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NIGERIA HYDROLOGICAL SERVICES AGENCY (ESTABLISHMENT) ACT, 2010.

EXPLANATORY MEMORANDUM

This Act establishes the Nigeria Hydrological Services Agency charged with the responsibility for, among other things, providing hydrological services in Nigeria.

NIGERIA HYDROLOGICAL SERVICES AGENCY (ESTABLISHMENT) ACT, 2010.**ARRANGEMENT OF SECTIONS**

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NIGERIA HYDROLOGICAL SERVICES AGENCY (ESTABLISHMENT) ACT, 2010.

A Bill

For

An Act to establish the Nigeria Hydrological Services Agency charged with the responsibility for, among other things, providing all hydrological services in Nigeria; and for related matters.

[] commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria -

**PART 1 – ESTABLISHMENT OF THE NIGERIA
HYDROLOGICAL SERVICES AGENCY**

1. (1) There is established the Nigeria Hydrological Services Agency (in this Act referred to as “the Agency”). Establishment of the Nigeria Hydrological Services Agency.
 - (2) The Agency –
 - (a) shall be a body corporate with perpetual succession and a common seal;
 - (b) may sue and be sued in its corporate name;
 - (c) may acquire, hold or dispose of property, whether movable or immovable; and
 - (d) shall do all such things as are necessary for or incidental to the carrying out of its functions and duties under this Act.

2. (1) There is established for the Agency, a Governing Board (in this Act referred to as “the Board”) which consists of - Establishment and membership of the Governing Board.
 - (a) a chairman;
 - (b) one representative each of the Federal Ministry -
 - (i) of Agriculture and Water Resources,
 - (ii) of Environment, and
 - (iii) responsible for water transportation;
 - (c) one representative of the -
 - (i) the Nigeria Meteorological Services, and
 - (ii) the National Water Resources Institute;

- (d) six persons, one each from the six geopolitical zones; and
- (e) the Director-General of the Agency.

(2) Members shall be -

- (a) persons with vast cognate experience in the field of hydrology and water resources management; and
- (b) appointed by the President on the recommendation of the Minister.

(3) The supplementary provisions set out in the Schedule in this Act shall have effect with respect to the proceedings of the Board and other matters contained therein. Schedule

3. A member shall hold office – Tenure of office.

- (a) for a term of 4 years and renewable for a further term of 4 years and no more; and
- (b) on such other terms and conditions as may be specified in his letter of appointment.

4. (1) Notwithstanding the provisions of section 3 of this Act, a person shall cease to hold office as a member of the Board if – Cessation of membership.

- (a) he becomes bankrupt;
- (b) he is convicted of a felony or any offence involving dishonesty or fraud;
- (c) he becomes of unsound mind or is incapable of carrying out his duties;
- (d) he is guilty of a serious misconduct in relation to his duties;
- (e) in the case of a professional, he is disqualified or suspended from practising his profession in any part of the country by an order of a competent authority; or
- (f) he resigns his appointment by a letter addressed to the President.

(2) If a member ceases to hold office for any reason before the expiration of the term to which he was appointed, another person representing the same interest as that member shall be appointed to the Board for the unexpired term.

(3) A member may be removed by the President directly or on the recommendation of the Minister if he is satisfied that it is not in the interest of the Agency or public that the member continues in that Schedule

office.

5. Notwithstanding anything to the contrary in this Act, the Minister shall, not more than 3 months, exercise all the powers of the Board where –
- Dissolution of the Board.
- (a) the Board has not been constituted;
 - (b) the Board has been dissolved; and
 - (c) any action taken or decision reached in compliance with the provision of this subsection shall be valid for all intent and purposes.
- 6 A member shall be paid such allowances as the Federal Government may, from time to time, direct.
- Allowances of members etc

PART II – FUNCTIONS OF THE AGENCY

7. (1) The Agency shall –
- Functions of the Agency.
- (a) advise the Federal and States Governments on all aspects of hydrology;
 - (b) project, prepare and interpret Government policy in the field of hydrology;
 - (c) work with the meteorological services to issue forecasts for floods;
 - (d) promote hydrological services in agriculture, draught and desertification activities;
 - (e) provide hydrological services in operational hydrology and water resources activities;
 - (f) collect, process and disseminate all hydrological data and information within and outside Nigeria;
 - (g) keep in safe custody all hydrological records in the Agency's archive;
 - (h) ensure uniform standards of observation of all hydrological phenomena in Nigeria;
 - (i) ensure that international standards and best practices in hydrological operations are maintained;

- (j) train, conduct and undertake research particularly in the field of surface and groundwater hydrology and other related areas of hydrology;
- (k) provide consultancy services to the public on hydrology;
- (l) monitor hydrology components of the environment including ground water pollution through industrial, commercial and agricultural activities.
- (m) establish stations for hydrological observation;
- (n) carry out river training activities to improve conveyance of water in river channels including monitoring of the sediment road;
- (o) carry out other activities as are necessary and expedient for the full discharge of any of its functions under this Act; and
- (p) carry out geo-physical investigations for siting ground water development projects, dam foundation and saline water intrusion.

(2) Without prejudice to the functions in subsection (1) of this section, the Agency shall, where it is required, prescribe the hydrological requirements for all sectoral activities including environmental water way transportation, natural disaster and relief management issues.

8. The Board shall have power to –

Powers of the Board.

- (a) formulate the general policies and guidelines relating to the functions of the Agency;
- (b) supervise the management of the affairs of the Agency;
- (c) subject to the provisions of this Act, make or alter rules and regulations for carrying out the functions of the Agency; and
- (d) formulate policy guidelines which, in the opinion of the Board, are necessary to ensure the efficient performance of the functions of the Agency.

PART III – APPOINTMENT OF THE DIRECTOR-GENERAL AND OTHER STAFF OF THE AGENCY.

9. (1) There shall be for the Agency a Director-General who shall be appointed by the President on the recommendation of the Minister.

Appointment, etc. of the Director-General.

(2) The Director-General shall be –

- (a) the Chief Executive and Accounting Officer of the Agency;
- (b) responsible to the Board for the day-to-day administration of the Agency;
- (c) a hydrologist, hydro-geologist, water engineer or any other person with cognate professional qualification in a relevant field; and
- (d) a person with relevant and adequate qualifications in a senior management cadre and shall have been so qualified for a period of not less than 15 years.

(3) The Director-General shall hold office –

- (a) for a term of 4 years and may be reappointed for a second term of 4 years and no more; and
- (b) on such terms and conditions as are specified in his letter of appointment.

10. (1) The Board shall appoint for the Agency a Secretary and Legal Adviser who shall be a legal practitioner and shall have been so qualified for a period of not less than 10 years.

Appointment of
Secretary and Legal
Adviser.

(2) The Secretary and Legal Adviser shall –

- (a) be the Secretary to the Board;
- (b) be responsible for keeping the books and proper records of proceedings and correspondences of the Board and the upkeep of the records of the Agency;
- (c) administer and discharge all legal obligations of the Agency;
- (d) administer and discharge all insurance requirements of the Agency.
- (e) retain external legal services on behalf of the Agency as he may deem necessary or expedient; and
- (f) perform such other functions as the Board or the Director-General, as the case may be, may, from time to time, assign to him.

- 11. (1) The Board may deploy or appoint for the Agency other employees, upon such terms and conditions as may be determined by the Board. Appointment of other staff.
- (2) Service in the Agency shall be approved service for the purpose of the Pension Reform Act. Act No. 2, 2004

PART IV –FINANCIAL PROVISIONS

- 12. There is established for the Agency a fund into which shall be paid -- Funds of the Agency.
 - (a) all subventions and budgetary allocations from the Federal Government;
 - (b) gifts, loans, grants-in-aid from national, bilateral and multilateral agencies;
 - (c) fines payable for violation of hydrological regulations; and
 - (d) returns on investments made by the Agency.

- 13. (1) Subject to subsection (2) of this section, the Agency shall apply the proceeds of the Fund established under section 11 of this Act – Expenditure.
 - (a) to the cost of administration of the Agency;
 - (b) to the payment of emoluments, allowances and benefits of members of the Board and for reimbursing members of the Board of any committee of the Board and for such expenses as may be expressly authorized by the Board;
 - (c) to the payment of the salaries, fees or other remunerations or allowances, gratuities, pensions and other benefits payable to the offices and other employees of the Agency:

provided that no payment of any kind under this paragraph (except such as may be expressly authorized by the Board) shall be made to any person who is, within the relevant period, in receipt of emoluments from the Federal or State Government;
 - (d) for the development and maintenance of any property vested in or

owned by the Agency;

(e) to publicize and promote the activities of the Agency; and

(f) to undertake such activities as are in connection with all or any of its functions under this Act.

(2) Funds generated internally by the Agency through fines, charges, fees and consultancy services shall be paid directly into the Federation Account.

14. (1) The Agency shall, not later than 30th September in each year, submit to the Minister an estimate of its expenditure and income (including payments to the Fund) for the next succeeding year. Annual estimates and accounts.

(2) The Agency shall keep proper accounts in respect of each year and proper records in relation to those accounts and shall cause its accounts to be audited within 6 months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General of the Federation.

15. The Agency shall prepare and submit to the Federal Executive Council, through the Minister, not later than 6 months after the end of each year, a report in such form as he may direct on the activities of the Agency during the immediately preceding year, and shall include in the report a copy of the audited accounts of the Agency for that year and the auditor's report on the accounts. Annual reports.

16. The Agency may accept any gift of land, money or other property on such terms and conditions, if any, as may be specified by the person or organization making the gift provided that such terms and conditions are not in conflict with the provisions of this Act. Power to accept gifts.

17. (1) The Agency may, from time to time, borrow by way of overdraft or otherwise such sums as it may require for the performance of its functions under this Act. Power to borrow.

(2) The Agency shall not, without the approval of the Board, borrow money which exceeds, at any time, the amount set by the Government as the limit of the authority of the Agency.

(3) Where the sum to be borrowed is in foreign currency, the Agency shall seek and obtain the approval of the Minister through the Board.

PART VI – LEGAL PROCEEDINGS

18. (1) A suit shall not lie or be instituted in any court against the Agency or its Limitation of suits

employees unless it is commenced -

against the Agency,
etc.

- (a) within 3 months after the act, neglect or default complained of; and
- (b) in the case of a continuation of damage or injury, within 3 months after the ceasing thereof.

(2) A suit shall not be commenced against a member of the Board, Director-General or any other officer or employee of the Agency before the expiration of a period of one month after written notice of the intention to commence the suit shall have been served on the Agency by the intending plaintiff or his agent.

(3) The notice referred to in subsection (2) of this section shall clearly state the -

- (a) cause of action;
- (b) particulars of claim;
- (c) name and place of abode of the intending plaintiff; and
- (d) relief which is sought.

19. The notice in section 20(2) of this Act, summons or other document required or authorized to be served on the Agency under the provisions of this Act or any other law or enactment may be served by -

Service of document.

- (a) delivering to the Director-General; or
- (b) sending by registered post addressed to the Director-General at the principal office of the Agency.

20. (1) In any action or suit against the Agency, no execution or attachment of process in any nature shall be issued against the Agency unless a notice of not less than 3 months of the intention to execute or attach has been given to the Agency.

Restriction on execution against property.

(2) Any sum of money which by the judgment of any court is awarded against the agency shall, subject to any direction given by the court where notice of appeal against the judgment has been given, be paid from the Fund of the Agency.

21. A member or employee shall be indemnified out of the asset of the Agency for any liability incurred by him in defending any civil proceeding if such proceeding is brought against him in his capacity as a member or employee of the Agency.

Indemnity of members and employees.

PART VII – MISCELLANEAOUS

22. Subject to the provisions of this Act, the President may give to the Agency directives of a general nature or relating generally to matters of policy with regard to the performance by the Agency of its functions and the Agency shall comply with the directives. Power to give directives.
23. The fixing of the seal of the Agency shall be authenticated by the signature of the Chairman Director-General or any other person generally or specifically authorized by the Board to act for that purpose. Fixing of the seal of the Agency.
24. The Minister may make such regulations necessary or expedient for giving full effect to the provisions of this Act and for the due administration of its provisions. Regulations.
25. (1) In this Act – Interpretation
- “Agency” means the Nigeria Hydrological Services Agency established under section 1(1) of this Act;
- “Board” means the Governing Board of the Agency established under section 2 (1) of this Act;
- “Government” means Government of the Federal Republic of Nigeria;
- “Geophysical survey” means the probing of the earth’s interior using energy sources (artificial or geo-magnetic), with the view to locating water-borne structures underground;
- “hydrological services” includes information on river or stream flow, groundwater fluctuation, surface and groundwater (level and quality), aquifer study and investigation, salinity studies and management, flood forecasting and other facilities furnished, issued or provided in connection with hydrological activities;
- “hydrology” means the study dealing with the water-related phenomena of the atmosphere, earth surface as well as underground;
- “Member” means a member of the Board and includes the Chairman;
- “Minister” means the Minister charged with the responsibility of matters relating to agriculture and water resources and “Ministry” shall be construed accordingly;

“policy and guidelines” means policy and guidelines made for the administration of the functions of the Agency;

“power” includes functions and duties;

“premises” includes lands, plants and ancillary works;

“president” means the President of the Federal Republic of Nigeria;

“regulation” means rules that may be established by the Agency, from time to time, for the administration and regulation of hydrological services in Nigeria;

(2) Every other term shall have the same meaning as contained in the basic documents of the World Meteorological Organization.

26. This Bill may be cited as the Nigeria Hydrological Services Agency (Establishment) Act, 2010. Citation

SCHEDULE

Section 2(3)

**SUPPLEMENTARY PROVISION RELATING TO THE BOARD, ETC
Proceedings of the Board**

1. (1) The Board may establish or appoint such number of committees as it may deem necessary for the discharge of its functions.
- (2) A committee appointed under this paragraph shall –
 - (a) consist of such number of persons (not necessarily members of the Board as may be determined by the Board) and a person other than a member of the Board, shall hold office on the committee in accordance with the terms of his appointment; and
 - (b) be presided over by a member of the Board.
- (3) The quorum of any committee set up by Board shall be as may be determined by the Board.

2. Subject to this Act and section 27 of the Interpretation Act, the Board may make standing orders regulating its proceedings or that of any of its committees.
3. At every meeting of the Board, the Chairman shall preside and in his absence the members present at that meeting shall appoint one of them to preside at the meeting,
4. The quorum at a meeting of the Board shall consist of the Chairman or, in an appropriate case, the person presiding at the meeting pursuant to paragraph 3 of this Schedule, and 4 other members.
5. The Board shall, for the purpose of this Act, meet not less than 4 times in each year and shall meet whenever it is summoned by the Chairman or, if required to do so by notice given to him by not less than 4 other members, he shall summon a meeting of the Board to be held within 14 days from the date on which the notice is given.

6. Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him to the Board for such period as it deems fit but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.
7. A member of the Board who is directly or indirectly interested in any matter being deliberated on by the Board or interested in any contract made or proposed to be made by the Agency shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.
8. A disclosure under this paragraph shall be recorded in the minutes of meeting of the Board and the member concerned shall –
 - (a) not, after the disclosure, take part in any deliberation or decision of the Board; and
 - (b) be excluded for the purpose of constituting a quorum of any meeting of the Board, deliberation or decision with regard to the subject matter in respect of which his interest is so disclosed.

I CERTIFY, IN ACCORDANCE WITH SECTION 2 (1) OF THE ACTS AUTHENTICATION ACT, CAP. A2, LAWS OF THE FEDERATION OF NIGERIA 2004, THAT THIS IS A TRUE COPY OF THE BILL PASSED BY BOTH HOUSES OF THE NATIONAL ASSEMBLY.

Salisu

SALISU ABUBAKAR MAIKASUWA, mni
CLERK TO THE NATIONAL ASSEMBLY
26th DAY OF AUGUST, 2010

Schedule to Nigeria Hydrological Services Agency (Establishment) Bill, 2010.

(1) SHORT TITLE OF THE BILL	(2) LONG TITLE OF THE BILL	(3) SUMMARY OF THE CONTENTS OF THE BILL	(4) DATE PASSED BY THE SENATE	(5) DATE PASSED BY THE HOUSE OF REPRESENTATIVES
Nigeria Hydrological Services Agency (Establishment) Bill, 2010.	An Act to establish the Nigeria Hydrological Services Agency charged with the responsibility for, among other things, providing all hydrological services in Nigeria; and for related matters.	This Bill seeks to establish the Nigeria Hydrological Services Agency charged with the responsibility for, among other things, providing all hydrological services in Nigeria.	10 th August, 2010	28 th July, 2010

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.


SALISU ABUBAKAR MAIKASUWA, mni
 Clerk to the National Assembly
 26th Day of August, 2010

I ASSENT.


DR. GOODLUCK EBELE JONATHAN, GCFR
 President of the Federal Republic of Nigeria
 27th Day of August, 2010