultimate control of the Managing Director.

(6) The Managing Committee shall —

- (a) be responsible for the appointment of persons to posts for which the remuneration are equivalent to salary grade level 01-09 within the Agency's Salary Structure;
- (b) advise the Managing Director in the discharge of his duties;
- (c) deliberate and advise the Board through the Managing Director on matters referred to it by the Board.

Establishment of  
Departments

**16.(1)** There shall be established for the Agency at least four departments but not exceeding eight Departments to be headed by the Executive Directors as may from time to time be considered necessary by the Board for the performance of the functions of the Agency under this Law.

(2) The Executive Director shall be appointed by the Board under such terms and conditions as are contained in the Agency's Scheme of Service.

Executive  
Director  
(Administration).

**17.(1)** The Board shall appoint a fit and proper person to be the Executive Director (Administration) of the Agency.

(2) It shall be the duty of the Executive Director of Administration —

- (a) to conduct the correspondence of the Agency
- (b) to take and keep record of the proceedings of the Board;
- (c) to take charge of and keep the seal of the Agency;
- (d) to perform such other duties as the Board or the Managing Director may assign to him.

**18.(1)** The Board shall appoint a fit and proper person to be the Legal Adviser to the Agency.

Appointment of  
legal Adviser

(2) A person shall not be qualified to hold or perform the function of a Legal Adviser to the Agency unless he is a legal practitioner and has been such for not less than eight years.

(3) It shall be the duty of the Legal Adviser —

- (a) to oversee the Agency's compliance with all the provisions of Law and Regulations;
- (b) to advise the Board and the Management Committee and review all matters of legal significance to the Agency;
- (c) to handle all conveyances involving the Agency;
- (d) to advise the Board on the need for and nominate for the Board's appointment, an external Counsel, liaise with and supervise same in the performance of his functions.
- (e) to perform such other duties as may be assigned to him by the Board or the Managing Director.

(4) The Board shall determine the salary, emolument, allowance and conditions of service of the Legal Adviser in accordance with section 20 of this Law.

Direction  
Governor.

19. (1) The Governor may give to the Board directions of a general character or relating generally to particular matters (but not relating to any individual) with regard to the exercise by the Board of its functions under this Law, and it shall be the duty of the Board to comply with such directions.

(2) The Board shall furnish the Governor with such information and returns relating to the activities or proposed activities of the Board or of other bodies by whom activities are carried on with the assistance of or in association with the Board (being information which is in the possession of the Board or can be obtained by it with reasonable facility or being returns giving such information) as the Governor may from time to time require, and shall afford to the Governor, facilities for the verification of the information furnished by it in such manner and at such time as he may require.

### PART III —ADMINISTRATION

Power to  
Enugu Staff.

20. (1) Subject to the provisions of this Law, the Board may —

(a) appoint such person to be officers and servants of the Agency as it may consider necessary and shall determine their salaries, emoluments the conditions of service, in accordance with the Agency's scheme of service.

Provided that such conditions shall be no less favourable than those obtainable in the State Civil Service.

(b) grant or guarantee loans to such officers and servants for such purposes as it may approve.

(2) The service under the Agency shall be public service for pension purposes within the meaning of the pensions Law

### PART IV —SUPPLY OF WATER AND CHARGES

Charges in  
Respect of  
Water supply

21. Subject to the provisions of this Law, charges for the supply of water shall as far as possible be levied in respect of water actually supplied by the Agency.

22. The Agency may —

- (a) purchase water in bulk and resell such water either in bulk or by direct distribution to consumers;
- (b) grant to an authorised undertaker licence to carry out any of the functions of the Agency;

Provided that water supplied by the Agency shall not be resold by any person or persons without licence from the Agency, unless such water is repurchased by the Agency.

Purchase, resale of water in bulk and licenses for private water works.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall on conviction be liable to a fine of five thousand naira or imprisonment for twelve months.

23.(1) The Agency may, subject to regulations made under section 48 of this Law supply water to any tenement upon an application in that behalf by or on behalf of the owner thereof, by means of a meter or by any other means.

Service to tenements on application

(2) The owner of a tenement to which water is supplied by meter shall pay monthly to the Agency the amount due as the charge for water consumed and as rent for the meter installed.

(3) The Agency shall, as soon as may be convenient after the end of each month, notify the owner of a tenement supplied with water of the amount due from him as the charge for water consumed and as rent for the meter installed, and the total amount payable shall be paid by such owner within fourteen days of the service upon him of such notice.

(4) The Agency may, in the case of a person who fails to pay an amount due and payable by him under sub-section (3) of this section within the time set out therein —

- (a) disconnect the service to the tenement; and
- (b) by civil action in a court of law recover the amount together with the expenses of the disconnection of the service.

Inspection of works instructed by persons other than the Agency.

24. The Agency may, on the application of a consumer or other person on his behalf, inspect and test in accordance with the provisions of this Law, any pipes, fittings, appliances or apparatus laid, fitted, installed or otherwise constructed in the consumers' premises by a person other than an employee or agent of the Agency, whether during the work of installation at the consumer's premises or after the completion of such work:

Provided that the Agency shall not by virtue of such inspection and test —

- (a) be answerable to such owner for the efficiency or safety of the pipes, fittings, appliances or apparatus so tested, or the proper execution of the works of installation; or
- (b) be liable for any damage or loss arising out of the use or misuse of such pipes, fittings, appliances or apparatus by the consumer or any person other than an employee of the Agency.

Entitlement to supply.

25. Except as otherwise provided by this Law, where the Agency provides a supply of water in any part of any area for private purposes, any person within that part of the area shall, upon application to the Agency, be entitled to a supply of water on the same terms as other persons in that part of the area are entitled under similar circumstances, in respect of a corresponding supply.

Expenses of necessary alterations.

26. (1) Where in the exercise by any person or authority of any function conferred by any law an alteration in any part of any waterworks or distribution system vested in or otherwise belonging to the Agency becomes necessary, the Agency shall, upon reasonable notice given to it by that person or authority make such alteration; and may recover the expenses of the alteration from such person or authority.

(2) In the case of dispute as to the amount of the expenses of any alteration carried out under subsection (1) of this section, the dispute may be referred by the person or authority to an arbitrator appointed by the appropriate authority.

27. The Agency shall as far as possible maintain a continuity of water supply, but shall in so doing have the right —

Continuity of supply

- (a) to suspend the supply of water in any area for such period as may be necessary for carrying out any inspection, test, repair, alteration or for making any new connection; or
- (b) to suspend or discontinue any supply where payment of any charges for any supply by the Agency is in arrears.

28.(1) Subject to the provisions of this Law, the Agency may make charges for water supplied by it at such rate and scale as it may, from time to time, determine.

Rates and scale of charges for water

(2) The rates and scales of charges fixed by the Agency for water sold in bulk or direct to consumers, and for services rendered by the Agency, shall be such as to ensure that the revenue derived every year from such rates and scales, together with its revenue for that year from other sources, will be sufficient as nearly as may be to meet —

- (a) the working expenses of the Agency;
- (b) any payment that the Agency may make in respect of interest on, repayment of, any sum borrowed by the Agency; and
- (c) any sums that the Agency may deem proper to set aside in that year for general reserve, extension, renewals, depreciation, loans and other like purposes.

(3) Charges for water or services may, if the Agency thinks fit, be fixed at different rates and scales for different localities.

(4) Subject to section 36 of this Law all consumers of water supplied by the Agency shall be liable to pay water rates or charges.

**PART V — FINANCIAL PROVISIONS**

Funds of the Agency.

29. The funds and resources of the Agency shall consist of —
- (a) all sums, investment or other property whatsoever vested in the Agency by or under this Law;
  - (b) such sums or other property whatsoever as may from time to time be made available to the Agency by way of loan or grant by —
    - (i) the Government;
    - (ii) a Local Government;
    - (iii) the Government of the Federation of Nigeria;
    - (iv) the Government of any other State in Nigeria;
    - (v) any organisation or body;
    - (vi) a private foundation;
    - (vii) any Bank in Nigeria or outside Nigeria;
    - (viii) any person or persons whatsoever; or
    - (ix) any corporation or institution established by the Federal or State Government;
    - (x) any international organization or body;
  - (c) any investment or other property whatsoever acquired by or vested in the Agency and money earned or arising from such investments or property;
  - (d) all other sums (including water charges) or other property whatsoever which may, under this Law or by virtue of the provisions of any other law or arrangement, become payable to or vested in the Agency in respect of its functions or of any matter incidental thereto.

Power to Borrow

30. The agency may with the approval of the Governor in writing borrow money required for meeting any of its obligations or discharging any of its functions; and may, with the like approval, charge or mortgage, or otherwise deal with, any or all of its assets for the purpose of securing any money borrowed by the Agency.

31. The Government may guarantee in such manner and on such conditions as it may think fit the payment of the principal and interest of any money borrowed by the Agency under this Law.

Guarantee by Government of loan to the Agency

32.(1) The Agency shall keep proper accounts of its transactions.

Accounts and audits.

(2) The accounts of the agency shall be audited by the State Auditor-General at least once every financial year.

33. (1) After the end of each financial year but not later than 30<sup>th</sup> June of the current year, the agency shall forward to the Governor a full report of its operations during the preceding year together with a certified copy of the audited accounts of the Agency.

Annual Reports and bad debts

(2) The accounts of the Agency together with the auditor's report thereon shall be laid before the Public Accounts Committee of the State every year.

### PART VI —TRANSFER OF WATER WORKS

34. All pipes and fittings which form part of the distribution system in the rural areas, except those used to carry water direct to consumers with private connections shall be deemed to be the property of the Agency.

Agency to own all mains, etc in rural areas.

### PART VII —GENERAL

35. The Agency shall not, without the approval in writing of the Governor take steps for the alienation, mortgage, charge or demise of any immovable property which has been vested in the Agency under any provision of this Law.

Restriction on dealings with immovable property.

Provisions relating to abstraction of water by fire authorities.

36. (1) Nothing in this Law shall preclude the fire authority from abstracting water, for the purpose of the prevention or control of fire from any public fountain service or water of the Agency.

(2) No charge shall be made for water supplied by the Agency under subsection (1) of this section.

(3) The Agency may, at the request of or after consultation with the fire authority, provide at any convenient or suitable places within the area of operation of the Agency any main, pipe, valve, hydrant, service or other waterworks which, may be required by the fire authority in the discharge of its functions to prevent the control of fire.

(4) No charge shall be made by the Agency for any work done or service rendered under the provision of subsection (3) of this section but all materials required for the work or service shall be paid for by the authority.

#### **PART VIII —OFFENCES**

Damage to Waterworks and pollution of water, etc.

37. (1) A person who —

(a) willfully or negligently damages any water works or services connected therewith; or

(b) unlawfully diverts water from the same or from any stream or water by which any waterworks are supplied; or

- (c) pollutes any such water or allows any foul liquid, gas or other noxious or injurious matters to enter into any waterworks or any services connected therewith; or
- (d) obstructs the Agency in carrying out its water extension project or prevents it or its agent from carrying out its functions or services under this Law or incites other persons to do so;
- (e) without licence, sinks a borehole or well or operates any other private waterworks;

is guilty of an offence and liable, on conviction, to a fine of five thousand naira or; in default of payment, imprisonment for one year, and to a further sum of one hundred naira for each day that the offence is continued after such conviction;

Provided that where the charge is in respect of damage to waterworks or services connected therewith, such damage shall be replaced or repaired by the Agency at the expense of such person and the cost of replacing or repairing thereon may be recovered from the person by civil action.

(2) Any person who draws off or takes water from any waterworks or services connected therewith or from any stream or water by which any waterworks are supplied is guilty of an offence and liable on conviction to a fine of three thousand naira or, in default of payment, imprisonment for one year.

(3) A person who willfully or negligently misuses or wastes, any water passing into, through, upon or near any tenement or land from any waterworks is guilty of an offence and liable on conviction to a fine of one thousand naira or in default of payment, to six months imprisonment.

**38. A person who —**

- (a) alters or causes or permits to be alter any service with intent either —
  - (i) to avoid accurate measurement of water by means of any meter; or
  - (ii) to obtain a greater supply of water than he is entitled to; or

Fraudulent  
measurement of  
water

- (b) alters or causes or permits to be altered any service contrary to any regulations made under this Law; or
- (c) willfully or negligently damages any meter;

is guilty of an offence and liable, on conviction, to a fine of five thousand naira or, in default of payment, imprisonment for one year and any service so altered or meter so damaged shall be replaced or repaired by the Agency at the expense of such person and the cost of replacing or repairing any such service may be recovered from the person by civil action.

Bathing and washing.

**39.** A person who —

- (a) baths in any part of the water works, or
- (b) washes, throws, or causes to enter therein, any horse, dog, goat pig or other animal or any bird, or any clothing material or anything whatsoever, or
- (c) unlawfully opens or closes any lock, cock, valve, sluice or manhole belonging to or forming part of, the waterworks; or
- (d) causes nuisance by the accumulation on any premises occupied by the Agency of any earth excavated material or any foul liquid, gas or other noxious or injurious matter and fails to remove such nuisance;

is guilty of an offence and liable, on conviction, to a fine of one thousand naira or in default of payment, imprisonment for six months.

Non-payment of water rates or charges.

**40.** Any person who fails or refuses to pay any rate or charge payable by him by virtue of this Law is guilty of an offence and liable on conviction to a fine of two thousand naira or imprisonment for one year or to both such fine and imprisonment but without prejudice to the right of the Agency to proceed against the person in a court of law or water rate court to recover the rate due and payable by him.

41. A person who, without lawful justification or excuse, the proof of which shall lie on him, incites any other person to refuse to pay any charges payable by that other person by virtue of this Law is guilty of an offence and liable, on conviction, to a fine of one thousand naira or, imprisonment for six months or to both such fine and imprisonment.

Incitement against payment of rates or charges.

### PART IX —LEGAL PROCEEDINGS

42. Neither the Agency nor the Board nor a servant or employee of the Agency shall be liable in any civil action or proceeding for any damage suffered by riparian owners as a result of any abstraction or water where such abstraction is made under the provisions of this Law.

Idemnity of suits against Agency

43. (1) No suit against the Agency or any servant thereof for any act done in pursuance of this Law or in execution or intended execution of any duty or function under this Law, or in respect of any alleged neglect or default in the execution of such Law, duty or authority, shall lie or be instituted in any court unless it is commenced within twelve months next after the act, neglect or default complained of or, in the case of a continuance of damage or injury within twelve months next after the ceasing thereof.

Limitation of suits against Agency.

(2) No suit shall be commenced against the Agency until one month at least after written notice of intention to commence the same shall have been served upon the Agency by the intending plaintiff or his agent; and such notice shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.

44. The notice referred to in section 43(2) and any summons, or other document required or authorised to be served upon the Agency under the provisions of this Law or any other Law may, unless in any case there is express provision to the contrary, be served by delivering the same to the Executive Director (Administration) or other person appointed by the Agency for that purpose, or by sending it by registered post addressed to the Executive Director (Administration) or to that other person at the principal office of the Agency.

Service of documents.

Restriction on Execution.

**45.** In any suit against the Agency no execution or attachment or process in the nature thereof shall be issued against the Agency, but any sum of money which may be the judgment of the court be awarded against the Agency shall subject to any direction given by the court where notice of appeal has been given to the court in respect of the said judgment, be paid by the Agency from the funds of the Agency.

Representation by the Agency.

**46.** (1) In any suit by or against the Agency, the Agency may be represented at any stage of the proceedings by —

- (a) any servant of the Agency who shall satisfy the court that he is duly authorised in writing by the Managing Director in that behalf, or
- (b) a legal practioner or a law officer.

(2) In this part “suit” includes action or any civil proceeding commenced by writ of summons or in such other manner as may be prescribed by rules of court but does not include a criminal proceeding.

### PART X — MISCELLANEOUS

Relation with Corporation.

**47.** The Agency and the Corporation shall have preference over other authorities in the use of water resources for public, domestic or industrial purposes and if any doubt exists as to the expression “public, domestic or industrial purposes” or any dispute arises between the Agency and the Corporation as to which should have preference over the other in any particular instance such doubt or dispute shall be resolved by the Governor whose decision shall be final.

Regulations.

**48.** The Agency may with the approval of the Governor make regulations—

- (a) relating to such matters as in its opinion are necessary for the proper execution of the provisions of this Law; or
- (b) for the conditions of service of the staff of the Agency.

49. (1) The Managing Director may as he considers necessary set up in every Local Government Area and, in every such other community, a committee which shall be known as Water Committee.

Water committee.

(2) Members of the Water Committee may include persons who represent engineering business, educational and industrial interests as well as the representatives of local communities, landlords and tenants.

(3) Subject to subsection (2) the Water Committee shall consist of a Chairman who shall be a person in public service of the State serving in the area and not less than three or more than seven members and in the case of the community, the chairman must be an indigene of that community and all of whom shall be appointed of the Managing Director on part-time basis.

Provided that if it so desires, the Corporation shall appoint, at least a member of any Water Committee.

(4) The Water Committee shall be the link between the Agency and the locality served by the Water Committee and it shall be the duty of the Committee —

- (a) to carry out a survey of water-supply including the existing consumption of and demand for water in its area of authority as well as carry out a survey of the water resources in or available for the area;
- (b) to formulate proposals for meeting the existing of future water supply requirements of the area,
- (c) to advise the Managing Director, the Agency and anybody having representation in the committee on the preparation and co-ordination of schemes relating to water supply.
- (d) to furnish the Governor, the Board, the Agency and the body mentioned in paragraph (c) with any vital information relating to water supply in its area or water resources in or available for its area as may reasonably be required from the Committee.

- (e) to enter into any arrangement including financial relationship with the community in order to ensure the maintenance of regular water supply in its area of authority;

Provided that where such an arrangement or relationship is entered into by the Water Committee, the Board or the Corporation the appropriate authority shall be informed for its prior approval.

- (f) to perform such other functions as the Managing Director or with the prior approval of the appropriate authority, the Corporation may assign to it.

(5) The Chairman of the Water Committee shall preside at all meetings of the Committee and in the event of his absence at any meeting, the members present shall elect one of their number to preside at such meeting.

(6) The Chairman of the Committee shall call a meeting of the Committee at such times and at such places as he may deem fit, or as circumstances warrant on State Lands.

(7) The quorum of the Water Committee is three.

(8) The Water Committee may make standing orders regulating its procedure.

(9) The Water Committee may co-opt any person to be a member for such meeting or meetings as may be necessary and such person, so co-opted shall have all the rights and privileges of a member except that he shall not have a right to vote on any question.