



**ENUGU STATE OF NIGERIA**  
**2021, NO. 3**

**THE ENUGU STATE WATER SECTOR**  
**LAW, 2021**

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**A LAW TO PROVIDE FOR THE RIGHT OF  
ACCESS TO BASIC WATER AND SANITATION  
SERVICES, THE INSTITUTIONAL  
FRAMEWORK AND THE REGULATORY  
FRAMEWORK FOR THE WATER AND  
SANITATION SECTOR, *THE* ROLES OF  
GOVERNMENTS AND THE PRIVATE SECTOR  
AND FOR OTHER CONNECTED MATTERS**

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**ENACTED BY**

**ENUGU STATE HOUSE OF ASSEMBLY**  
**THIS 27<sup>TH</sup> DAY OF JULY, 2021**



# **THE ENUGU STATE WATER SECTOR LAW, 2021**

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## ENUGU STATE OF NIGERIA

### 2021, NO. 3

*Title.*

A Law to provide for the right of access to basic water and sanitation services, the institutional framework and the regulatory framework for the water and sanitation sector, *the* roles of governments and the private sector and for other connected matters.

*Enactment.*

**Enacted** by the House of Assembly of Enugu State of Nigeria as follows -

*Citation and Date  
Commencement.*

1. This Law may be cited as the Enugu State Water Sector Law and shall be deemed to have come into force on the date the Governor assents to it.

*Interpretation.*

2. This Law, unless the context otherwise requires -  
**"Abstraction"** in relation to water contained in any source of supply, means the doing of anything whereby any water is removed from the source of supply, whether temporarily or permanently, including anything whereby the water is so removed for the purpose of being transferred to another source of supply and **"abstract"** shall be construed accordingly;

**"Agency"** means parastatal under the Ministry of Water Resources responsible for provision of potable water and improved sanitation in Urban, Small Towns and Rural areas in the State;

**"Appropriate Local Government"** means any Local Government or Area Council having jurisdiction over a specific area for the purpose of this Law;

**"Authorized officer"** means any member of staff of any institution established in pursuant to this Law as duly authorized in writing by such institution or the WCA or WASHCOM;

**"Basic Water Supply"** means the prescribed minimum standard of water supply services necessary for the reliable supply of a sufficient

quantity and quality of water to households, to support life and personal hygiene, as specified from time to time by the ESWRC in furtherance of the State Policy;

**"Basic Sanitation"** means the prescribed minimum standard of services necessary for the safe, hygienic and adequate collection, removal, disposal or purification of human excreta, domestic wastewater and sewage from households;

**"Chairman"** means the Chairman of any of the Boards established pursuant to the relevant sections of this Law;

**"Chief Executive Officer" (CEO)"** means the Chief Executive Officers of the Corporation, STU, STOWA and EN-RUWASSA by whatever name called, appointed under the relevant sections of this Law;

**"Commission"** means the Enugu State Water Regulatory Commission;

**"Constitution"** means the Constitution of the Federal Republic of Nigeria 1999 (as amended);

**"Consumer"** means any person who is supplied with water and includes any person who applied to be supplied with water from any waterworks or any person who otherwise uses water and is liable for the payment of water rates, rents or charges;

**"Contravention"** includes a failure to comply;

**"Corporation"** means the Enugu State Water Corporation and its subsidiaries;

**"Court"** means- High Court, Magistrate Court, Water Court etc.;

**"Director"** includes Deputy, and Assistant Directors;

**"Distribution System"** means the Corporation or any operator's networks or mains, pipes, pumping stations and service reservoirs through which water is conveyed to customers;

**"Domestic Supply"** means water from any waterworks used in any tenement for drinking, washing, cooking, or for baths or for any other purpose of domestic life;

**"Drain"** means any pipe or channel, etc. conveying only surface water or subsoil water or both and which is below ground level;



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

**"Emergency Situation"** means any situation declared as such by the Governor;

**"EN-RUWASSA"** means Enugu State Rural Water Supply and Sanitation Agency;

**"ENSTOWA"** means Enugu State Small Towns Water Supply and Sanitation Agency;

**"ENSWC"** means Enugu State Water Corporation;

**"Essential Service"** include Hospitals, Fire Services, Orphanages, Old People's Homes, IDPs etc;

**"ESWRC"** means Enugu State Water Regulatory Commission;

**"Federal Government"** means the Federal Government of the Republic of Nigeria;

**"Federal Ministry"** means the relevant Ministry of the Federal Government including the Federal Ministry of Water Resources, the Ministry of Environment or other ministries as applicable;

**"Financial Year"** means every period of twelve months terminating on the 31<sup>st</sup> day of December or any other date as may be determined by the State Ministry of Finance;

**"Functions"** includes objectives and duties;

**"Gazette"** means official gazette of ENUGU State;

**"Governor"** means the Governor of ENUGU State;

**"Ground Water"** means water from underground sources;

**"HAG"** means the Attorney General of the State;

**"Illegal Connection"** means any connection to a water pipe without the explicit authorization of the Corporation/STOWA or of any other Agency for that matter;

**"Information"** includes anything contained in any record, estimate or returns;

**"Law"** means Law enacted wholly or in part for the purpose of water supply services, management or regulation;

**"LFN"** means Laws of the Federation of Nigeria;

**"LGA"** means the Local Government Authority, agency or organization, municipality, city government or authority;

**"Leakage"** means the loss of water from the Corporation or any operators, distribution system or from parts of service pipes for which customers are responsible;

**"Manhole"** means any chamber constructed on a closed drain so as to provide access thereto for inspection and cleaning;

**"MDAs"** means Ministries, Departments and Agencies of the Government;

**"Member"** means a member of any Board established under this Law and includes the Chairman;

**"Meter"** includes any appliance used for measuring, ascertaining or regulating the quantity of water taken, used, or discharged from any waterworks by means of any service;

**"Metered Supply"** means the supply of water by means of a service where the water supply is measured by meter;

**"New Water Services Assets"** means those water services assets not yet in existence;

**"NGO"** means Non-Governmental Organization;

**"Occupier"** in relation to a tenement means the person in occupation of the whole or of any part of such tenement, but does not include a lodger;

**"Owner"** includes the person for the time being receiving the rent of the tenement in respect of which the water is used whether on his own account or as agent or trustee of any other person or who would receive the rent if such tenement were to be left to a tenant and includes the holder of a tenement from the Governor whether under lease, license or otherwise;

**"Permit"** shall mean the certificate to be issued by



the ESWRC stating the information that may be required as the Commission shall determine;

**"Person"** means an individual, corporate entity, limited liability Company, partnership duly registered under the Companies and Allied Matters Act, or a natural person as defined under the Interpretation Act;

**"Pollution"** means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water;

**"PPP"** means Public Private Partnership;

**"Premises"** means land with buildings or a distinct or separate holding or tenancy or any wharf or pier, or any tract of land used for any purpose;

**"Prescribed Water Services"** means the abstraction, conveyance, treatment and distribution of potable water; water intended to be converted to potable water or water for commercial use, where such water is provided to Consumers or other Water Services Provider as well as water related sanitation or wastewater;

**"Private Sector Participant"** means any private entity, whether a natural person, body corporate or a consortium or joint venture entering into a project agreement for the undertaking of any of the functions of any of the institutions or associations herein created;

**"Project Agreement"** means an agreement between a water Utility created pursuant to this Law and a private Sector participant selected through competitive bidding procedures to carry out private sector participation in the discharge of the functions of such utility that sets the terms and conditions of such participation, including without limiting any PSP agreements;

**"Property"** includes buildings and appurtenances, accessories, stores, materials, investments, funds, loans and accounts receivable claims;

**"PSP"** means Private Sector participant;

**"PSP Agreement"** means a concession agreement, afterimage agreement, management agreement or any agreement entered into by or on behalf of the State and a private sector person selected by the State through a competitive bidding process (i) to provide Prescribed Water Services or (ii) to improve, rehabilitate or expand the network of Prescribed Water Services capabilities within the State;

**"Public Fountain"** means any fountain, standpipe, valve, tap of any appliance 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 by the Corporation, the STOWA, RUWASSA, STU or any other WSP and which is the property thereof;

**"Records"** include computer electronic records and other records kept otherwise than in a document;

**"Relevant Authority"** means any governmental Ministry or any other body, which is competent to address matters within its powers;

**"Relevant State Ministry"** means the relevant Ministry of the State Water Resources and may where appropriate include; Rural Development Ministry, Ministry of Health, or the Ministry of Environment as applicable;

**"RUWASSA"** means Rural Water Supply and Sanitation Agency;

**"Sanitation"** In this law sanitation shall mean excreta and sewage disposal, urban drainages, industrial liquid discharge and other liquid pollutants disposal;

**"Sanitation Services"** means the collection, removal, disposal or purification of human excreta, domestic waste-water, sewage, as well as effluent, resulting from the use of water for commercial purposes;

**"SEC/LA"** means the Secretary/Legal Adviser of the Enugu State Small Towns Water Supply and Sanitation Agency;



**"Service"** means all pipes, valves, cisterns, cocks, fittings, and other appliances (excepting any meter as herein defined) 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 any waterworks, and being the property of the owner or occupier or such tenement;

**"State Government"** or **"State"** means the Government of Enugu State;

**"State Information System"** means the system for the collection of information pertaining to Prescribed Water Services to be created and maintained in accordance with regulations prescribed by the Commission under this Law;

**"State Water Laws and Policies"** means all applicable State Water Laws, regulations and policies including orders and guidelines issued by the Commission or otherwise pursuant to this Law;

**"State-Wide Development Plan"** means the aggregate 5-year Investment Plan and Development Plan for the Water and Sanitation Sector created by the Ministry responsible for Water Resources in collaboration with the ESWRC, as approved by the Governor in accordance with S.79(k) of this Law;

**"STOWA"** means Small Towns Water Supply and Sanitation Agency;

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

**"Substance"** includes microorganisms and any natural or artificial substance or other matter, whether it is in solid or liquid form of a gas or vapour;

**"Tariffs"** means the charges for Prescribed Water Services set in accordance with this Law, the prescribed regulation of the Commission and the conditions for service of the applicable Water Services Provider;

**"Tenement"** means any land with or without buildings which is held or occupied as distinct or separate holdings or tenancy of any description;

**"Treated Water"** means water treated for domestic purposes;

**"Undertaker"** means a water undertaker;

**"WASH"** means Water Sanitation and Hygiene;

**"WASHCOM"** means Water Sanitation and Hygiene Committee;

**"Waterworks"** includes all reservoirs, ponds, boreholes or wells, dams, tanks, cisterns, channels, tunnels, fitter beds, conduits, aqueducts, mains piped, fountains, sluices, used or constructed for the storage, control or conveyance, supply, measurement or regulation of water;

**"Water Sector Programme Agreements"** means any commitment entered into by the State Government, whether by contractual agreement or memorandum of understanding or otherwise, in relation to discretionary funding that the Federal Government may make available to Water Services Providers;

**"Water Services"** means Water supply services and sanitation services;

**"Water Services Development Plan"** means a water services development plan created by the body responsible for water supply services in the Urban, Small Towns or Rural areas with contributions from consumers and stakeholders in such areas and submitted to the Ministry and the ESWRC for input into the State Water Development Plan in accordance with this Law;

**"Water Service Intermediary"** means a Person who is obliged to provide Prescribed Water Services to another Person under terms of a contract where the obligation to provide such Prescribed Water Services is incidental to the main object of that contract, including, without limitation under a contract relating to a housing estate or under an employment contract with a farm, mine or other industry;

**"Water Services Provider"** means any Person who provides prescribed water services to Consumers or



other Water Services Providers within a specific jurisdiction together with or without the responsibility to collect any Tariffs that may be due and includes a Water Services Intermediary;

**“Water Service Regulatory Functions”** means the prescribing of rules, orders and regulations for the provision of prescribed Water Services, granting of WSP Licences and other functions of the ESWRC in accordance with this Law;

**“Water Supply Services Operator”** includes every government owned water supply and sanitation services Utility or Agency as well as public and private bodies or community based organizations and associations established pursuant to or recognized in this Law as having the responsibility for water services;

**“Water Quality Standards”** means the health, environment, and sanitation standards relating to the quality of drinking water consistent with National and State Water Laws and Policies and for this purpose issued by the Federal Ministry of Health known as the National Drinking Water Quality Standards together with any amendments thereof;

**“Water Services Work”** means a reservoir, dam, well, pump house, borehole, pumping installation, purification work, sewage treatment plant, access road, electricity transmission lines, pipeline. Meter, fitting or apparatus built, installed or used by a water services institution—

- i. to provide water services-
- ii. to provide water for industrial use; or
- iii. to dispose off industrial effluent;

**“WCAs”** means Water Consumer Associations;

**“WSPs”** means Water Services Providers;

**“WSP Licence”** means the licence issued pursuant to this Law granting a Person rights to provide prescribed Water Services within a jurisdiction i.e., the geographic areas specified therein;

**“Water Supply Services”** means the abstraction., conveyance, treatment and distribution of potable water, water intended to be converted to potable water or water for commercial use but not water for industrial use and

**"Water Supply Utilities"** means those institutions established as State Agencies responsible for the provision of water supply services in accordance with this Law.

**CHAPTER I  
ESTABLISHMENT OF THE ENUGU STATE  
WATER CORPORATION AND FOR CONNECTED  
MATTERS**

*Establishment of  
the Enugu State  
Water Corporation*

- 3.** There is hereby established a body known as the Enugu State Water Corporation (referred to in this Law as "*the Corporation*").

*Body Corporate.*

- 4.** The Corporation shall -
- (a) be a body corporate with perpetual succession and a common seal;
  - (b) have power to sue and be sued in its corporate name; and
  - (c) be capable of holding, purchasing, acquiring and disposing of property, movable and immovable.

*Water  
infrastructures  
vested in  
Corporation.*

- 5.** All existing and new state owned water infrastructures in the urban areas in Enugu State are hereby vested in the Corporation.

*Establishment of  
the Board.*

- 6.** (1) The Governing body of the Corporation will be the Board (hereafter called the "Board") which shall be appointed by the State Governor and consist of the following Members -
- a. a Chairman, who shall be appointed by the Governor and who shall be a person with proven experience who has served at management level in a public or private organization for a minimum of 5 years.
  - b. Managing Director of the Corporation
  - c. Permanent Secretary Ministry of Water Resources.
  - d. the Executive Director of Department of Finance.
  - e. the Executive Director of Commercial Department.



- f. the Executive Director of Engineering. These officials shall be ex-officio members.
  - g. other Board members who shall not be more than 6 (six) persons to be appointed by the Governor on part-time basis.
- (2) At least one-third of the Members of the Board shall be women and may represent any of the categories identified in this section
  - (3) The Chairman and other members of the Board other than ex-officio members shall be appointed by the Governor
  - (4) The Board shall meet to conduct the business once a quarter and at such other times as maybe expedient for the urgent dispatch of the affairs of the Corporation.
  - (5) The Board shall have power to exercise all the functions of the Corporation and do or carry out all acts or functions or things which the Corporation is by this Law, or may, by any other Law, be required to do or carry out.
  - (6) The provisions contained in the Schedule to this Law shall have effect with respect to the proceedings of the Board and the other matters mentioned therein.

*Remuneration of  
members  
of the Board*

- 7. There shall be paid to the members of the Board such allowances as the Governor shall determine subject to the prevailing government policy on such matters.

*Tenure of office  
of  
members of the  
Board*

- 8. (a) all members of the Board, including the Chairman, shall hold office for a term of 4 (four) years and may be reappointed upon the expiration of their terms and no more;
- (b) the appointment shall be upon such terms and conditions as may be stipulated in their letters of appointment

All members of the Board except the Managing Director shall be appointed to serve as part-time Members.

A Board Member shall continue in office after the expiration of his term of office until a successor has been appointed provided that he shall not continue in office pursuant to this section for longer than six months

*The Duties of the  
Board*

9. The duties of the Board shall include -
- (a) making strategic decisions on the activities and mandate of the Corporation;
  - (b) reviewing and approving the Corporation's business plans, budget and performance;
  - (c) monitoring the implementation of the State water and sanitation Policy as it affects the Urban Water and Sanitation Sector of the State;
  - (d) ensuring compliance with regulations and standards set by the ESWRC;
  - (e) ensuring that the Corporation remains a socially responsible corporate citizen;
  - (f) approving and monitoring the implementation of the Corporation's water services development plan,
  - (g) taking all steps to ensure that in the discharge of their duties, the Board does not engage in activities which prejudice, unduly influence, coerce or subvert the normal legal, commercial and financial activities of the Corporation;
  - (h) undertaking any other business which may be considered necessary by the Board in pursuance of the Corporation's functions as provided in this Law;
  - (i) approve recruitment of staff from GL.07 and below subject to needs;
  - (j) approve the promotion of staff of the Corporation on grade levels 07 and below and
  - (k) approval of expenditures not exceeding five hundred thousand Naira only (N500,000.00).



*Quorum.*

10. a. the quorum for a meeting of the Board of the Corporation shall be five members, including the Chairman.
- b. the Chairman shall preside at meetings of the Board and in his absence, the members present at the meeting shall nominate one of the members of the Board present to preside.

*Vacation of Office*

11. Notwithstanding the provisions of Section 6 of this Law, a member shall vacate his office and his office shall become vacant -
- (a) one month after the date upon which he gives notice in writing to the Governor of his intention to resign; or
- (b) on the date he begins to serve a sentence of imprisonment imposed without an option of a fine -
- i. in Nigeria, in respect of a crime involving financial impropriety or other felony; or
- ii. outside Nigeria, in respect of an offence involving financial impropriety or any conduct which, if committed in Nigeria, would constitute a crime; or
- (c) when he attains the age of 65 years; or
- (d) if he attends fewer than 75% of the Corporation's meetings in any one-year period; or
- (e) in the case of members who have professional qualifications, if the member is barred or suspended from his professional body.
- (f) if he becomes bankrupt
- (g) if he becomes of unsound mind or incapable of carrying out his duties
- (h) if he is guilty of serious misconduct in relation to his duties as a member of the board.
- (i). if he is dead,

Objectives of the  
Corporation.

- 12.** The objectives of the Corporation shall be to -
1. Provide safe, adequate and affordable water supply services to the residents of the urban areas in the State;
  2. To collaborate with the Ministry responsible for water resources to secure efficient use of water resources for conservation and protection in urban areas including the preparation of development plans for the areas served by the Corporation for input into the state WASH sector development plans;
  3. To create an investment fund for capital investments in water infrastructure assets and to implement investment plans for the purpose of expanding access to water and sanitation services for consumers in the urban areas within the shortest possible time;
  4. Implement cost recovery and commercial orientation in service provision and maintain customer focus for service sustainability and efficiency and
  5. Ensure that water service provision for domestic use takes precedence over supply for any other use.

Conditions for  
Provisions of  
Water Services.

- 13.** (1) The Corporation shall publish the terms and conditions for the provision of water services to the consumers.
- (2) These conditions must—
- (a) be accessible to the public;
  - (b) in accordance with the Regulations issued by the ESWRC with respect to the following:
    - (i) the technical conditions of existing or proposed extensions of supply;
    - (ii) the determination and structure of tariffs;
    - (iii) the conditions for payment;



- (iv) the circumstances under which water; services may be limited or discontinued;
  - (v) procedures for limiting or discontinuing water services and
  - (vi) measures to promote water conservation and demand management.
- (3) Procedures for the limitation or discontinuation of water services must -
- (a) be fair and equitable;
  - (b) Provide for reasonable notice of intention to limit or discontinue water services and for an opportunity to make representations. Unless -
    - (i) other consumers would be prejudiced;
    - (ii) there is an emergency situation; or
    - (iii) the consumer has interfered with a limited or discontinued service and
  - (c) not result in essential services being denied access to water services for non-payment, where that essential service proves, to the satisfaction of the ESWRC and the Corporation that such essential consumer is unable to pay for basic services and may make arrangement with such services and the government for the payment of such outstanding.

*Functions of the Corporation.*

- 14.** The functions of the Corporation shall be to -
1. provide water service delivery in the urban areas as well as maintenance of facilities vested in the Corporation;
  2. develop, construct, control, operate and maintain, and extend new water works and equipment as the Corporation may consider necessary for the purpose of providing: wholesome, potable water for consumption of the public and water for domestic, trade, commercial, industrial, scientific and other uses;

3. abstract water from any water source within the State and to treat, distribute and supply such water in accordance with this Law;
4. ensure that adequate wholesome water is supplied to consumers in line with National Drinking Water Quality Standards (NDWQS) for water quality;
5. propose water rates and charges for the approval of the ESWRC, and undertake collection and management thereof;
6. conduct or organize the conduct of research and training with respect to water supply, and water development and matters connected therewith and submit the results of such research to the Commissioner responsible for Water Resources management for formulation of policy;
7. prepare plans for the development and maintenance of water supply services assets and new water services assets in the urban areas (referred to as the "Water and Sanitation Services Development Plans"), pursuant to consultation with the relevant authorities, stakeholders, and consumer groups;
8. identify and implement projects for the provision of water services which may be undertaken with private sector participation, pursuant to consultation with the relevant authorities and subject to the approval of the Governor, in order to fulfil the water service obligations of the Corporation;
9. establish, manage and implement an Investment fund to rehabilitate and renew existing assets and to develop new assets pursuant to the Water Services Development Plans and the Corporation's investment Plans;
10. establish and implement proper accounting procedures for all of the assets and liabilities of



- the Corporation;
11. monitor and evaluate water services delivery with a view to achieving policy targets and quality control;
  12. authorize any officer or employee of the Corporation to act as agent of the Corporation for any functions, services or facilities which may be exercised, performed or provided by the Corporation under this Law;
  13. specify the terms and conditions of supply of water to the consumers for the approval of the ESWRC in accordance with S.13 hereof;
  14. recommend Regulations to the ESWRC for the protection and preservation of the water services assets and water supply facilities of the Corporation;
  15. promote the rational use of water resources and potable water supplied by the Corporation and propose regulations to prevent wastage to the ESWRC;
  16. take steps to protect the water resources and other assets and facilities of the Corporation from trespass, pollution and other nuisance by any member of the public;
  17. prepare quarterly and annual reports on water services delivery and submit same to the Ministry responsible for Water;
  18. design, formulate, and manage appropriate PPP models in line with internationally acceptable standards as it relates to the responsibilities of the Water Corporation;
  19. do anything for the purpose of advancing the skill of persons employed by the Corporation or the efficiency of the equipment of the Corporation or the manner in which the equipment is operated including the provision of facilities for training, education and research and

20. carryout any other activities that are expedient or necessary for the effective and efficient performance of its functions under this Law.

General Powers  
of the  
Corporation.

15. (1) The Corporation shall, subject to the provisions of this Law, have powers for the purpose of carrying out its functions to -
- a. own all water services assets and construct new water services assets within the urban areas of the State.
  - b. fix rates and charges payable by customers for water supplied by the Corporation and determine all other fees, subject to the approval of the ESWRC.
  - c. acquire, purchase, lease, hold, construct, manufacture, maintain or insure any property forming part of the water services assets or new water services assets, whether movable or immovable, required for or in connection with the performance of its functions and sell, lease, concede, dispose of, or otherwise deal with such property or any part thereof subject to the approval of the Governor in instances of sale;
  - d. procure water abstraction rights from the relevant authorities and may assign such rights to private participants and communities;
  - e. 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, and making good any damage done;
  - f. examine from time to time any surface or underground water forming part of the water resources of the State for the purpose of determining what pollution, if any, exists



- and its causes and to do likewise in respect of other water bodies by arrangement with the appropriate authority under and in accordance with the provisions of any existing Law in that behalf,
- g. subject to the issuance of reasonable notice to the occupier thereof, at any time between the hours of six o'clock in the morning and six o'clock in the evening, or in case of urgency at any other time, to enter into premises or place upon which any service has been laid or into which any water supply services are supplied so as to -
    - (i) inspect and repair any service and or to ascertain whether there is any wastage, leakage, obstruction, illegal connection or damage to any service or meter therein and anything in connection therewith;
    - (ii) ascertain the amount of water taken or used or;
    - (iii) disconnect the supply of water to any premises;
  - h. 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 Corporation deems necessary;
  - i. accept or acquire and hold any security of any kind in any form whatsoever;
  - j. surrender, transfer or re-convey any security held by the Corporation whether upon exchange for other security or upon discharge;
  - k. make, draw, accept, or endorse negotiable instruments;
  - l. invest money standing to its credit and not for the time being required for its immediate need, in stocks, shares, debentures or other

- Securities whatsoever approved by the Governor and to sell such stocks, shares, debentures or other securities;
- m. write off bad debts with the approval of the Governor.
  - n. raise finance or borrow money by issuing debenture or any other securities or in any other manner in connection with the exercise of its functions subject to the approval of the Governor; and granting exemptions from any water rate or charge of any premises or Class of premises to any person or class of persons with the approval of the Commissioner of the relevant Ministry in charge;
- (2) The Corporation shall have powers for the purpose of carrying out its functions to do all such acts as appear to it to be requisite, advantageous, or convenient and may carry on any activities in that behalf either alone or in association with any other person or body, in accordance with the provisions of this law, including the institution of legal proceedings in the enforcement of the above functions

*Staff of the Corporation.*

- 16.** The Chief Executive Officer/Managing Director -
- (1) There shall be appointed by the Governor an officer of the Corporation to be known as the Managing Director.
  - (2) The MD shall be subject to the general direction of the Board and shall;
    - (a) be the Chief Accounting Officer of the Corporation
    - (b) be responsible for the implementation of the decisions and policies of the Board of the Corporation as well as the general administration of the Corporation;



- (c) be responsible for the proper management of the business of the Corporation and the supervision of staff matters
  - (d) perform such other duties as the Board of the Corporation or the Chairman or the responsible Ministry in charge of water or the Governor in that behalf, may from time to time direct;
- (3) The MD shall -
- (a) be a person with a professional qualification in either Engineering, Law, Accountancy, Business Administration, the physical sciences, or other relevant discipline and shall have held a senior management position for a minimum of ten years in a public or private organization
  - (b) be appointed upon such terms and conditions as the Governor may determine bearing in mind conditions of service of heads of Organizations in the private sector to ensure motivation and performance.
  - (c) may be a staff of the management cadre of the Corporation.
- (4) The MD shall set up such other administrative and Technical departments as he considers necessary in accordance with prevailing national and international standards in the water sector administration for the due performance of the functions of the corporation and the achievement of the Corporations objectives.
- (5) He shall hold office for a period of 4 years at the first instance and may be re-appointed for another 4 years and no more.

*The Secretary/  
Legal Adviser.*

**17.** The Secretary/Legal Adviser -

- (1) There shall be a Secretary/Legal Adviser (referred to in this Law as "the Sec/LA") to the

Corporation who shall be responsible to the Board and shall assist the Chairman and the MD in the discharge of their functions under this Law.

- (2) The Sec/LA shall be a Legal Practitioner with a minimum of [5] years post-call experience and shall be the head of the Legal Unit of the Corporation.

*The functions of  
the Secretary/  
Legal Adviser.*

- 18.** The functions of the Secretary/Legal Adviser  
(1). The Sec/LA shall perform the following functions -

- a. to organize and take minutes of the meetings of the Board.
- b. be the custodian of the company seal and records of the Corporation and conduct the correspondence of the Corporation;
- c. arranging for payment of fees and allowances of meetings and all other matters affecting Members of the Board.
- d. perform all duties as the Chairman or the MD may from time to time direct.
- e. communicate policy decisions at Board or Committee meetings to the affected Departments;
- f. render necessary advice in compliance with Laws, rules and regulations affecting the Corporation;
- g. advice the Board and the Management Committee and review all matters of legal significance to the Corporation.
- h. to handle all conveyances involving the corporation
- i. to select outside counsel with the consent of HAG, liaise and supervise same in the performance of his functions
- j. establish and maintain the Register and minute books as may be deemed



- necessary for the purposes of the Corporation;
- k. keep custody of copies of assets register and financial and annual reports of the Corporation and
  - l. prepare, vet and review all contractual agreements.
- (2). The Legal Adviser shall be a staff of the Ministry of Justice on posting (If it is a corporate body with a Board and can hire staff, the legal adviser may be employed or independent of the Ministry of Justice).

*Other Staff of the Corporation.*

**19. Other staff of the Corporation**

- (1) The Board shall have power to appoint directly from the private sector, or from any Public service of the State, Local government, Federation, or otherwise, any number of staff and other employees as it may from time to time deem necessary to assist the Corporation in the discharge of its functions under this Law.
- (2) The terms and conditions of Service shall be as may be determined by the Corporation, the same with what is obtainable in any other public corporation in the State,  
Provided that such conditions shall be those obtainable in the State Civil Service.
- (3) It is hereby declared;
  - (a) that Service in the Corporation shall be approved Service under the provision of the Pensions Law and accordingly, staff and employees of the Corporation shall be entitled to pensions, gratuities and other retirement benefits as prescribed under the State Pensions Law.
  - (b) without prejudice to the provisions of subsection (a) of this section, nothing in this Law shall prevent the appointment of

any person to any office on terms which preclude the grant of pension, gratuity or other retirement benefits with respect to that office.

*Condition of  
service of staff.*

- 20.** The Corporation may, subject to the provisions of this Law, determine generally the condition of service of the staff of the Corporation and without prejudice to the generality of the foregoing; the Corporation may determine;
- (a) the conditions for the appointment, promotion, termination and dismissal of staff and employees of the Corporation and which must be in line with what is obtainable in other sectors of the public Service of the State.
  - (b) Procedure for Appeals by such employees against dismissal or termination or other disciplinary measures, and until such conditions of service are made any instrument relating to the conditions of service in the Public Service of the State shall be applicable, with such modifications as may be necessary, to staff and employees of the Corporation.

*Funds and  
Resources of the  
Corporation.*

#### **FINANCIAL PROVISIONS**

- 21.** Funds and Resources of the Corporation -
- (1) The funds and resources of the Corporation shall consist of -
    - (a) all sums, investments or other property vested in the Corporation by virtue of the provisions of this Law; Such sums or other advances by way of loans, or grants to the Corporation by the State Government;
    - (b) such sums or other property as may from time to time be advanced by way of loans or grants to the Corporation by any Federal, State, or Local Government or any agency or institution of any such Government, any



- International Organization, and private foundation or any person whatsoever;
- (c) any investments or other property whatsoever acquired by the Corporation;
  - (d) money earned or arising from any investments or other property acquired by or vested in the Corporation; and
  - (e) all other sums (whether as water rates, water services charges, or otherwise) or other property whatsoever which may in any manner become payable to or vested in the Corporation in respect of its powers and duties or of any other incidental matter under this Law or by virtue of the provisions of any other Law.
  - (f) any money allocated to the Corporation under the State Government budgetary allocation or such other money as may from time to time accrue to the Corporation
- (2) The Corporation shall ensure that its funds and resources are adequate to meet the operating expenses, depreciation charges, debt servicing requirements and such percentage of its annual capital expenditure requirements as may be determined by the Governor and any shortfall may be provided as a loan by the State government to the Board upon terms as the Governor may determine to ensure that the Corporation continues to provide water supply services to the consumers.

*Bank Account.*

- 22.** The Corporation shall operate Bank accounts for its funds with a reputable Bank or Banks but in line with Government policy and the signatories to the accounts shall be either the MD, the Head of Administration and the director of finance or any two of the above named Principal Officers or any other persons duly authorized by the Board or in

his absence his designated representatives as the case may be, and the Head of Accounts, or in his absence his designated representative or any person duly authorized by the Board in that behalf.

*Application of the  
Corporation's  
Revenue.*

- 23.** The following charges shall be defrayed out of the revenue of the Corporation for any financial year -
- a. the remuneration and allowances of the Members of the Governing Body and those of any committees of the Corporation;
  - b. the remuneration, fees, allowances, pensions and gratuities of the staff, agents, technical and other advisers or consultants of the Corporation;
  - c. all expenses of the operation and management of the Corporation and its waterworks and other properties including proper provision for depreciation, wear and tear or renewal of assets;
  - d. such minor works of a capital nature as the Corporation may deem necessary from time to time;
  - e. such sums including compensation that may be payable by the Corporation to any person or authority by virtue of the provisions of this Law or any other enactment;
  - f. taxes, rates and other levies payable by the Corporation under any Law;
  - g. interest or loans raised by and on behalf of the Corporation;
  - h. sums required to be transferred to any sinking fund or otherwise set aside for the purpose of making provision for the capital investments, redemption of investments in the Corporation or other securities or the repayment of other loans and
  - i. such other sums as the Board may approve for payment out of the revenue account of the Corporation in respect of any Financial year.



*General Reserve  
Fund.*

- 24.** The Corporation may, with the approval of the Governor establish and maintain a General reserve fund in a separate Account into which account shall be paid the following –
- a. balance of the revenue of the Corporation for any financial year;
  - b. such money as the Governor may from time to time direct from any sources;
  - c. the General Reserve funds shall be used for emergency and urgent needs of the Corporation relating to the rendering of urgent and essential services as the Corporation may from time to time authorize subject to the approval of the Governor;
  - d. provided that where the fund is used to meet State or National emergencies, the Governor shall make arrangements to replace such amount upon application by the Corporation.

*Loans and  
grants by the  
State  
Government.*

- 25.** (1) The Enugu State Government ("the Government") may make to the Corporation the following:
- a. grants of any sums of money or property deemed necessary; and
  - b. loans upon such terms as to repayment, of interest or otherwise as the Government may determine.
- (2) The Government may, if it deems expedient so to do, waive in favour of the Corporation any right or liability to the Government in respect of any property vested in the Corporation by virtue of the provisions of this Law.

*Annual Budgets  
and Accounts*

- 26.** (1) The Corporation shall, not later than 30<sup>th</sup> September of each year, submit to the Governor, an estimate of its expenditure and income for the next succeeding year.

- (2) The Corporation shall keep proper accounts, to conform with standard accounting practice, in respect to each year and proper records in relation to those accounts and shall cause its accounts to be audited within six months after the end of each year by auditors appointed in accordance with guidelines supplied by the Auditor – General of the State.
- (3) The accounts of the Corporation together with the auditor's report shall be laid before the Public Accounts Committee of the State every year.

*Annual Reports.*

- 27.** The Corporation shall prepare and submit to the Governor not later than six months after the end of each financial year, a report in such form as the Governor may direct on the activities of the Corporation during the immediately preceding year, and shall include in such report a copy of the audited accounts of the Corporation for that year and the auditors' report on the accounts.

*Power to accept gifts.*

- 28.** The Corporation may accept gifts 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.
- The Corporation shall not accept gifts if the conditions attached by the person or organization offering the gifts are inconsistent with the functions of the Corporation or detrimental to the interest of the State Government.

*Power to borrow money.*

- 29.** (1) The Corporation may from time to time, with the approval of the Governor, borrow from any person, government or multilateral financial institution, money by overdraft from commercial Banks, or in any other manner for and in connection with the exercise of its



functions under this Law as the Corporation may deem necessary.

- (2) An approval given for the purposes of this section may be either general or limited to a particular borrowing or otherwise and may be subject to conditions.

*Investment.*

- 30.** The Corporation may, subject to the Provisions of the Law, and the conditions of any trust created in respect of any property, invest some of its funds in any security prescribed by the Investments and Securities Act or in such other securities as may from time to time be approved by the Governor.

*Exemption from Tax.*

- 31.** The Corporation shall be exempted from the payment of income tax on any income accruing from investments made by the Corporation.

*Power to raise capital on the stock exchange.*

- 32.** The Corporation may with the approval of the Governor raise capital for the implementation of its developmental plans and programmes through the capital market or by issuing Bonds or other instruments, by satisfying all the necessary requirements of the Stock Exchange in that regard subject to the approval of the Governor.

*Guarantee on loans or other instruments of the Corporation by the State Government.*

- 33.** (1) The Government may guarantee by an undertaking of the State Commissioner for Finance in such manner and on such condition as the Governor may think fit, the payment of the principal and interest of any sum or sums borrowed or Bonds issued by the Corporation with the approval of the Governor.
- (2) Such sums as may be required by the State Accountant-General for the purpose of making good the obligations of the Government under guarantee shall be charged on the Consolidated Revenue Fund of the State government.

Proof of moneys due to any action for the recovery of any rate or other moneys (other than fines and penalties) payable or recoverable under and by virtue of the provisions of this Law, a certificate under the hand of the Corporation in that behalf, that any sum of money is due, and that the defendant is the person liable to pay the same shall, be evidence of such debt and of non-payment thereof, and of the fact that the defendant is the person liable to pay the same. Such defendant shall have the burden of proving otherwise.

*Responsibility of the Corporation which the governor may perform or delegate.*

- 34.** In the absence of a Board of the Corporation and until such time such Board is constituted pursuant to this Law, the Governor or any person to whom he has delegated the responsibility of the Corporation shall execute any document, exercise or perform any of the Corporation's Powers.

*Water Supply, Distribution and consumption.*

- 35.** Corporation's responsibility to consumers for continuous supply of water -

- (1) The Corporation has a duty to all consumers or potential consumers in the urban areas to progressively ensure efficient, affordable, economical and sustainable access to potable water services.
- (2) This duty is subject to -
  - (a) the availability of resources;
  - (b) the need for an equitable allocation of resources to all consumers and potential consumers within the Corporation's area of jurisdiction;
  - (c) the need to monitor and ensure access to water services in an equitable way;
  - (d) the duty of consumers to pay reasonable charges, which must be in accordance with the prescribed norms and standards for



- tariffs for water services issued by the ESWRC with the approval of Enugu State House of Assembly;
- (e) the duty to conserve water resources;
  - (f) the nature, topography, zoning and situation of the area in question;
  - (g) the right of the Corporation to limit or discontinue the provision of water services if there is a failure to comply with reasonable conditions set for the provision of such services.
  - (h) the need to carry out inspections, tests, or repairs and for the making of new connections; and
  - (i) the need to effect alterations and modifications to its pipelines and other facilities or general maintenance of the water works subject to Notice as may be determined by Regulations of the ESWRC
- (3) The Corporation shall in no case be under any obligation to pay damages or compensation for loss, damages or inconveniences caused to any consumer through any suspension, failure, discontinuance or a total or partial interruption of the supply of water howsoever caused in furtherance of (2) above except in the case of negligence on the part any employee or Agent of the Corporation.

*Rates and Scales  
of Charges.*

- 36.** (1) The Corporation shall from time to time fix rates and scales of charges payable for water supply and other services within the designated urban areas in accordance with a methodology for tariff setting earlier approved by the ESWRC which allows for the fixing of economic and poverty rates for water supply and other services in order to meet its financial objectives in accordance with the provisions of this Law.

- (2) The water rates and charges may be fixed at different rates for different locations and different users as may be approved by the ESWRC.

*Application for  
Water Supply.*

- 37.** (1) The Corporation may supply water to a tenement upon application of the owner/occupier thereof which service shall be by contract between the parties pursuant to Rules and Regulations issued by the ESWRC.

- (2) The Corporation may refuse to supply water to any particular premises otherwise than by a meter installed and kept in repair by the Corporation.

Provided that the Corporation may not disconnect any user or fail to connect a potential consumer for the failure of the Corporation to provide said meter, the provision of meters to customers being a financial objective of the corporation.

*Purchase, resale  
and distribution  
of water by the  
Corporation.*

- 38.** Subject to the provisions of this Law, the Corporation may purchase water in bulk and may resell such water either in bulk or by distribution to individual consumers, corporate bodies, commercial ventures or other private water supply operators.

*Prohibition of  
sale of water  
supplied by the  
Corporation.*

- 39.** As from the commencement of this Law, it shall be unlawful for any person to resell water supplied by the Corporation except pursuant to a License or other Agreement with the Corporation or the relevant Ministry for that purpose -

Provided that no authority shall be required for the sale of any manufactured goods or other commodities in which water supplied by the Corporation is included such water having been legally procured from the Corporation in the first place.



*Payment for  
water rates and  
charges.*

- 40.** (1) The owner or occupier of any tenement to which water is supplied by the Corporation shall pay to the Corporation such rates and charges for water supply or other service as may from time to time be determined by the Corporation and approved by the ESWRC.
- (2) Where any person fails to pay water rates or charges within one month or any other period after notice of the default as may be approved by the ESWRC, the Corporation may recover such rates or charges in accordance with regulations issued by the ESWRC for that purpose including by application brought before the High Court of Enugu State or any other special court created for that purpose.

*Power to levy  
general water  
rate in respect of  
urban areas.*

- 41.** The Corporation shall have power to collect from Urban Areas such fees in respect of services in common provided for the inhabitants of the respective Urban Areas as may be payable as determined by the Corporation.

*Corporation not  
responsible for  
installation  
works or for  
damage.*

- 42.** The Corporation 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 there-under, whether during the progress or the work of installation at 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 arising out of the use or misuse of apparatus by the consumer or any other person other than an employee of the Corporation but will be liable in the event of lack of diligence.

Maps of  
Waterworks.

- 43.** (1) Subject to the provisions of this section, it shall be the duty of the Corporation to keep and update annually, printed and electronic records of the location of -
- (a) every resource main, water main or discharge pipe which is for the time being vested in the Corporation; and
  - (b) any other underground works, other than a service pipe, which are for the time being vested in the Corporation.
- (2) The Corporation shall ensure that the contents of any records for the time being kept by it under this section are available, at all reasonable times, for inspection by the public free of charge at an office of the Corporation upon prior application in writing to the Corporation.
- (3) Any information which is required under this section to be made available by the Corporation for inspection by the public shall also be made available in the form of a map.
- (4) For the purpose of determining whether any failure to make a modification of any records kept under this section constitutes a breach of the duty imposed by subsection (1) that duty shall be taken to require any modification of the records to be made as soon as reasonably practicable after the completion of the works which make the modification necessary; and, where records kept under this section are modified, the date of the modification and of the completion of the works making the modification necessary shall be incorporated in the records.
- (5) The Corporation may charge such amounts as it may determine for the provision of such information to the public.



### CUSTOMER COMPLAINTS CENTER

*Establishment of  
the Complaints  
Centre.*

- 44.** (1) There is hereby established for the Corporation, a Complaints Centres (referred to in this Law as "the Centres") which shall be established within the Corporation's Headquarters and some other centres as the need may arise.
- (2) The Corporation may establish complaints centres in its area offices as it deems necessary with a view to bringing its services closer to the consumers.

*Functions of the  
Centre.*

- 45.** The functions of the Centre shall be -
- (1) to receive and pursue complaints from consumers regarding -
- Opening a telephone hotline to report or establishing a rapid response leak repair team,
  - creating a shim services unit or low income consumer unit. Ensuring prudent finance management team Establishment of a
  - a) water court,
  - b) Quality of water;
  - c) Water leakages;
  - d) damage to properties of the Water Corporation
  - e) Water connection charges
  - f) Illegal connections
  - g) Standards of service; and
  - other related matters.
- (2) to settle disputes and protect the interests of all consumers.
- (3) to monitor all matters appearing to the Centre affecting the interests of customers or potential customers.
- (4) to consult with any operator about matters which affect the interest of customers or potential customers to that operator.
- (5) to make representations where appropriate on behalf of a customer or complainant to any Private Sector Operator

- (6) to receive and pursue complaints from Environmental Agencies and Government bodies on pollution matters.
- (7) to forward complaints to the relevant authorities where applicable.

**GENERAL**

*Limitation of  
suits against the  
Corporation, etc.*

- 46.** (1) No suit against the Corporation, a Member of the Corporation, the MD or any other officer or employee of the Corporation for any act done in pursuance or execution of any Law, or any public duties or in respect of any alleged neglect or default in the execution of such Law, duties or authority, shall lie or be instituted in any court unless –
- (a) it is commenced within the three months immediately following the act, neglect or default complained; or
  - (b) in the case of continuation of damage or injury, within three months next after the ceasing thereof
- (2) No suit shall be commenced against the Corporation, the MD or any other officer or employee of the Corporation before the expiration of a period of one month after written notice of intention to commence the suit shall have been served on the Corporation by the intending plaintiff or his agent; and the notice shall clearly and explicitly state –
- (a) The cause of action;
  - (b) The particulars of claim
  - (c) The name and place of the abode of the intending plaintiff; and
  - (d) The relief which he claims

*Service of  
Documents.*

- 47.** The notice referred to in subsection (2) of section 46 of this Law, and any summons, notice or other document required or authorized to be served upon the Corporation under the provisions of this Law or



any other enactment or Law may be served by delivering the same to the MD or Secretary to the corporation by sending it by registered post and addressed to the MD or Secretary of the corporation at the Principal office of the Corporation.

*Restriction on execution against the Corporation.*

- 48.** In any action or suit against the Corporation, no execution or attachment of process in the nature thereof shall be issued against the Corporation but any sums of money which may by judgment of the court is awarded against the Corporation shall, subject to any directions given by the court, be paid from the general reserve fund of the Corporation.

*Indemnity of the Officers of the Corporation.*

- 49.** Every member of the Corporation, agent, auditor or officer or employee of the Corporation shall be indemnified out of the assets of the Corporation against any liability incurred by him in defending any proceeding, whether civil or criminal such proceeding is brought against him in his capacity as such member, agent, auditor or officer or employee as aforesaid.

*Directives by the Governor.*

- 50.** The Governor may give to the Corporation or the MD such directives directly or through the required Ministry of a general nature or relating generally to matters of policy with regard to the exercise by the Corporation of its functions under this Law and it shall be the duty of the Corporation to comply with the directives or cause them to be complied with.

*Certain provisions relating to Defaulters, etc.*

- 51.** (1) Where any person contravenes any of the provisions of this Law, the Corporation may, without prejudice to the rights of the Corporation to commence proceedings against any defaulter –
- (a) serve a notice in writing on the defaulting occupier or consumer and
  - (b) authorize or cause an officer or employee of the Corporation to enter and alter,

disconnect, stop or remove any water fittings belonging to or used by such defaulting occupier or consumer

- (2) Upon the occupier or the consumer remedying the default or contravention referred to in Subsection (1) of this section, the Corporation may cause repairs, replacement and re-connection of the water fittings and the Corporation shall recover the cost or expenses reasonably incurred to effect the repairs or replacement or re-connection as the case may be from such defaulter.

*Provisions  
relating to  
acquisition of  
land.*

- 52.** (1) Wherever it appears to the Corporation that any land in the urban areas of the State is required for the purpose of any waterworks, the Corporation shall, subject to the Land Use Act, LFN, 2004 apply to the Governor for approval for its officers or agents to enter upon the land and –
- (a) survey and take levels of the land
  - (b) dig or bore hole under the subsoil; and
  - (c) do such other things as are necessary to ascertain whether the land is adapted for such purposes including the conduct of Environmental Impact Assessments (EIA),
- Provided that no such officer, agent, servant or workman of the Corporation shall enter any building or any enclosed court or garden attached to a dwelling house (except with the consent of the occupier) except at least seven days' notice of intention to enter shall have been given to such occupier.
- (2) Where any entry made under subsection (1) of this section occasions any damages requiring the payment of compensation, the Corporation shall pay compensation as it thinks fit in the circumstances.



Abstraction by  
fire  
Authorities

- 53.** (1) Fire authority may abstract water from any public fountain, service or waterworks of the Corporation for the purpose of prevention or control of fire subject to conditions published by the Corporation from time to time.

#### **WASTE WATER AND SEWERAGE SERVICES**

Duties of the  
Corporation

- 54.** (1) It shall be the duty of the Corporation to -
- (a) provide improve and extend a system of public sewers (whether inside its area or elsewhere) and to clean and maintain those sewers as to ensure that the area is and continues to be drained;
  - (b) make provision for the emptying of those sewers and such further provision (whether inside its area or elsewhere) as is necessary from time to time for dealing, by means of sewage disposal works or otherwise, with the contents of those sewers and
  - (c) make provision for the emptying of on-site sewage collection system, whether such system are inside its area or elsewhere, as is necessary from time to time for dealing with the contents of the tanks or containers.
- (2) In carrying out its duties under subsection (1), the corporation shall have regard to following -
- (a) its existing and likely future obligation to allow for the discharge of trade effluent into its public sewers; and
  - (b) the need to provide for the disposal of trade effluent which is so discharged.
- (3) The duty of the Corporation under subsection (1) shall be enforced by the Commission.
- (4) The obligations imposed on the Corporation by this Part, and the remedies available in respect of contravention of those obligations, shall be in addition to any duty imposed or remedy available by virtue of any provision of this law and shall

not be in any way qualified by any such provision.

(5) For the purpose of this Part, "the Corporation" shall include other authority to which the Corporation has delegated its powers.

*Obstruction of  
authorised  
officer.*

**55.** Any person who obstructs an authorized officer of the Corporation commits an offence and shall be arrested by the police or an authorized officer of the Corporation.

*Breaches of duty*

**56.** (1) For the purpose of –  
(a) facilitating the determination of the extent to which breaches of the obligations imposed by virtue of the provision of this law shall amount to breaches of the duty imposed on the Corporation;  
The Commission may, by regulations provide for contravention of such requirements as may be prescribed to be treated for the purpose of this law as breaches of the duty.  
(2) The Commission may, by regulations prescribe such standards of performance in connection with the provision of sewerage services.  
(3) Without prejudice to the generality of the powers conferred by any subsection (2), regulations under that subsection may –  
(a) Provide for any dispute under the regulations to be referred by any party to such dispute to the Commission;  
(b) Provide circumstances in which the Corporation is to be exempted from requirements of the regulations.

*Information to  
customers.*

**57.** (1) The Corporation shall take steps to inform its customers of –  
(a) the standards of overall performance established under this Law; and



(b) the level of performance in respect of each of those standards.

- (2) The Corporation shall do this on an annual basis.
- (3) The duty of the Corporation to comply with this provision shall be enforceable by the Commission.

*Provision of  
sewers.*

- 58.** (1) It shall be the duty of the Corporation to provide public sewers to be used for drainage of premises in the State.
- (2) Any person may apply for the Provision of a public sewer on terms and conditions specified by the Corporation.

*Sewage disposal.*

- 59.** (1) Subject to the following provisions, the corporation may at any time by notice declare that any -
- (a) sewer which is situated within the state or which serve the whole or any part of the State; or
  - (b) sewage disposal works which are so situated or which serve the whole or any part of the State, shall, as from such date as may be specified in the notice, become vested in the Corporation
- (2) The owner, or any of the owners, of any sewer or sewage disposal work with respect to which the Corporation may make a notice under this section may by an application request the Corporation to issue a notice with respect to that sewer or sewage disposal works.
- (3) A notice or application under this section may be made with respect to a part only of a sewer.
- (4) The Corporation in exercising its powers under this section to issue a notice shall -
- (a) give notice of its proposal to the owner or owners of the sewer or works in question; and

- (b) take no further action in the matter until two months have elapsed without an objection against the notice being lodged or, as the case may be, until any objection so lodged has been determined
- (5) The Corporation, in deciding whether a notice should be issued under this section, shall have regard to the circumstance of the case and, in particular, to the following considerations, as to
- (a) whether the sewer or works in question is or are adapted to, or required for, any general system of sewerage or sewage disposal which the Corporation has provided, or propose to provide, for the whole or any part of its area;
  - (b) whether the sewer is constructed under a highway or under land reserved by a planning scheme for a street;
  - (c) the number of buildings which the sewer is intended to serve, and whether, regard being had to the proximity of other buildings or the prospect of future development, it is likely to be required to serve additional building;
  - (d) the method of construction and state of repair of the sewer or works and
  - (e) in a case where an owner objects, whether the making of proposed notice would be seriously detrimental to him.
- (6) Any person who immediately before the issuance of a notice under this section was entitled to use the sewer in question shall be entitled to use it, or any sewer substituted for it, to the same extent as if the notice had not been issued.

*Authority of the  
corporation.*

- 60.** From the commencement of this Law, all public sewers, sewerage and disposal works in the State are hereby vested in the Corporation.



Obligation of the  
owner of  
premises.

- 61.** (1) Subject to the provision of this part, the owner or occupier of any premises or the owner of any private sewer which drains premises, shall be entitled to have his drains or sewer connected with the public sewer of the Corporation and to discharge foul water and surface water from those premises or that private sewer -
- (a) the owner or occupier of any premises, or
  - (b) the owner of any private sewer which drains premises, shall be entitled to have his drains or sewer connected with the public sewer of the Corporation and to discharge foul water and surface water from those premises or that private sewer.
- (2) Subject to the provisions of this part, nothing in subsection (1) shall entitle any person -
- (a) to discharge directly or indirectly into any public sewer -
    - (i) any liquid from a factory, other than domestic sewage or surface or storm water, or any liquid from a manufacturing process;
    - (ii) any liquid or other matter, the discharge of which into public sewers is prohibited by or under any law; or
  - (b) where separate public sewers are provided for foul water and for surface water, to discharge directly or indirectly:
    - (i) foul water into a sewer provided for surface water or
    - (ii) except with the approval of the Corporation, surface water into a sewer provided for foul water or
  - (c) to have his drains or sewer made to connect directly with a storm water overflow sewer.
- (3) A person applying under this part shall give notice of his proposals in writing to the Corporation.

- (4) Within twenty-one working days of receipt of the proposal, the Corporation may by notice to the applicant refuse to permit the connection to be made, if it appears to the Corporation that the mode of construction or condition of the drain or sewer is such that the making of the connection would be prejudicial to the Corporation sewerage system.
- (5) An appeal against the refusal by the Corporation shall be made to the Commission within 14 days from the notice of the refusal.

*Premises Open  
for Inspection*

62. (1) For the purpose of examining the mode of construction and condition of a drain or sewer to which a proposal relates, the Corporation may, require the premises to be made open for inspection.
- (2) Where a person proposes under his part to make a connection between a drain or sewer and such a public sewer in the state as is used for the general reception of sewage from other public sewers and is not substantially used for the reception of sewage from private sewers and drains -
  - (a) the grounds on which the Corporation may refuse to permit the connection shall be such grounds as the Corporation deems fit;
  - (b) no appeal shall lie against the refusal by the Corporation to permit the connection.

*Notice to  
Corporation.*

63. (1) Where a person gives to the Corporation notice under this part of his proposal to have his drains or sewer made to connect with a public sewer of the Corporation, the Corporation may within fourteen (14) days after the receipt of the notice; issue a notice to the person that the Corporation intends to make the connection within a reasonable time.



- (2) If, after a notice has been given to any person under subsection (1) and that person proceeds to make the connection, he shall be guilty of an offence and liable, on conviction, to a fine as stated in the scheduled to this Law.
- (3) Where under this Law the Corporation has a notice under subsection (1), the Corporation shall have all such rights in respect of the making of the connection as the applicant desiring it to be made would have; provided that it shall not be obligatory on the Corporation to make the connection until either -
  - (i) there has been paid to the Corporation any such sum, not exceeding the Corporation's reasonable estimate of the cost of the work, as the Corporation may have required to be paid to it, or
  - (ii) there has been given to the Corporation such security for the payment of the cost of the work as it may reasonably have required.
- (4) If any payment made to the Corporation under subsection (3) exceeds the expenses incurred by it in the carrying out of the work in question, the excess shall be refunded by the corporation, and
- (5) If those expenses are not covered by the payment, the Corporation may recover the expenses, or the balance of them from the applicant for whom the work was done.

*Dispute between  
Corporation and  
any applicant.*

- 64.** (1) Any dispute between the Corporation and any applicant as to -
- (a) whether the Corporation's estimate of the cost of works given is reasonable.
  - (b) whether any requirement of security for the payment of the cost of works was reasonably

made by the Corporation, or  
(c) whether any excess is refundable, or any expenses are recoverable, by the Corporation, or the amount of any such excess or expenses, may be referred to the Commission for determination by either party to the dispute.

(2) For the purpose of this part, the making of the connection between a drain of private sewer shall include all such work as involves the breaking open of a street.

Notice to be  
given.

**65.** Where the Corporation decides under S.62 of this Law not to make a connection to which a person is entitled under S. 61, the applicant shall -

- (a) before commencing the work, give reasonable notice to any person directed by the Corporation to supervise the carrying out of the work; and
- (b) afford any such person all reasonable facilities for supervising the carrying out the work.

Penalty.

**66.** (1) Any person who causes a drain or sewer to be connected with a public sewer -

- (a) in contravention of any of the provisions of this law; or

**NB.** (b) before the end of the period mentioned in subsection (2) of section 62 of this Law is guilty of an offence and liable on conviction, to a fine as stipulated in the Schedule to this Law.

(2) Whether proceedings have or have not been taken by the Corporation in respect of an offence under this section, the Corporation may:

- NB.** (a) close any connections made in contravention of any of the provision of the Section 62 or 63; and
- (b) recover from the offender any expenses reasonably incurred by the Corporation in so doing.



*Application of  
any qualifying  
person*

- 67.** (1) Where on the application of any qualifying person, the Corporation -
- (a) believes that it is necessary or expedient for the purpose of this Part that the Corporation should permit a main connection into its sewerage system; and
  - (b) is of the opinion that the making of such a connection cannot be secured by agreement; The Corporation may allow the connection for such period and on such terms and conditions as may be determined by it.
- (2) In this section "qualifying person" means:
- (a) an operator; or
  - (b) a person who has made an application which has not been determined
- (3) In subsection (1) above, a "main connection" means a connection -
- (a) between a sewer or disposal main or
  - (b) a connection which allows a sewer or disposal main to discharge directly into a sewerage disposal works.
- (4) Where the application is made by a person who is not an operator at the time when the application is made, an order made under this section in response to the application shall be expressed not to come into force until the applicant becomes an operator for the area specified in the order, or for an area which includes that area.
- (5) Subject to subsection (4) an order under this Section shall have effect as an agreement between the Corporation and the application but may be varied or revoked by a subsequent order made by the Commission on the application of either party to the agreement, as well as by agreement between the parties.
- (6) In exercising its functions under this section, the Commission shall have regard to:

- (a) facilitating effective competition within the sewerage services industry;
- (b) the Corporation recovering the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;
- (c) the Corporation being able to meet its existing obligations, and likely future obligations to provide sewerage services without having to incur unreasonable expenditure incurring out works
- (d) not putting the Corporation at risk of not being able to meet its existing obligations, or likely future obligations, to provide such services.

Offence.

- 68.** (1) Subject to the provisions of this part, no person shall throw, empty or turn, or suffer a permit to be thrown or emptied or to pass, into any public sewer or into any drain or sewer connected with a public sewer-
- (a) any matter likely to injure the sewer or drain, to interfere with the free flow of its contents or to affect prejudicially the treatment and disposal of its content; or
  - (b) any such chemical, refuse or waste steam or any such liquid of a temperature higher than fifty degrees Celsius, as by virtue of subsection (2) is a prohibited substance; or
  - (c) any petroleum spirit or carbide of calcium.
- (2) For the purpose of subsection (1), chemical, refuse, waste steam or a liquid of a temperature higher than that mentioned in that subsection shall be a prohibited substance if (either alone or in combination with the contents of the sewer or drain in question) it is or, in the case of the liquid, when so heated -



- (a) dangerous;
  - (b) the cause of a nuisance; or
  - (c) Injurious, or likely to cause injury, to health.
- (3) A person who contravenes any of the provisions of this section is guilty of an offence and liable on conviction to a fine or imprisonment as stated in this Law.
- (4) The purpose of subsection (3) is for the imposition of a daily penalty as stated in the Schedule to this law until the contravention is abated with notice of same to the Commission.
- (5) In this section, the expression "petroleum spirit" means any such
- (a) crude petroleum;
  - (b) oil made from petroleum or from coal, shale, peat or other bituminous substances; or
  - (c) product of petroleum or mixture containing petroleum which gives off an inflammable vapour at a temperature of less than twenty-two degrees Celsius.

*Condition for  
construction of  
drain sewer.*

- 69.** (1) Where -
- (a) a person proposes to construct a drain sewer;
  - (b) the Corporation considers that the proposed drain or sewer is, or is likely to be needed to form part of a general sewerage system which the Corporation provides or proposes to provide and
  - (c) the Corporation may require that person to construct the drain or sewer in a sewer in a manner differing, as regards materials or size of pipes, depth, fall, direction or out-fall or otherwise, from the manner in which that person proposes or could otherwise be required by the Corporation, to construct it.
- (2) If any person on whom requirements are imposed under this section by the Corporation

- is aggrieved by the requirements, he shall within twenty-eight days appeal to the Commission;
- (3) On an appeal under subsection (2) with respect to any requirements, the Commission may either disallow the requirements or allow them with or without modification;
- (4) It shall be the duty of a person on whom requirements are imposed by the Corporation under this section to comply with those requirements;
- (5) The duty of any person by virtue of subsection (4) to comply with the requirements of the Corporation shall be owed to the Corporation; and any breach of that duty which causes the corporation to sustain loss or damage shall be actionable to the suit of the Corporation;
- (6) The Corporation in exercising the powers conferred on it by this section may -
- (a) refund to the person constructing the drain or sewer the extra expenses reasonably incurred by that person in complying with the Corporation's requirements; and
- (b) until the drain or sewer becomes a public sewer, from time to time refund to that person so much of any expenses reasonably incurred by him in repairing or maintaining the drain or sewer as may be attributable to the Corporation's requirements having been imposed and complied with.
- (7) Nothing in this Part shall apply to any drain or sewer that is to be constructed by any railway operator or dock operator in or on land which:
- (a) belongs to them; and
- (b) is held or used by them for the purpose of their undertaking.

*Poor constructed  
drain or sewer.*

**70(A)** Where any premises has drain or sewer connecting with a public sewer or a cesspool, but that system



though sufficient for the effectual drainage of the premises -

- (a) is not adapted to the general sewerage system of the area; or
- (b) is in the opinion of the Corporation otherwise objectionable,

The Corporation may, at its own expense, close the existing drain or sewer and fill up the cesspool, if any, and do any work necessary for that purpose.

*Removal of the  
Managing  
Director.*

- 70(B)** Removal of the Managing Director by the Governor - The Governor has the exclusive right to remove the Managing Director for non-performance, fraudulent act/embezzlement of funds and other conduct capable of undermining the activities of the Corporation...

## CHAPTER II

### ENUGU STATE SMALL TOWNS WATER SUPPLY AND SANITATION AGENCY (ENSTOWA)

*Establishment,  
functions and  
powers of the  
Agency.*

- 71.** (1) There is hereby established the Enugu State Small Towns Water Supply and Sanitation Agency (referred to in this Law as "*the Agency*").
- (2) The Agency shall -
- (a) be a body corporate with perpetual succession and a common seal;
  - (b) have power to sue and be sued in its corporate name; and
  - (c) be capable of holding, purchasing, acquiring and disposing of property, movable and immovable.

*The Agency and  
its Constitution.*

- 72.** (1) The Governing body of the Agency shall be the Board (hereafter called the "Board") shall consist of -
- a) a Chairman.
  - b) other members shall be
    - (i) Permanent Secretary, Ministry of Water Resources

- (ii) Permanent Secretary, Ministry responsible for women Affairs
- (iii) Permanent Secretary Ministry of Rural Development.
- (iv) Permanent Secretary, Ministry responsible for Local Government Affairs
- (v) Permanent Secretary, Ministry of Health
- (vi) Permanent Secretary, Ministry of Environment
- (vii) Permanent Secretary, Ministry of Works
- (viii) the General Manager of the ENSTOWA.
- (c) 3 other persons, one each from the 3 senatorial zones not being civil servants, who, in the opinion of the Governor are capable of contributing positively to the achievement of the objectives of the ENSTOWA.
- (d) all Members of the Board shall be appointed by the Governor and with the exception of the General Manager, who shall serve as part-time Member.

*Remuneration of  
members of the  
Board.*

- 73.** There shall be paid to the members of the Board such allowances as the Governor shall determine subject to the prevailing government policy on such matters.

*Tenure of office  
of  
Members of the  
board*

- 74.** (1)(a) all members of the Board, including the Chairman, shall hold office for a term of 4 years and may be reappointed upon the expiration of their terms for another four (4) years and no more;
- (b) the appointment shall be upon such terms and conditions as may be stipulated in their letters of appointment
- (2) All Members of the Board except the Chief Executive Officer shall be appointed to serve as part-time Members.



- (3) A Board member shall continue in office after the expiration of his term of office until a successor has been appointed provided that he shall not continue in office pursuant to this section for longer than six months.

*Duties of the Board.*

- 75.** The duties of the Board of the Agency shall include –
- (a) making strategic decisions on the activities and mandate of the Agency;
  - (b) reviewing and approving the Agency's business plans, budget and performance;
  - (c) monitoring the implementation of the State WASH Policy as it affects the small towns;
  - (d) ensuring that the operations of the Agency are in compliance with regulations issued by the ESWRC with respect to tariff, standards and norms;
  - (e) approving and monitoring the implementation of the Agency's water services development plan,
  - (f) taking all steps to ensure that in the discharge of their duties, the board does not engage in activities which prejudice, unduly influence, coerce or subvert the normal legal, commercial and financial activities of the board, and;
  - (g) undertaking any other business which may be considered necessary by the Board in pursuance of the Agency's functions as provided in this Law

*Quorum*

- 76.** a. the quorum for a meeting of the Board of the Agency shall be based on simple majority.
- b. the Chairman shall preside at meetings of the Board and in his absence, the Members present at the meeting shall elect one of their Members to preside.

*Vacation of Office.*

- 77.** (1) Notwithstanding the provisions of Section 74 of this Law, a Member shall vacate his office and his office shall become vacant;

- (a) one month after the date upon which he gives notice in writing to the Governor of his intention to resign; or
- (b) on the date he begins to serve a sentence of imprisonment imposed without the option of a fine -
  - i. in Nigeria, in respect of a crime involving financial impropriety; or
  - ii. outside Nigeria, in respect of an offence involving financial impropriety or any conduct which, if committed in Nigeria, would constitute an offence; or,
- (c) when he attains the age of 65 years; or
- (d) if he attends fewer than 75% of the agency's meetings in any one-year period; or
- (e) In the case of Members who have professional qualifications, if the member is barred or suspended from his professional body.
- (f) if he becomes bankrupt
- (g) If he becomes of unsound mind or incapable of carrying out his duties
- (h) If he is guilty of serious misconduct with relation to his duties as a Member of the Agency.

Objectives of the Agency.

78.

The objectives of the Agency shall be to -

- (a) assist in the establishment of WCAs in small towns and design programmes for the empowerment and building of capacity in the WCAs to undertake the management of the water and sanitation facilities;
- (b) undertake the construction, rehabilitation and supervision of the construction of water supply facilities in the small towns in collaboration with the WCAs and operate and manage same in the short term;
- (c) transfer such Schemes to the WCA formed within the areas served by such Scheme as soon



- as possible after the commencement of this Law;
- (d) provide technical expertise to the WCAs in the small towns, and, disseminate knowledge in the sub-sector;
- (e) enforce standards in the industry, and monitor and co-ordinate sector wide activities as delegated by the ESWRC and
- (f) collaborate with the WCAs and relevant government institutions and bodies and the consumers to secure efficient use of water resources for the conservation and protection of the water resources of the State.

*Functions of the Agency.*

- 79.** The functions of the Agency shall be -
- (a) identification of small towns eligible for Pilot programme and consideration of wider developmental support for consideration by the State Steering Committee.
  - (b) organize baseline surveys for the water and sanitation assets and facilities in Small Towns and in collaboration with the WCAs and the LGA WASH departments.
  - (c) design and coordinate development programmes for the Small Towns.
  - (d) act as technical advisor to the WASH Departments of LGAs, the State Government and the WCAs with respect to all matters in the small towns water supply and sanitation sub-sector.
  - (e) assist WCAs in organizing and managing water supply systems.
  - (f) provide assistance and advice to the communities on technical issues like engineering studies, choice of supply technology based on willingness to pay, affordability and sustainability, construction supervision and post construction monitoring and evaluation for new schemes, planning, budgeting, O&M issues, and contracting.

- (g) advice and transfer knowledge and skills on operation and maintenance of systems to the WCAs.
- (h) be a centre of knowledge for the water supply and sanitation sector in small towns.
- (i) technical and other advisory services to the WCAs in the engagement of private sector operators for the small town water schemes;
- (j) collate and prepare water supply and sanitation asset inventory and development.
- (k) plans for all small town water supply assets and development plans with input from the WCAs and the LGAs WASH Departments and forward same to the Ministry of Water Resources for input into the State -wide development plans and State water sector information systems.
- (l) design, monitor and evaluate implementation of projects for the effective and efficient delivery of water and sanitation service to the consumers in small towns.
- (m) enforce standards and regulations developed by the ESWRC as may be specifically delegated to the Agency.
- (n) provide and organize training for the WASH Departments in all LGAs on matters relating to water supply, sanitation and the environment.
- (o) undertake Sanitation and Hygiene promotion campaign for the purpose of integration with water supply and Sanitation provision in the communities and schools.

*Powers of the  
Agency.*

- 80.** (1) The Agency shall, subject to the provisions of this Law, have power for the purpose of carrying out its functions to -
- a. enter into Agreement ("transfer Agreement") with the WCAs for the transfer of ownership and operation and maintenance of water supply facilities in the small towns to such WCAs upon terms and conditions in such



- transfer agreements subject to the approval of the Hon. Commissioner of Ministry of Water Resources.
- b. prepare development plans for small towns water supply and sanitation services
  - c. undertake any land acquisition procedure necessary for the performance of its functions, in accordance with all valid legislation;
  - d. procure water abstraction rights from the relevant authorities and may assign such rights to WCAs and private participants;
  - e. conduct or commission by outsourcing, the examination of relevant water resources in the state to determine the existence if any of pollutants or other impurities affecting the quality of such water for abstraction for drinking water purposes.
  - f. undertake and/or supervise the design and construction of new water and sanitation services assets in collaboration with the relevant WCA.
2. The Agency shall have power for the purpose of carrying out its functions to do all such acts as appear to it to be requisite, advantageous, or convenient and may carry on any activities in that behalf either alone or in association with any other person or body.

#### **STAFF OF THE AGENCY**

*The Chief  
Executive  
Officer/General  
Manager.*

- 81.** The Chief Executive Officer/General Manager -
- (1) There shall be appointed by the Governor an officer from within the Agency/private sector to be known as the General Manager (GM).
  - (2) The GM shall be a qualified professional in a discipline relevant to water supply and sanitation service delivery and shall have been so qualified for not less than ten years,

- (3) The GM shall have previous experience in water supply service delivery, water Engineering, Geology, Physical Sciences, water resources management or other related field with cognate experience.
- (4) The GM shall hold office for a period of four years which term may be renewed for a further term of four years and no more.
- (5) The GM is responsible for the management of day to day business of the ENSTOWA and shall report to Chairman of the Board

*The Secretary/  
Legal Adviser.*

**82.** The Secretary/Legal Adviser

- (1) There shall be a Secretary/Legal Adviser (referred to in this Law as "the Sec/LA") to the Agency who shall be responsible to the Board and shall assist the Chairman and the GM in the discharge of their functions under this Law.
- (2) The Sec/LA shall be a Legal Practitioner with a minimum of [5] years post-call experience and shall be the head of the Legal Department as well as secretary to the Board of the Agency.

*Functions of the  
Secretary/ Legal  
Adviser.*

**83.** The functions of the Secretary/Legal Adviser

- (1) The Sec/LA shall perform the following functions -
  - (a) organize and take minutes of the meetings of the Board;
  - (b) be the custodian of the company seal and records of the Agency and conduct correspondence of the Agency;
  - (c) arranging for payment of fees and allowances of meetings and all other matters affecting members of the Board;
  - (d) perform all duties as the Chairman or the MD may from time to time direct;
  - (e) communicate policy decisions of the Board or Committee meetings to the affected Departments;



- (f) render necessary advice on compliance with Laws, rules and regulations affecting the Agency;
  - (g) advise the Board and the Management Committee and review all matters of legal significance to the Agency;
  - (h) to handle all conveyances involving the Agency with the advice of Honourable Attorney-General;
  - (i) to select outside Counsel, with the permission of Honourable Attorney General liaise and supervise same in the performance of his functions;
  - (j) establish and maintain the register and minute books as may be deemed necessary for the purposes of the Agency;
  - (k) keep custody of copies of assets register and financial and annual reports of the Agency;
  - (l) prepare, vet and review all contractual agreements with the consent of the Honourable Attorney General and
  - (m) represent the Agency in court or delegate same in matters to which it is a party.
- (2) The Board shall determine the salary, emolument, allowances, and conditions of service of the Sec/LA.

*Other staff of the Agency.*

- 84.** (1) The Agency shall have power to appoint directly from the private sector, or from any Public service, Civil Service of the State on secondment/posting with approval from the Board, any number of staff and other employees not above grade level 07 as it may from time to time deem necessary to assist the Agency in the discharge of its functions under this Law.
- (2) The terms and conditions of Service shall be in accordance with what is obtainable in other agencies,

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

- (3) It is hereby declared;
- (a) that Service in the Agency shall be approved Service under the provision of the Pensions Law and accordingly, staff and employees of the Agency shall be entitled to Pensions, gratuities and other retirement benefits as prescribed under the Pensions Law.
  - (b) without prejudice to the provisions of subsection (a) of this section, nothing in this Law shall prevent the appointment of any person to any office not greater than grade level 07 on terms which preclude the grant of pensions, gratuity or other retirement benefits with respect to that office.

*Conditions of  
Service of the  
staff of the  
Agency.*

**85.** The Agency may, determine generally the conditions of service of the staff of the Agency based on the scheme of service in the public service and as applicable to section 109 of this law.

- (a) the conditions for the appointment, recruitment, secondment, promotion, termination and dismissal of staff and employees of the Agency should be based on public service rules and scheme of service of the State. The terms and condition of service shall be in accordance with the State Civil service.
- (b) procedure for Appeals by such employees against dismissal or termination or other disciplinary measures, and until such conditions of service are made any instrument relating to the conditions of service in the Public Service of the State shall be applicable, with such modifications as may be necessary, to Staff and employees of the Agency.



Remuneration of  
Officers.

86. The remuneration of officers and staff of the agency shall be in accordance with what is obtainable in the public service of the State.

Funds and  
resources of the  
Agency.

**FINANCIAL PROVISION & ASSETS OF STOWA**

87. (1) The funds and resources of the Agency shall consist of -
- a. all sums, investments or other property vested in the Agency by virtue of the provisions of this Law;
  - b. such sums or other property as may from time to time be advanced by way of loans or grants to the Agency by any Federal, State, or Local Government or any agency or institution of any such Government, any international Organization, foundation or NGO, any multinational financial institutions, any private foundation or any person whatsoever;
  - c. any investments or other property whatsoever acquired by the Agency; and
    - i. all sums or other property whatsoever which may in any manner become payable to or vested in the Agency in respect of its powers and duties or for any other incidental matter under this Law or by virtue of the provisions of any other Law.
    - ii. any money allocated to the Agency under the State Government budgetary allocation or Such other money as may from time to time accrue to the Agency;
- (2) Any amounts approved by the ESWRC to be paid to the Agency from the operations of the transferred scheme by the WCAs in pursuance of the capital investment fund to be used for capital infrastructure development for the expansion of access to water and sanitation services in furtherance of the small town water and sanitation development plans and

(3) The Agency shall ensure that its funds and resources are adequate to meet the operating expenses, depreciation charges, debt servicing requirements and such percentage of its annual capital expenditure requirements as may be determined by the Governor.

*Bank Account.*

**88.** The Agency shall operate Bank accounts for its funds with a reputable Bank or Banks and the signatories to the accounts shall be either the GM, Director of Finance and Secretary of the Board or any two of them.

*Application of the funds of the Agency.*

**89.** The following charges shall be defrayed out of the revenue of the Agency for any financial year -

- a. the remuneration and allowances of the members of the governing Board of the Agency;
- b. the remuneration, fees, allowances, pensions and gratuities of the staff, agents, technical and other advisers or consultants of the Agency;
- c. such minor works of a capital nature as the Agency may deem necessary from time to time
- d. taxes, rates and other levies payable by the Agency under any Law;
- e. interest on loans raised by and on behalf of the Agency;
- f. contribution towards construction of new water and sanitation may be services assets as may be approved by the Governor
- g. such other sums as the Agency may approve for payment out of the funds of the Agency in respect of any Financial year.

*Loans and grants by the State Government*

**90.** 1. It shall be lawful for the Enugu State Government (the "Government") to make to the Agency the following -

- a. grants of any sums of money or property deemed necessary; and
- b. loans upon such terms as to repayment, of



interest or otherwise as the Government may determine.

2. The Government may, if it deems it expedient so to do, waive in favor of the Agency any right or liability to the Government in respect of any property vested in the Agency by virtue of the provisions of this Law.

*Annual Budgets  
and Accounts.*

91. 1. The Agency shall, not later than 30<sup>th</sup> September of each year or such date to be determined by the Commissioner for Finance Enugu State, submit to the Governor, an estimate of its expenditure and income for the next succeeding year.
2. The Agency shall keep proper accounts, to conform with standard accounting practices and State Financial Regulations, with respect to each year and proper records in relation to those accounts and shall cause its accounts to be audited within six months after the end of each year by auditors appointed from the list and in accordance with guidelines supplied by the Auditor – General of the State.

*Annual Reports.*

92. The Agency shall prepare and submit to the Governor through the Ministry of Water Resources not later than six months after the end of each year, a report in such form as the Governor may direct on the activities of the Agency during the immediately preceding year, and shall include in such report a copy of the audited accounts of the Agency for that year and the auditors' report on the accounts.

*Power to borrow  
money*

93. 1. The Agency may from time to time, with the approval of the Governor, borrow money by overdraft or in any other manner for and in connection with the exercise of its functions

under this Law as the Agency may deem necessary.

2. An approval given for the purposes of this section may be either general or limited to a particular borrowing or otherwise and may be subject to conditions.
3. Any person lending money to the Agency shall be bound to inquire whether or not the borrowing of the money is within the powers of the Agency.

*Exemption from Tax.*

- 94.** The provisions of any enactment relating to the taxation of Companies or trust funds shall not apply to the Agency.

*Power to raise capital on the stock exchange.*

- 95.** The Agency may with the approval of the Governor raise capital for the implementation of its developmental plans and programmes through the capital market or by issuing Bonds or other instruments, by satisfying all the necessary requirements of the Stock Exchange in that regard subject to the approval of the Governor.

*Guarantee on loans or other instruments of the Agency by the State Government.*

- 96.**
1. The Government may guarantee by an undertaking of the State Commissioner for Finance in such manner and on such condition as the Governor may think fit, the payment of the principal and interest of any sum or sums borrowed or Bonds issued by the Agency with the approval of the Governor.
  2. Such sums as may be required by the State Accountant-General for the purpose of making good the obligations of the Government under the guarantee shall be charged on the Consolidated Revenue Fund of the State Government.

*Responsibility of the Agency which the Governor may perform or delegate.*

- 97.** In the absence of a Board of the Agency and until such time such Board is constituted pursuant to this Law, the Governor or any person to whom he has delegated the responsibility of the Agency shall



execute any document, exercise or perform any of the Agency's Powers or functions pursuant to this Law.

*Establishment of  
Water Consumer  
Associations  
(WCAs)*

- 98(A)**
- a. local Governments shall facilitate the establishment of WCAs by communities in Small towns with the support of the Agency to own, and manage water schemes serving their immediate community on behalf of Water consumers in each small town and shall notify the Ministry responsible for water resources upon the formation of such WCAs.
  - b. the objective of the WCA shall be to undertake the operation, maintenance and management of the water supply schemes within its own area either by itself or by engaging a private water operator.
  - c. the WCAs shall be incorporated as public trustees under the Companies and Allied Matters Act, LFN, 2004
  - d. the WCA may apply to the ESWRC through the Ministry responsible for Water Resources for the transfer to the WCA of water facilities within their community whereupon the ESWRC may assess the application and forward same to the Agency for comments.
  - e. where the ESWRC is satisfied that the WCA possesses sufficient capacity and structure to successfully operate the scheme in an efficient and sustainable manner, the ESWRC shall direct the Agency to transfer such scheme to the WCA.
  - f. such scheme shall be transferred to the WCA pursuant to a "Transfer Agreement or Memorandum of Understanding" for that purpose between the WCA and the Agency upon terms and conditions and in accordance with the rights, duties and obligations of the Agency

with respect to such schemes as provided in this Law.

*Removal of the  
General Manager  
of STOWA by the  
Governor*

- 98(B)** The Governor has the exclusive right to remove the General Manager for non-performance, fraudulent act/embezzlement of funds and other conduct capable of undermining the activities of the Agency.

*Department and  
Responsibilities.*

- 98(C)** ENSTOWA may establish Departments for effective performance which includes- Water Supply, Sanitation, Finance, Mobilization etc as applicable to section 104,105 and 106 of this law.

### CHAPTER III

#### ENUGU STATE RURAL WATER SUPPLY AND SANITATION AGENCY (EN-RUWASSA)

*Establishment,  
functions, etc of  
the  
Enugu State  
Rural  
Water Supply  
and Sanitation  
Agency  
(EN-RUWASSA)*

- 99.** 1. There is hereby established for the State a body to be known as the Enugu State Rural Water Supply and Sanitation Agency (hereinafter referred to as "the EN-RUWASSA")
2. The EN-RUWASSA shall be a body corporate with perpetual succession
- i) Shall have a common seal;
  - ii) May sue and be sued in its corporate name and
  - iii) May own and dispose movable or immovable property.

*Board of the  
EN-RUWASSA*

- 100.** (1) There is established, for the proper management of the EN-RUWASSA, a Board to be known as the Enugu State Rural Water supply and Sanitation Agency Board (Hereinafter referred to as the Board").
- (2) The Board shall comprise of -
- a) a Chairman who shall be the Commissioner, Ministry responsible for Water Resources.
  - b) other members shall be
    - (i) Permanent Secretary, Ministry of Water



Resources

- (ii) Permanent Secretary, Ministry responsible for Women Affairs
  - (iii) Permanent Secretary Ministry of Rural Development.
  - (iv) Permanent Secretary, Ministry responsible Local Government Affairs
  - (v) Permanent Secretary, Ministry of Health
  - (vi) Permanent Secretary, Ministry of Environment
  - (vii) Permanent Secretary, Ministry of Works
  - (viii) the General Manager of the EN-RUWASSA.
- c) 3 other persons, one each from the 3 senatorial zones not being civil servants, who, in the opinion of the Governor are capable of contributing positively to the achievement of the objectives of the EN-RUWASSA
- 3) All members of the Board shall be appointed by the Governor and with the exception of the General Manager, shall serve as part-time members.

*Allowances*

- 101.** The remuneration and allowances of Members of the Board shall be as stipulated in the instruments by which they are appointed.

*Functions of the  
EN-RUWASSA*

- 102.** The EN-RUWASSA shall -
- a) in consultation with the WASH Departments of the relevant LGAs and the WASHCOMS in the designated areas, agree and design appropriate technology for water supply and sanitation service delivery to the communities and coordinate the construction and supervision of the same;
  - b) supervise and certify the construction of the water supply and relevant sanitation facility as

conforming to standards issued by the ESWRC and/or the Ministry and hand over same to the community for the management and operation thereof subject to the technical supervision of same by the officials of the EN-RUWASSA and the LGA WASH department;

- c) design, and supervise the construction and sinking of boreholes and other water works by individuals or corporate bodies in the State and charge appropriate fees as the ESWRC may from time to time approve;
- d) rehabilitate and improve all existing water supply and sanitation facilities in the rural areas of the State and support the State Rural Water Supply and Sanitation and Hygiene Programmes;
- e) liaise with the Federal and State Government Ministries and Agencies in the design and implementation of programmes and projects in the area of rural water supply, sanitation, maintenance/provision of rural infrastructure and any other rural development activities;
- f) define, encourage and support any activity that will enhance rural water supply, sanitation, and hygiene and the provision of other infrastructures in the rural areas;
- g) commission and support studies and research projects that will facilitate the execution of the functions of the EN-RUWASSA;
- h) undertake WASH education and create awareness of WASH principles in the rural communities, particularly in schools and amongst women and children;
- i) organize technical training of LGA WASH department staff, key officers of the WASHCOMs and local artisans for the operation and maintenance of the water supply schemes;
- j) promote the improvement of traditional sources



- of rural community water supply (protected spring/stream, protected hand dug wells. rain water harvest etc);
- k) promote the construction and maintenance of public toilet facilities, household toilet facilities etc. in the rural areas;
  - l) promote the recycling of domestic and industrial waste (waste to wealth programmes) in rural communities;
  - m) ensure the compliance with the Nigerian standards for drinking water quality;
  - n) monitor and protect the quality of raw water sources;
  - o) monitor and undertake preventive and remedial action in collaboration with the Ministry of health any outbreak of any disease or any other real or potential health threats associated with the delivery or provision of water supply and sanitation services in the rural areas;
  - p) promote private sector participation in the water supply and sanitation industry in the rural areas to attract resources for sustainable development of the rural water sector;
  - q) develop mechanisms and procedures for stakeholder participation in monitoring and evaluation of rural development plan programmes and other activities;
  - r) in consultation with the communities and the LGA WASH Department, prepare the Rural Water and Sanitation Development Plans for the rural areas of the State and submit same to the Ministry responsible for Water Resources for input into the State Water and Sanitation Development Plan;
  - s) prepare annual reports of the activities of the EN-RUWASSA for submission to the Ministry for Water Resources and dissemination to other stakeholders;

- t) coordinate the activities of all WASH departments in all the rural areas in the implementation of State WASH Programmes for rural areas;
- u) in collaboration with the WASH Departments of the LGAs, develop and maintain a data base of all water and sanitation infrastructure in the rural areas of the State and submit same for input into the State information system and
- v) conduct raw and treated water quality investigations for both the WCAs and other private water supply operator for a fee and ensure compliance with national drinking water quality standards.

Powers of the  
EN-RUWASSA

- 103.** (1) Subject to the provisions of this Law, the EN-RUWASSA shall, for the purpose of carrying out its functions under this Law, have power to carry on all activities which are necessary, advantageous and convenient.
- (2) Without prejudice to the generality of the foregoing, the powers of the EN-RUWASSA shall include powers to;
- (a) prepare such master plans as may be necessary for the development and maintenance of rural water and sanitation infrastructure;
  - (b) undertake enlightenment and create awareness of the WASH Policy and sector reform principles and necessary activities to carry same into effect;
  - (c) organize rural communities to form community improvement or development unions or associations (to be known as WASHCOMS) under elected leadership to act as the apex organization for the implementation of rural development programmes initiated by the EN-RUWASSA,



- the LGA, or the communities themselves;
- (d) to do anything for the purpose of advancing the skills of persons employed by the EN-RUWASSA, including facilities for training, education and research or the efficient running of the services of the EN-RUWASSA;
  - (e) to construct and maintain buildings and other works necessary for the discharge of its functions under the Law;
  - (f) acquire, purchase, lease, hold, construct, manufacture, maintain or insure any property whether movable or immovable, required for or in connection with the performance of its functions and to sell, lease, dispose of, or otherwise deal with such property or any part thereof subject to the approval of the Governor in instances of sale;
  - (g) do all such other things as will enable the EN-RUWASSA to more effectively perform its functions under this Law;
  - (h) enter into PSP arrangements with the private sector for the purpose of carrying out any of the functions of the EN-RUWASSA under this Law.

*Administrative  
Organization of  
the EN-  
RUWASSA.*

- 104.** The EN-RUWASSA shall have power to establish and maintain such major departments, subsidiary divisions, sections, branches and field offices and make all other administrative arrangements as may in its opinion be necessary or expedient for the performance of its functions under this Law

*Departments and  
Responsibilities.*

- 105.** (1) The EN-RUWASSA may establish Departments for the effective performance of its functions including but not limited to the following -

- a) Community Mobilization, Health and Hygiene Education Department, which shall be responsible for –
  - i) coordinating Advocacy, campaigns in the Local Government Areas.
  - ii) supporting Local Governments to mobilize and train Communities to participate in Water Supply and Sanitation activities.
  - iii) supporting Local Government to carry out community Hygiene Education for behavioral change
  - iv) linking hygiene and sanitation practices to water quality and health.
  - v) supporting LGAs and communities to develop Community Action Plan (CAP)
  - vi) supporting and developing/promoting hygiene participatory tools.
- b) Sanitation Department, which shall be responsible for:
  - i) promoting and Supporting Sanitation development in Local Government Areas.
  - ii) training of technicians in the rural communities.
  - iii) sanitation intervention in rural communities
  - iv) provision of sanitation facilities in rural communities of the State in collaboration with the WASHCOMs.
- c) water Supply Department, which shall be responsible for:
  - i) design and supervision of the drilling and construction of boreholes in collaboration with the WASHCOMs;
  - ii) provision of Alternative Water Supplies;
  - iii) training of technicians and artisans; and



- iv) carrying out hydrological and geophysical survey for well citing.
- d) planning, Monitoring and Evaluation Department which shall be responsible for:
  - i) data collection and management
  - ii) preparation of rural Water and Sanitation Development Plan in collaboration with the WASHCOMs; and
  - iii) project Monitoring and Evaluation.
- e) Administration/Supply Department which will be responsible for -
  - i) recruitment
  - ii) promotion
  - iii) discipline
  - iv) processing of retirement papers and
  - v) procurement.
- f) Finance/Account Department
  - i) ensuring proper administrative and financial control of the EN-RUWASSA.

*Establishment of  
WASH  
Departments.*

- 106.** (1) There shall be established in each Local Government Areas in the State a Rural Water Supply and Sanitation Department (hereinafter called the WASH Department).
- (2) The Officers of the department shall include -
- a) coordinators as head of WASH who shall be an officer in L.G.A Health Department not below GL.12
  - b) with the following sub-officers -
    - i) Water Supply Officer;
    - ii) Sanitation Officer;
    - iii) Community Mobilization/ Hygiene Education Officer;
    - iv) Planning, Monitoring and Evaluation Officer.
    - v) Accounting Officer.
- (3) The Department shall be responsible for -
- a) The establishment of contact and report

between the EN-RUWASSA and all communities in the area.

- b) the development of annual water services developmental plans and budget for the Local Government in consultation with relevant WASHCOMS and submit same to EN-RUWASSA as part of the State Rural Water Sector Development Plan.
- c) encouragement of and support to communities to mobilize, organize and establish water supply and sanitation committees and ensuring the maximum involvement of women;
- d) the compilation of an inventory and maintenance of water and sanitation facilities in all communities in the Local Government Area and monitoring of their operation.
- e) the identification and training of hand pump mechanics, caretakers, latrine artisans and hygiene facilitators.
- f) the maintenance of records for plans and requests concerning Water Supply and Sanitation, Hygiene Education and other sanitary activities in all communities in the Local Government.
- g) mobilizing and supporting community linkages with other relevant developmental Agencies and Organizations.
- h) encouraging and supporting teachers in Primary and Post- Primary Schools to teach and promote hygiene education to pupils and members of the community;
- i) contribute to the eradication of Water and Sanitation related diseases in the Local Government Areas.
- j) liaising with other Agencies for progress reports and policy guidelines and standards;
- k) working with Non-Governmental



- Organizations/Community Based Organizations in collaboration with Local Government authority to promote the improvement or construction of Water and Sanitation facilities in schools;
- l) training of water supply and sanitation committee members to plan and implement water and sanitation services in the communities.
  - m) promoting environmentally friendly activities and awareness in communities
  - n) promoting good hygiene practices in the utilization and maintenance of Water and Sanitation facilities.

Establishments  
of WASHCOMS

- 107.** (1) There is established for each community in the Local Government Areas, a Water Sanitation and Hygiene Committee (hereinafter called "*The WASHCOM*").
- (2) The WASHCOM shall be registered by the LGA and a certificate issued as evidence of such registration.
- (3) The Water Supply, Sanitation and Hygiene Committee shall comprise -
- a) Chairman
  - b) Secretary
  - c) Treasurer
  - d) Financial Secretary
  - e) two Ex-officio members

Provided that two of the members in (a)-(e) shall be women.

- (4) The WASHCOMS shall -
- a. be formed in the rural areas at the village level water and sanitation committees for the management of water supply and sanitation facilities on behalf of the Community;
  - b. enhance community ownership of WASH facilities and be responsible for determining

the cost of operation and maintenance of water points in the rural areas;

- c. be responsible for setting and collection of water point tariffs for the operation and maintenance of the water points;
- d. be responsible for community basic hygiene education, community sensitization activities, and community advocacy;
- e. collaborate with the WASH Department of the Local Government Authority and the EN-RUWASSA on water supply, sanitation and hygiene Programmes of the Federal, State or Local governments on behalf of the community;
- f. undertake all necessary and relevant hygiene/sanitation promotion, and education in the community in collaboration with the EN-RUWASSA and the LG WASH departments;
- g. encourage development of skills of members to promote community participation with the active involvement of women;
- h. participate in planning, design, construction and operation of community water and sanitation facilities in collaboration with vulnerable group;
- i. promote household food and water security in the community by encouraging prudent use of water and preventing wastage;
- j. support the Immunization/nutritional supplementation of children in the community;
- k. contribute to the eradication of Water Supply and sanitation related diseases in the community;
- l. mobilize the community to take active part in the construction of water supply and Sanitation facilities;



- m. collaborate with the LG WASH departments in the preparation of the WASH development Plans for the community and shall be trained to perform this role by the EN-RUWASSA;
- n. shall promote community led total sanitation in the community;
- o. ensure that the community contributes to part financing of small scale water supply and sanitation facilities or extension schemes as appropriate;
- p. participation in project design and implementation;
- q. be responsible for Policing of water infrastructure to report leakages, illegal connections and other complains and protect it against vandalization and
- r. cooperate with ENSWC and STU or STOWA for the purposes of achieving its overall objectives.

**GENERAL MANAGER (GM), HEAD OF  
ADMINISTRATION AND OTHER STAFF OF THE  
EN-RUWASSA**

*The General  
Manager.*

**108. The General Manager -**

1. The General Manager shall be appointed by the Governor.
2. The GM shall be a qualified professional in a discipline relevant to water supply and sanitation service delivery and shall have been so qualified for not less than ten years,
3. The GM shall have previous experience in water supply service delivery, water Engineering, water resources management or other cognate experience.
4. The GM shall hold office for a period of four years which term may be renewed for a further term of four years and no more.

5. The GM is responsible for the management and day to day business of the EN-RUWASSA and shall report to the Chairman of the Board.
6. The GM shall have ultimate responsibility for the execution of the State WASH Policies, the policies of the EN-RUWASSA, the general management and day to day running of the business of the EN-RUWASSA in accordance with the provisions of this Law and shall also carry out such other functions as the Board may from time to time direct.

*Other staff of the  
EN-RUWASSA.*

- 109.** The EN-RUWASSA may recruit staff from the private sector subject to the approval of the State Civil Service Commission or may request for Secondment of qualified staff from the Civil/Public Service of the State or the service of any Local Government Council relevant parent Ministry with the approval of the Board.

All pensionable employments in EN-RUWASSA shall go through the State Civil Service Commission for guaranteed job security.

The terms and conditions of service of its staff shall not be less than those provided in the State Civil Service Regulations

#### **FINANCIAL PROVISIONS AND ASSETS OF THE EN-RUWASSA**

*Funds of the EN-  
RUWASSA.*

- 110.** (1) The funds and resources of the EN-RUWASSA shall consist of -
- a. all sums, investments, or other property whatsoever vested in the EN-RUWASSA under this Law;
  - b. all fees, charges and other revenue accruing to the EN-RUWASSA by virtue of its operations;
  - c. contributions by communities towards the construction of water works or sanitation



- facilities which shall be deployed towards that purpose and no other;
- d. such sums or other property whatsoever as may from time to time be advanced by way of loans or grants to the EN-RUWASSA by the State Government, LGA or statutory Corporations in the State, the Government of the Federation or of another State, any International Organization, any private foundation or any person/ body whatsoever;
  - e. money earned or arising from any investments or other property whatsoever acquired by or vested in the EN- RUWASSA;
  - f. all other sums or other properties whatsoever which may in any manner become payable to or vested in the EN- RUWASSA 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 and
  - g. all budgetary allocation approved for the EN- RUWASSA by the State House of Assembly to be contributed equally between the State and all the Local Government Councils.
- (2) Capital Projects -
- a. The funds of the EN-RUWASSA for capital projects for the provision of Water Supply and Sanitation facilities for the benefit of the Communities shall include contributions from -
    - (i) the State Government
    - (ii) the Local Government
    - (iii) communities
    - (iv) multinational financial institutions, NGOs, private local or international donor support and grants, if any;
  - b. the Community, through EN-RUWASSA may apply for contributions and support

- from the Federal, State or Local governments and Donor Agencies for necessary funds for their capital Projects;
- e. further to (a) of this Section, communities may be required to contribute an agreed percentage of such cost of the construction of the facilities which shall be owned by the Community and
- d. the EN-RUWASSA shall develop the rural sub-sector investment plan which shall derive from the input of the WASHCOMS in the rural areas for inclusion in the State Water sector development plans and particularly the State economic and financial plans or sector strategies.

*Assets of the  
EN-RUWASSA*

- 111.** 1. The assets of the State Government in rural areas vested in the EN-RUWASSA, the Water Corporation or other State Government owned body in rural areas (transferred assets) immediately before the coming into effect of this Law shall by virtue of this Law and without further assurance be vested in the EN-RUWASSA hereby established;
2. Such assets shall include all rural water supply infrastructure constructed by the State Government or any of its Agencies prior to the commencement of this Law, or under any Federal Government or donor assisted programmes and shall include Land, works, and other property, assets, powers, rights and privileges appertaining thereto or enjoyed in connection therewith;
3. All liabilities and obligations of the State Government in respect of any of the transferred assets falling due or to be discharged after the commencement of this Law shall become the liabilities and obligations of the EN-RUWASSA.



Provided that the EN-RUWASSA shall not be liable or obliged to repay to the Government any loan or part thereof made before the commencement of this Law by the State Government to any Local Government Council for the construction or otherwise in respect of any transferred water works and not yet repaid to the government by the Council before the commencement of this Law;

4. (a) every deed, bond, agreement, instrument or contract to which the State Government was a party for the construction or otherwise in respect of any of the transferred assets shall subject to the provisions of this section and unless the circumstance otherwise required, shall have effect from the commencement of this Law as if EN-RUWASSA had been a party thereto  
(b) any reference to the government therein, shall be a reference to the EN-RUWASSA with respect to anything required to be done before the commencement date;
5. Whereby the operation of any of the foregoing provisions of this section, any of the transferred assets including lands, works, or other property, such as assets, powers, rights and privileges are vested in the EN-RUWASSA. The EN-RUWASSA shall, from the commencement date, exercise the same rights powers and remedies (and in particular the same rights and powers as to the taking and resisting of legal [proceedings] for ascertaining, performing, protecting or enforcing as the circumstance may require such transferred assets or other properties, assets, powers, rights or privileges of the EN-RUWASSA and any legal proceedings by or against the State Government pending upon the commencement date in respect of the same

- shall be continued by or against the EN-RUWASSA;
6. It shall be the duty of the appropriate authority to prepare and deliver to the EN-RUWASSA such particulars as the EN-RUWASSA may require in respect of such transferred assets;
  7. Nothing in this section shall be construed as purporting to derogate from the provision of any Act of the National Assembly relating to the transfer or vesting of any class of property, Right or liability and such measures as are necessary in accordance with these provisions shall be taken to ensure the vesting of such property, right and liability in the EN-RUWASSA either on the commencement date or so soon as may be thereafter, and upon such vesting, the preceding provisions of this section relating to the consequence of the vesting of properties, rights and liabilities shall have effect accordingly;
  8. Assets in communities where WASHCOMS have been formed shall be transferred to such WASHCOMS to be owned, operated and managed by WASHCOMS subject to terms and conditions of a Transfer Agreement between the WASHCOM and the EN-RUWASSA  
Provided that the communities shall not, by virtue of such transfer, acquire any pre-existing liabilities or obligations attaching to such assets which shall remain the liability of the State through the EN-RUWASSA;
  9. The EN-RUWASSA and the WASH Department of the LGA shall continue to provide technical advisory services to the WASHCOM in the operation of the facilities while the Community will bear the cost of operating and maintaining such Schemes and
  10. The cost of construction of new Schemes in the



rural areas shall be in accordance with **S.110 (2)** (a) unless the State decides otherwise.

*Bank Accounts*

- 112.** 1 The EN-RUWASSA shall maintain accounts with approved bank(s) into which all funds of the EN-RUWASSA shall be paid into;
- 2 A withdrawal shall not be made from the EN-RUWASSA's account unless such is signed by the General Manager and countersigned by the Accountant and
- 3 The Board may approve an alternative signatory in case of continued absence or infirmity of the GM.

*Annual Estimate,  
Accounts and  
Audit*

- 113.** 1. The Board shall cause to be prepared and submitted to the Governor not later than 31<sup>st</sup> October in each year or such other time as the Governor may direct an estimate of expenditure and income of the EN-RUWASSA during the next succeeding financial year.
2. The EN-RUWASSA shall cause to be kept proper accounts and Receipts, payments credits and liabilities in satisfactory commercial standards and shall submit the same from time to time with vouchers to be audited by the Auditor-General of the State.
3. At the end of every financial year, the Auditor-General shall submit the Report of his audit of the accounts of the EN-RUWASSA to the Governor.

*Borrowing  
Powers*

- 114.** 1. Subject to subsection 2 of this section, the EN-RUWASSA may borrow any sum of money as it may require in the exercise of its functions under this Law.
2. The power of the EN-RUWASSA to borrow money under subsection 1 of this section shall not be subject to the approval of the Governor

unless the sum to be borrowed exceeds a total of Two million naira, within a fiscal year.

3. The Governor shall guarantee in such manner and on such conditions as may be agreed for any Loan that may be borrowed by the EN-RUWASSA with the approval of the Governor.
4. In the event of the failure of EN-RUWASSA to repay the Loan due, the same shall be charged to the consolidated revenue fund of the State

*Handover of  
Completed  
Facilities*

- 115.** 1. All projects initiated by the Community and constructed by the EN-RUWASSA with contribution from the community shall, when completed, be handed over to be operated and maintained by the WASHCOM of the beneficiary Community pursuant to a Transfer Agreement or a Memorandum of Understanding with Terms and Conditions of such transfer.
2. Benefiting Communities are to provide security on project sites during construction and after due handover by the EN-RUWASSA.
3. Every completed project shall be certified as to standards by the EN-RUWASSA and the WASH Department of the LGA as meeting standards for the construction of such works issued by the ESWRC as well as industrial practice.

*Proper conduct of  
its  
business and the  
regulation of its  
proceedings or  
those  
of any of its  
Committees*

- 116.** The Board may make standing orders for the proper conduct of its business and the regulation of its proceedings or those of any of its Communities.

*Payment for  
EN-RUWASSA's  
Services*

- 117.** 1. The EN-RUWASSA may propose fees and charges for any of its services for the approval of the ESWRC and in particular for -
- access to or use of any of the resources or facilities of the EN-RUWASSA including



laboratories for the conduct of water quality analyses; and the provision of advice, or other services by the EN-RUWASSA.

- 2 The EN-RUWASSA shall publish the rates and levies approved under this section in the official gazette of the Enugu State Government.

*Gifts, Grants, etc*

- 118.** The EN-RUWASSA shall not accept any gift, grant, bequest or devise, if the conditions attached by the person or organization making it is inconsistent with the functions of the EN-RUWASSA.

#### **PROCEEDINGS OF THE BOARD**

*Meetings.*

- 119.** 1. The Board shall hold meetings once every three months to take decisions on matters within the powers of the Board to decide at times and places as the Chairman may determine.
2. The Chairman shall preside at every meeting of the Board and in his absence the members present shall elect one of them to preside.
3. The Chairman may at any time convene special or emergency meetings of the Board of EN-RUWASSA and shall do so on being requested in writing by the GM or two members of the EN-RUWASSA.
4. The Chairman or the Member presiding at a meeting of the EN-RUWASSA in his absence shall have original and a casting vote.
5. Subject to the provisions of this Section, the EN-RUWASSA shall have power to regulate its own proceedings and make standing orders for such purpose.

*Quorum*

- 120.** 1. The quorum of the Board shall be five members.
2. Proceedings of the Board shall not be invalid only by reason of improper constitution of the Board or a defect in the appointment of Members of the Board. Any such defect may be subsequently ratified by the Governor.

*Committees of  
the  
Board.*

- 121.** The Board shall have sub-committees, which decision of such committees shall become effective upon the confirmation of the Board.

*Status of co-  
opted  
members*

- 122.** Whenever on any special occasion, the Board desires to obtain the service of any person on any matter, the Board may co-opt the person to be a member of the Board for the meeting as the EN-RUWASSA may decide and the person so co-opted shall have all the rights and privileges of a member except that he shall not vote on any question or count towards the quorum at the meeting.

*Disclosure of  
interest by  
members  
of the Board.*

- 123.**
1. A member of the EN-RUWASSA who is in any way directly or indirectly interested in a transaction of any project of the EN-RUWASSA shall disclose the nature of his interest at a meeting of the EN-RUWASSA, and the disclosure shall be recorded in the minute book of the EN-RUWASSA and the member shall not take part in any deliberation or decision of the EN-RUWASSA with respect to that transaction or project.
  2. For the purpose of (1) of this section, a general notice given at a meeting of the EN-RUWASSA by a member to the effect that he is associated with any trade or business or is related to a member of specified company or firm which is interested in any transaction or project of the EN-RUWASSA shall be regarded as sufficient disclosure of his interest in relation to that transaction or project.
  3. A member of the EN-RUWASSA need not attend in person at a meeting of the EN-RUWASSA in order to make disclosure which he is required to make under this section if he takes reasonable steps to ensure that the disclosure is made by a notice which is read at the meeting.



*Authentication of Documents.*

- 124.** 1. The Common Seal of the EN-RUWASSA shall not be used or affixed to a document unless in pursuance of a resolution duly passed at a meeting of the Board.
2. The seal of the EN-RUWASSA shall be authenticated by the signature of the GM and Head of the Administration.
3. Any contract or instrument, which would be required to be under seal if entered or executed by a person, may be entered into or executed on behalf of the EN-RUWASSA by any person generally or specifically authorized in that behalf by the Board.
4. Any document purported to be a document duly executed under the seal of the EN-RUWASSA shall be received in evidence and shall unless the contrary is proved, be deemed to be so executed.

*Acquisition of Land*

- 125.** 1. For the purpose of Section 28 of the Land Use Act, requirement of Land by the EN-RUWASSA shall be deemed to be for an overriding public interest.
2. Where title of land has been conferred upon the EN-RUWASSA by virtue of this section, adequate and fair compensation shall be paid by the EN-RUWASSA to the previous holders.

*Service of Notices.*

- 126.** All correspondences of the EN-RUWASSA shall be addressed to the General Manager and delivered to the head Office of the EN-RUWASSA.

*Directives by the Governor.*

- 127.** The Governor may give to the EN-RUWASSA directives of general or specific nature in respect of its functions under this law and the EN-RUWASSA shall comply with such directives.

- Pensionable Service*      **128.** Service under the EN-RUWASSA is pensionable under the State Pensions Law.
- Proof of Money Owed*      **129.** In any action for the recovery of any rate, charge or other monies under this Law a bill from the EN-RUWASSA or any person appointed by the EN-RUWASSA in that behalf, that any sum is due and that the defendant is liable to pay the same shall be prima facie evidence of such debt and the non-payment thereof.
- Service of Motion*      **130.** A Health Officer may enter any water works between the hours of six O'clock in the morning and six O'clock in the evening or in an emergency at any time for the purposes of inspecting such waterworks or any part thereof such waterworks for laboratory analysis to determine its suitability for public consumption.
- Tenement Rate*      **131.** (a) service on the EN-RUWASSA of any notice, order and other documents may be affected by delivering the notice or by sending it by registered post to the General Manager of the EN-RUWASSA.  
(b) infrastructure vested in or the properties of the EN-RUWASSA shall not be regarded as hereditaments or tenements to be valued for rating purposes under any law.
- Removal of the General Manager of EN-RUWASSA by the Governor.*      **132.** The Governor has the exclusive right to remove the General Manager for non-performance, fraudulent act/embezzlement of funds and other conduct capable of undermining the activities of the Agency.

**ENUGU STATE WATER REGULATORY  
COMMISSION (ENSWRC)**

- Establishment of the Enugu State Water Regulatory Commission.*      **133.** 1. There is hereby established a Commission to be known as the Enugu State Water Regulatory Commission (hereinafter referred to as "*the Commission*").



2. The Commission shall be a body corporate with perpetual succession and a common seal and shall have power to sue and be sued in its corporate name and to hold and dispose of property whether movable or immovable.
3. The Head Office of the Commission shall be in Enugu.

*Objectives.*

- 134.** 1. The objectives of the Commission shall be to -
- (a) promote all State and Federal Water Laws and Policies;
  - (b) create, promote, and preserve efficient industry and market structures, and to ensure optimal utilisation of resources for the provision of water supply and sanitation Services;
  - (c) maximize access to Prescribed Water Services, by promoting and facilitating Consumer connections to distribution systems in the State;
  - (d) ensure adequate supply of water supply to Consumers and ensure that Consumers (including low-income or vulnerable Consumers) benefit from any gains from increased competition and efficiency and
  - (e) ensure that the price charged by water suppliers are sufficient to -
    - (i) meet the routine costs of operating the system including staffing and associated services
    - (ii) to keep the facilities in good repair,
    - (iii) as is deemed reasonable, invest in future capital replacement and development,
    - (iv) as it deemed reasonable and applicable, make a profit sufficient yet not excessive which enables a private sector service supplier to operate sustainably.

2. Control wastewater management and discharge of industrial effluents -
  - (a) ensure the safety, security, reliability, and quality of service in the production and delivery of water to Consumers;
  - (b) ensure that regulation is fair and balanced for WSPs, Consumers, investors, and other stakeholders;
  - (c) receive complaints and resolve disputes between Consumers and WSPs, including community based organisations, private sector providers and state owned utilities as well as between licensed WSPs;
  - (d) ensure that regulatory decision-making has regard to all relevant health, safety, environmental and social legislations applying to the water sector;
  - (e) provide regulatory oversight of water management and water services delivery (including private water vendors);
  - (f) license large-volume water users and water service providers;
  - (g) issue licenses to WCAs to operate as WSPs and permits to contractors and suppliers to operate in the water sector;
  - (h) establish consistent tariff methodology for the water supply operators and institutions in the sector and review and approve tariffs;
  - (i) review and approve applications by the WCAs for transfer of water assets and facilities in their areas subject to consultation with the Small Towns Water and Sanitation Agency;
  - (j) review and approve PSP contracts between the Corporation, the STOWA or WCAs with the private sector Operators and
  - (k) determine and Approve beneficiaries of the free basic water scheme and the maximum cubic litres per day to which such



beneficiaries are entitled in accordance with the State WASH Policy.

3. Without prejudice to subsection (1) the Commission shall perform its functions and exercise its powers in such a manner as it considers best in achieving any of its objectives under this Law.
4. In furtherance of the objects referred to in this section, the Commission shall perform the water Services regulatory functions conferred on it under Part III and otherwise in this law under the supervision of the relevant water Ministry in the State.

*Scope of the  
Regulatory  
Oversight  
of the ENSWRC*

- 135.** The Commission shall have authority over every water services providers, water services institutions, water services intermediaries, State waters supply utilities, WCAs, WASHCOMS, and every other active participants in the State water supply and sanitation services Sector and ensure that they operate according to the law.

*Establishment  
and  
composition of  
the Board of the  
Commission*

- 136.** 1. There is hereby established for the Commission, a Board consisting of five part-time Members and an Executive Secretary appointed by the Governor which shall include -
- a) a Chairman;
  - b) a representative of the consumers;
  - c) a representative of the organized private sector as represented by the State Chapter of the National Chambers of Commerce, Industry Mines and Agriculture;
  - d) a Legal Practitioner of not less than five years post call and
  - e) one member being a person with proven experience in regulation of utilities and/or infrastructure.

2. In appointing the members, the Governor, shall ensure that members are chosen from the public or private sectors, and shall take into consideration experience or professional qualifications in the following fields or areas of competence: engineering disciplines; water resources management; hydrology expertise; drinking water expert; sewerage, ground water development; environmental sciences in the water sector, utilities regulation and in law, accountancy, economics, finance or administration.
3. A person shall not be appointed as Chairman unless he is a holder of at least a degree in one of the disciplines listed above and shall have held a senior management position in a public or private establishment for a minimum of ten years
4. There shall be appointed for the Commission an Executive Secretary who shall be a full time and non-voting member of the Commission.
5. The Executive Secretary shall be appointed by the Governor.

*Tenure of Office*

- 137.**
1. Subject to the provisions of this Law, a member shall hold office for a period of four years -
  2. A member shall be eligible for re-appointment for another four-year term and thereafter shall not be eligible to serve on the Commission.
  3. A member shall hold office on such terms and conditions as the Governor may deem fit.
  4. The terms, remuneration and conditions of service of members shall be as contained in their letter of appointment.
  5. The Chairman shall continue in office after the expiry of his term until the Board is reconstituted -



**PROVIDED** that such extension shall not exceed six months.

*Disqualifications*

- 138.** (1) A person shall not be appointed as a Member of the Commission if -
- (a) is not a citizen of Nigeria and permanently resident in Nigeria; or
  - (b) has a pecuniary interest in any Water Services undertaking regulated under this Law or any entity which is in competition with or provides similar services to those supplied by such undertaking unless the Governor is satisfied that the interest or activity is indirect and passive and will not interfere with the person's impartial discharge of his duties as a member, or unless the pecuniary interest is terminated prior to the appointment taking effect; or
  - (c) has -
    - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
    - (ii) made an assignment to, or arrangement or composition with, his creditors which has not been rescinded or set aside; or
  - (d) has been certified by a competent authority to be of unsound mind; or
  - (e) been banned from practising his profession; or
  - (f) is a member of any Legislative House,  
**PROVIDED** that a member of a Legislature who is so appointed shall resign his membership of the House before taking up the appointment.

*Vacation of Office*

- 139.** (1) A Member shall vacate his office if -
- (a) he gives notice in writing to the Governor of his intention to resign, or

- (b) on the expiry of such period of notice as he and the Governor may agree; or
- (c) he has been convicted of any offence involving dishonesty, or fraud of financial impropriety; or
- (d) he attends fewer than 75% of the member's meetings in any one-year period.

*Business of the  
Commission*

- 140.** (1) Subject to this Law, the Commission may regulate its own proceedings.
- (2) The Commission shall meet for the dispatch of business as often as is necessary and expedient and, subject to this section, may adjourn, close and otherwise regulate its meetings and procedure as it deems fit.
- (3) The Chairman or, in his absence, any member chosen by the Members present from among themselves shall preside at the meeting of the Commission.
- (4) All decisions of the Commission shall be on the basis of majority of the members present and voting.
- (5) No act or proceeding of the Commission shall be invalidated merely on the ground of existence of any vacancy or defect in the Constitution of the Commission, except where actions are not supported by a quorum.
- (6) The quorum for the meeting of the Commission shall be 3 and each member present shall have one vote on each question before the Board and, in the event of an equality of votes, the Chairman shall have a casting vote in addition to a deliberative vote.
- (7) For a meeting of the Commission to review any previous decision or order taken by the Commission, the quorum shall be no less than the Commission members present when the decision was taken or order was made.



## Disclosure

**141.** (1) If a member -

- (a) acquires or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Commission;
  - (b) owns any property or has a right in property or a direct or indirect pecuniary interest, in a company or association of persons which results in the member's private interests coming or appearing to come into conflict with his functions as a member;
  - (c) knows or has reason to believe that a relative of the member has acquired or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Commission, or owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member's private interests coming or appearing to come into conflict with his functions as a member, or if for any reason the private interests of a member come into conflict with his functions as a member, the member shall forthwith disclose the fact to the Commission.
- (2) A member referred to in subsection (1) shall take no part in the consideration or discussion of, or vote on, any question before the Commission which relates to any contract, right, immovable property or interest referred to in that subsection.
- (3) A member shall, prior to accepting his appointment to the Commission, make a declaration of assets in accordance with paragraph 11 of the Fifth Schedule to the Constitution of the Federal Republic of Nigeria 1999 as amended.

- (4) Any member who contravenes subsections (1), (2) or (3) of this section commits an offence and is liable on conviction to a fine of N1,000,000.00 or imprisonment of six (6) months or both.

*Validity of  
Decisions*

- 142.** (1) No decision or act of the Commission done under the direction of the Commission shall be invalid on the ground that -
- there existed a vacancy or vacancies among the members; or
  - there existed some defects in the Constitution of the Commission at the time the decision was taken or act was done or authorized.
- (2) If a member referred to in section 137 above takes part in the consideration of a matter in which his private interests are in conflict with his functions as Member, the other members may subsequently ratify any such decision or action.

*Executive  
Secretary  
and the  
Secretariat*

- 143.** (1) There shall be appointed by the Governor, an Executive Secretary for the Commission who shall be the Chief Executive and Accounting Officer of the Commission and shall hold office on such terms and conditions as may be specified in his letter of appointment.
- (2) He shall be responsible for the day to day administration of the affairs of the Commission and perform such other functions as the Board may from time to time direct.

*Appointment and  
Remuneration of  
Staff*

- 144.** (1) Members of the Board shall be paid from the funds of the Commission such remuneration and allowances, if any, as the Commission may propose from time to time for the approval of the House of Assembly, which in approving the same shall have regard to the salaries and



allowances paid to the staff of other Regulatory Commissions operating in Nigeria under the following principles -

- (a) the specialised nature of work to be performed by the commission;
  - (b) the nature of the expenses incurred by the Commission employees, including national and international travel expenses.
- (2) Other staff of the Commission shall be paid from the funds of the Commission such remuneration and allowances as the Commission shall determine.

*Budgets*

- 145.** (1) The Commission shall in each year, prepare and submit to the Budget Office an estimate of the expenditure which the Commission proposes to incur in respect of that financial year in order to carry out the functions of the Commission during the next succeeding year.
- (2) The Commission may during any financial year prepare and submit to the Governor through the supervising Ministry a supplementary budget relating to expenditures which were inadequately provided for in the annual budget due to unforeseen circumstances.
- (3) A supplementary budget shall be deemed to form part of the annual budget of the Commission for the financial year to which it relates.

*Funds of the Commission*

- 146.** (1) There is established for the Commission a fund into which all monies accruable to the Commission shall be paid and from which shall be defrayed all expenditure incurred by the Commission.
- (2) The funds of the Commission shall consist of -
- (a) fees, charges and other income accruing to

the Commission from Water Services Providers, or any other monies, as may accrue to the Commission, whether in the course of its operations or otherwise, excluding any fines or penalties recovered pursuant to this Law;

- (b) a surcharge on Tariffs payable by Consumers of Prescribed Water Services as the Commission may by regulation decide;
- (c) funds allocated to the Commission by the House of Assembly, pursuant to a request by the Commission for additional funds required to meet its reasonable expenditure.

*Accounts and  
Audit*

- 147.** (1) The Executive Secretary shall ensure that proper account and other records relating to such account are kept in respect of all Commission activities, funds and property, including such particular accounts and records as the Commission may require.
- (2) The accounts shall be audited annually by external auditors appointed in accordance with the guidelines for the appointment of auditors issued by the Auditor-General of the State
  - (3) The auditor shall be entitled to require to be produced to him within two weeks all accounts and other records relating to such accounts which are kept by the Commission or its agents and to require from any officer or employee or agent of the Commission such information and explanation as in the auditor's opinion are necessary for the purpose of their audit.
  - (4) Any officer or employee or agent of the Commission who fails without just cause to comply with a requirement of an auditor in terms of subsection (1) commits an offence and is liable on conviction to a fine of N100,000 or 2 years imprisonment or both.



*Annual Reports*

**148.**

- (1) The Commission shall submit an annual report of its activities to the Governor in accordance with the provisions of this Law.
- (2) The annual report shall, amongst other information, contain a detailed presentation of the Commission's performance during the reporting year stated against any targets set in the Commission's approved plans together with an analysis of the opportunities and constraints impacting upon the Commission's performance and the actions proposed for addressing them.
- (3) The Commission shall, within three months after the end of the financial year, furnish the State House of Assembly with -
  - (a) a copy of the audited accounts of the Commission; and
  - (b) a copy of the report of the external auditor.
- (4) The Commission shall publish its annual report in two national daily newspapers circulating within the State and on the Internet.
- (5) The Commission shall cause the audited accounts and annual report to be published in the State Government Official Gazette after complying with subsection (3) of this section.

*Other Reports*

**149.**

- (1) In addition to any report which the Commission is required by this Law to submit to the Governor, the Commission shall submit to the Governor or State such other reports as they may require and such other reports as the Commission considers necessary.
- (2) The Governor shall publicly release any reports submitted pursuant to subsection (1), within two months following the receipt of such a report.

*Immunity of  
member  
and staff of  
Commission*

**150.**

- (1) No liability shall attach to the Chairman, members or other staff of the Commission for

any loss or damage sustained by any person as a result of the bonafide exercise or performance of any function which, by or in terms of this Law, is conferred or imposed upon such person.

- (2) No execution or attachment of process shall be issued against any property vested in the Commission except with the prior consent of the Attorney General and Commissioner for Justice of the State.

*Benchmarking of  
Commission*

- 151.** Where required under any Water Sector Programme commitments or by the Governor, the Commission shall submit such reports to the Governor or responsible Ministry, any person, organisation or authority as may be required in order to facilitate the comparison of activities and performance of the Commission against any other Water Regulatory Commissions operating elsewhere.

*Delegation of  
Powers*

- 152.** (1) Subject to subsection (2) of this section, the Commission may in writing delegate any power vested in it under this Law, and may impose separate or concurrent duties with respect to enforcement of any regulations or orders made by it in a particular area on any Water Service Provider or a Local Government Authority.
- (2) Notwithstanding anything contained in subsection (1) of this section, the Commission shall not delegate the power –
- (a) to make regulations; or
  - (b) to issue or cancel Licences.

*Advisory support  
and outsourcing*

- 153.** (1) The Commission may appoint Advisory Committees to advise it on the exercise of the Water Services Regulatory Functions contained in this Law.
- (2) The Commission may enter into arrangements with private sector experts to advise on or to



undertake the performance of any Water Sector regulatory functions.

- (3) Any private sector expert appointed under this section shall be appointed by an open and competitive bidding, subject to all applicable bidding and award guidelines, including adequate technical requirements.

### **SPECIAL REGULATORY FUNCTIONS OF THE COMMISSION**

Water Services  
Regulatory  
Functions

- 154.** (1) The Commission, in addition to any other functions imposed on it by this Law shall perform the following regulatory functions for the provision of Water Services in the State -
- (a) advise the State Government on water supply matters;
  - (b) licence Water Services Providers;
  - (c) develop sector guidelines on the technical and financial management of Water Services Providers.
  - (d) make regulations prescribing all matters which by this Law are required or permitted to be prescribed or which, in the opinion of the Commission, are necessary or convenient to be prescribed for carrying out or giving effect to this Law, including -
  - (e) the administration of the affairs of the Commission, including, inter alia, the holding of meetings, hearings and proceedings, arbitration and mediation proceedings, the conduct of inquiries and investigations, becoming a party, the handling of information, and generally the conduct of its business
  - (f) the procedure for issuing Water Service Provider Licences;
  - (g) the determination of the standards for the provision of Prescribed Water Services

- including Water Quality Standards subject to the national drinking water quality standards;
- (h) the method and manner by which Tariffs that may be charged by Water Services Providers for their Services will be determined including a Metering scheme for certain large use Consumers, to the extent practicable and cost-effective;
  - (i) the duties, powers, rights, and obligations of a Water Service Provider;
  - (j) the resources procurement policies of, and entry into Private Sector Person [PSP] Agreement by the Water Services Providers, including, as may be applicable, the review and approval of same;
  - (k) the requirements of Water Services Development Plans;
  - (l) procedures for monitoring compliance with this Law and any other applicable Laws and Policies on water;
  - (m) guidelines to eliminate illegal connections, unregulated or illegal use of Prescribed Water Services; and
  - (n) practices, procedures and reporting requirements for monitoring and enforcing this Law including establishment of fines and penalties.

*Discharge of  
Functions*

- 155.** (1) In the discharge of its Regulatory Functions under this Law, including the making of regulations and of any decision or determination, the Commission shall -
- a) consult in good faith with persons who are or are likely to be affected by the decision including Water Services Providers, Consumers and any Consumer associations;



- b) give to such persons an opportunity to make submissions to and to be heard by the Commission;
  - c) have regard to the evidence or facts adduced at any hearing and to matters contained any submissions;
  - d) give reasons in writing for every decision;
  - e) ensure that notice is given of each regulation, decision or determination in the Government Gazette, and in a national daily newspaper circulating in the State and on the internet;
  - f) ensure that decisions are accessible to the public at reasonable times and places; and
  - g) ensure that decisions are consistent with all applicable Federal and State Water Laws and Policies, and Water Sector programme Commitments of the State.
- (2) The Commission may make interim orders pending the final disposition of a matter before it.

*Other Powers of  
the  
Regulator*

- 156.** (1) The Commission may exercise such other powers including the power to make determinations and to act as an arbitrator in disputes under a PSP/PPP Agreement as the case may be.
- (2) In making a determination under this section the Commission shall have regard to any factors specified in the PSP/PPP Agreement in relation to economic regulatory matters.

#### **LICENCES**

*Licence to  
Operate  
as Water  
services Provider*

- 157.** (1) No person shall operate as water Services Provider unless such person -
- a) holds a water service provider Licence issued by the Commission;
- (2) Notwithstanding the provisions of subsection (1) of this section, any person, public or private,

who at the commencement of this Law, was acting as a Water Services Provider without a Licence, may continue to do so until the expiry of reasonable notice, which notice shall not exceed six months, given by the Commission that the continuation will be subject to the issuance of a Licence.

- (3) The Commission may issue an interim Licence to any person as specified under the law for a period not exceeding eighteen months, or such shorter period as it may consider appropriate, if it is necessary, in the public interest.
- (4) Any person who contravenes the law on obtaining the required Licences commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to pay a fine of N1,000,000 or both, and thereafter N10,000 per day until the default is abated.
- (5) The Commission shall have the authority to order any person who contravenes the law as stated in subsection (2) above, to cease his operations, and to make such other orders, including an order to another Water Service Provider connected to such defaulting Licensee to disconnect facilities as may be necessary to prevent the continuation or reoccurrence of the contravention.

*Limitations on  
Transfer*

- 158.** A Water Services Provider shall not, except as provided under this Law, assign or cede its Licence or transfer its undertaking, or any part thereof, by way of sale, mortgage, lease, exchange or otherwise without the prior written consent of the Commission,  
PROVIDED that, where the circumstances require, the Commission may approve the transfer subject to terms and conditions, and stipulate whether the consent is specific or general, for any or all the foregoing.



*Application*

**159.** (1) An application for a Licence shall be made to the Commission in the form and manner prescribed, and be accompanied by the prescribed fee and such information or documents as may be required by the Commission.

(2) Subject to subsection (5) of this section, if on consideration of an application that satisfies the requirements of subsection (1), the Commission is also satisfied that -

a) the applicant is likely to comply with such provisions of this Law, including, without limitation, all codes of conduct, standards, regulations and Licence terms and conditions, applicable to the service or system it intends to provide or operate; and

b) the grant of the Licence is in the public interest, after consideration of all relevant factors, including but not limited to the following -

(i) existing lawful services;

(ii) efficient/beneficial use of Prescribed Water Services in the relevant geographic area; and

(iii) the socio-economic impact of issuing or failure to issue a Licence, the Commission shall issue the appropriate Licence, as the case may be, to the applicant.

(5) If on consideration of an application that satisfies the requirements of subsection (1), the Commission is not satisfied; It shall inform the applicant in writing of its refusal to issue a Licence to the applicant and shall afford the applicant adequate opportunity to make representations in the matter.

(6) The period between the Commission's receipt of an application under subsection (1) and all documents and information submitted in

- support of it, and the date on which it notifies the applicant of the adequacy of the documents and information, shall not exceed thirty days.
- (7) The period between the Commission's receipt of an application that satisfies the requirements of subsection (1), and the date on which the Commission notifies the applicant of its decision or proposed decision in accordance with subsection.
- (8) Notwithstanding subsections (1) to (5) the Commission may establish simplified procedures for different Water Services providers such as Water Service Intermediaries so as to expedite the application and licensing process.

*Terms and  
conditions of  
Licence*

- 160.** (1) A Licence shall be issued subject to such terms and conditions as are required by this Law or as the Commission by regulation.
- (2) Unless expressly indicated in the Licence, the grant of a Licence shall not hinder or restrict the grant of a Licence to another person for a like purpose and, in the absence of such an express indication, the Water Service Provider shall not claim any exclusivity –  
Provided that the Commission may allow a Licence to be exclusive for all or part of the period of the Licence, for a specific purpose, for a geographic area, or for some combination of the foregoing.
- (3) A Licence may contain terms and conditions for the Licence to cease to have effect or to be modified or amended by the Commission in such circumstances as to be specified in the Licence.
- (4) A Licence shall be valid for 10 years in the first instance and subject to satisfactory performance and conditions set by the



Commission is renewable thereafter in increments of 5 years.

*Determination of  
Fees and  
Charges*

- 161.** The Commission shall impose a fee in accordance with this section in relation to all Licences issued under this Law, which shall be payable in such amounts as determined by the Commission to be a reasonable estimate of the costs which will be incurred by the Commission in relation to regulation of the Prescribed Water Services to which the Licence relates, and at such intervals as determined by the Commission.

*Renewal of  
Licence*

- 162.** At the expiry of his license, subject to payment of the appropriated fee, a Services Provider shall apply to the Commission in the form and manner and within the period prescribed for a renewal of the Licence

*Amendment of  
Licence*

- 163.** (1) Subject to this section, the provisions of a Licence may be amended -
- a) In accordance with the procedures specified in the Licence; or
  - b) By agreement between the Commission and the Water Services Provider;
- (2) The Commission shall not amend any Licence until all objections or representations received by the Commission have been considered.
- (3) An aggrieved party may petition the Governor or the relevant Water Ministry

#### **STANDARDS AND TARIFFS**

*Standards*

- 164.** (1) The Commission shall in consultation with applicable Federal and State Ministries, Water Services Providers, Consumers and other interested parties, develop the following performance standards and codes -
- (a) standards of overall performance in

connection with the provision of Prescribed Water Services and in connection with the promotion of the efficient use of water by Consumers;

- (b) water Quality Standards subject to National drinking water quality standards;
  - (c) such technical codes and manuals as may be required for the safe, reliable, and efficient operation of the system and
  - (d) such other standards, codes, manuals as the Commission may deem necessary for the safe construction of water supply facilities in the sector.
- (2) Standards, codes and manuals approved by the Commission pursuant to Subsection (1) shall be binding on the applicable Water Services providers and shall be published by the applicable water Services Providers in such manner as the Commission may direct.
- (3) The Commission may depending on the nature of the service provided, set different standards for different Water Services Providers under this Law.
- (4) In carrying out its functions under this Law, including setting and monitoring standards under this section, the Commission shall consult and cooperate with the State Environmental Protection Agency and any other State or Federal Agencies responsible for environmental and water resource management regulations.

*Tariffs*

- 165.** (1) The Commission shall develop, adopt, and provide to the Water Service Providers Tariff Methodologies for tariffs that may be charged by the WSPs for the prescribed water services.
- (2) No Services Provider shall fix any tariff to be charged for water services unless the tariff is in



accordance with the applicable tariff methodology adopted for regulating water tariffs and has been approved by the Commission.

(3) In determining tariff methodologies, the Commission shall have regard to the:

- a. particular circumstances of the Water Services for which the determination is being made;
- b. costs of producing and supplying the water services;
- c. interests of the Services Provider including assurance of the financial integrity of the Services Provider;
- d. cost of complying with relevant health, safety, environmental and social legislation;
- e. the need to provide incentives for continued improvement in technical and economic efficiency and quality of Water Services;
- f. the interests of Consumers, including the need to avoid undue discrimination between Consumers and Consumer categories.

(4) The Commission may establish simplified tariff methodologies for different Services Providers such as Water Services Intermediaries.

(5) Notwithstanding subsection (3)(f) of this section, in establishing tariff methodologies the Commission may differentiate among Consumers on the basis of differences in total water consumption, the time periods on which water is consumed, and other such criteria as may affect the cost of providing a service and may allow a lifeline tariff for some Consumers.

- (6) Prior to approving a tariff methodology, the Commission shall give notice in the Gazette and in one or more National Newspapers with wide circulation in the State, of the proposed establishment of a tariff methodology, indicating the period within which objections or representations in connection with the same may be made to the Commission.
- (7) The Commission shall fix the date on which the tariff methodology shall come into operation and it shall cause the notice to be published in the Gazette and any newspapers circulating in the State.
- (8) The Commission shall, with the help of experts in the field of water regulation, establish procedures for undertaking fixed and extraordinary reviews of the tariff methodology, as well as the period within which such tariff may be reviewed and the parameters to be considered for such review
- (9) Any person, upon whom any function has been conferred or imposed in connection with setting tariffs, shall be bound by a tariff methodology that has come into operation under this section.
- (10) A WSP shall file with the Commission, within the time and in the prescribed form, a schedule, showing the tariff charged by it for the Services it provides.
- (11) It shall be an offence for a WSP to transfer any fines or penalties levied against it under this Law to the consumers.



## **WATER SERVICES PROVIDERS AND CONSUMERS**

*Terms and  
Conditions  
for provision of  
Prescribed Water  
Services*

- 166.** (1) The Commission shall in accordance with this Law and any regulation made pursuant to this Law set terms and conditions for the provision of prescribed water services by WSPs.
- (2) These conditions shall -
- a. be in writing, accessible to the public and available free of charge to any Consumer;
  - b. be in accord with applicable Federal and State Laws and policies on water;
  - c. be in accord with every applicable Water Services Development Plan adopted in terms of this Law; and
  - d. provide for -
    - (i) the technical conditions of existing or proposed extensions of supply;
    - (ii) the determination and structure of tariffs;
    - (iii) the conditions for payment;
    - (iv) the circumstance under which Prescribed Water Services may be limited or discontinued;
    - (v) procedures for limiting or discontinuing Prescribed Water Services; and
    - (vi) measures to promote water conservation and demand management.
- (3) Procedures for the limitation or discontinuation of Prescribed Water Services shall -
- a. be fair and equitable; and
  - b. provide for the required notice of intention to limit or discontinue the Services and for an opportunity to make representations, unless;
    - (i) other Consumers would be prejudiced;
    - (ii) there is an Emergency Situation; or
    - (iii) the Consumer has interfered with a limited or discontinued service;

- (4) Any person who uses Water services provided by a Service Provider shall be subject to any applicable condition set by that Service Provider.
- (5) Where one WSP provides Water Services to another WSP, it shall not limit or discontinue those services for reasons of non-payment, unless it has given at least 30 days' notice in writing of its intention to discontinue the Services to -
  - a. The other Water Service Provider;
  - b. The Commission.

*Duty to provide  
access  
to Prescribed  
Water  
Services*

- 167.** (1) Any Water Service Provider shall ensure efficient, affordable, economical and sustainable access to Prescribed Water Services to all consumers or potential consumers in its area of jurisdiction, in accordance with the terms of its Licence.
- (2) The duty prescribed in subsection (1) of this section shall be subject to the -
- (a) terms of the Licence and any applicable PSP Agreement;
  - (b) availability of resources;
  - (c) need to regulate access to Prescribed Water Services in an equitable way;
  - (d) duty of consumers to pay reasonable charges, based on the standards for Tariffs for Prescribed Water Services;
  - (e) duty to conserve water resources;
  - (f) duty to manage waste water and sewerage in a manner prescribed by the Commission and all applicable Laws and best practices;
  - (g) duty to provide good quality and safe water;
  - (h) nature, topography, zoning and the location of the land in question and
  - (i) the right of the relevant Water Services provider to limit or discontinue with



provision of Prescribed Water Services if there is failure to comply with reasonable conditions set for the provision of such services.

- (3) A Service Provider shall not unreasonably and without verifiable cause refuse or fail to give access to prescribe water services to a Consumer or potential consumer in its area of jurisdiction.
- (4) In emergency situation, a Service Provider shall take reasonable steps to provide basic water supply to any person within its area of jurisdiction and may do so at cost to the State Government in accordance with standards prescribed by the Commission.
- (5) No provisions of this Section shall be interpreted to expand the obligations of a Service provider under a PSP Agreement awarded and approved in accordance with the provisions of this Law or pre-existing this Law.

*Rights of Water  
Services Provider*

**168.** The Water Services provider may -

- a. construct, operate, maintain, alter or repair any Water Services Work in accordance with the terms of its Licence and, where applicable, any applicable PSP/PPP Agreement and with the permission of the relevant State and Federal Government authorities;
- b. levy Tariffs for Water Services provided by it in accordance with this Law and the Tariff methodology prescribed by the Commission; and
- c. apply for, enter into agreements for, and perform all obligations related to grants or loans under a Water Sector Programme Commitment.

*Obligations of  
Water  
Services Provider*

**169.** (1) A Water Services Provider must -

- a. comply with the provisions of its Licence, and regulations, general codes, and other

- requirements issued by the Commission from time to time, unless stayed by a court of competent jurisdiction and notwithstanding that the Water Services provider has or may intend to take legal action challenging any such order or notice;
- b. provide the Prescribed Water Services in accordance with all applicable State and Federal Water Laws and any other laws applicable to it.
  - c. unless expressly exempted by the Commission, prepare and submit to the Commission each year, such accounting information as the Commission may require;
  - d. provide to the Commission complete and regular information, in the form and substance prescribed, as may [reasonably] be called for by the Commission concerning the provision of Prescribed Water Services and so as to prove compliance with the approved tariff, tariff methodology and with any other obligation of the Services Provider under this Law or its Licence and to enable the Commission to monitor implementation of the Water Service Development Plan;
- (2) A Services Provider shall establish procedures for dealing with complaints by its Consumers, which procedure and any amendment must be approved by the Commission;
  - (3) In addition to any other right contained in the contract between the Consumer and the Water Services provider, a Consumer shall be informed by the Water Services Provider of the rights and obligations of the Water Services Provider under the License;
  - (4) The Commission shall make regulations containing the Consumer's Bill of Rights and



obligations and make same available to consumers;

- (5) A Consumer shall in addition to any other obligation contained in any contract between the Consumer and the Water Services Provider:
- (a) pay for the services provided or made available in accordance with the applicable tariff;
  - (b) pay the surcharge on tariff imposed under this Law;
  - (c) comply with the technical regulations issued by the Water Services Provider licensee related to Consumer Installations including their maintenance;
  - (d) allow the Water Service Provider to install a meter on the property where appropriate, and keep the meter in the same condition as existed when installed.
  - (e) permit the Service Provider or its agents and employees to read the meter in accordance with the terms established in the License and
- (6) Where the consumer fails, after the due notice, to comply with this subsection the service license may suspend the service of that consumer except where the consumer is an essential service.

#### **COMPLAINTS, INVESTIGATION AND ORDERS**

*Right of  
Complaint  
to the  
Commission*

- 170.** Any Consumer or Service Provider may submit a complaint to the Commission in respect of any matter arising under this Law, receipt of which must be acknowledged in writing in accordance with the business rules developed by the Commission.

A dispute between a consumer and a Service Provider relating to the provision of water services or the tariff chargeable for the service provided by a

Service Provider shall in the first instance be referred to the Commission for investigation and settlement.

The Commission shall investigate complaints received by it unless it is of the opinion that:

- (a) the complaint is trivial, frivolous, vexatious or not made in good faith; or
- (b) the complaint is on the same subject already under investigation.

*Investigations*

- 171.** The Commission may on its own initiative, or upon the receipt of a complaint from any consumer or Services Provider inquire into the conduct or functioning of any Services Provider in carrying out its obligations under this Law or regulations, codes of conduct, or the terms and conditions of the Licence.

*Abatement  
Orders*

- 172.** (1) Where the Commission is satisfied that a Service Provider is contravening, has contravened or is likely to contravene any of the conditions of its Licence, the Commission may serve upon the Service Provider an abatement order:
- (a) requiring the Service provider to do, or avoid or discontinue any act, as may be specified in the order for the purpose of rectifying or avoiding any contravention or threatened contravention of any condition of its Licence; and
  - (b) stipulating the period within which any requirement referred to in subsection (1) (a) of this section shall be commenced and completed
- (2) An Order for abatement shall be published by the Commission in the Gazette and in the public media or in such manner as the Commission



considers appropriate to draw the attention of other persons affected or likely to be affected by the contravention or threatened contravention of its Licence.

- (3) Before serving an order in terms of subsection (1) of this section, the Commission shall serve a notice upon the Services Provider:
- (a) specifying the grounds upon which the order is to be issued and what the Commission considers is required for the purposes of rectifying or avoiding any contravention or threaten contravention of any condition of its Licence;
  - b) stipulate the maximum period that the Commission considers reasonable for the implementation of any requirement it proposes to order; and
  - c) allowing the Service Provider, to make representations to the Commission within such period from the date of service of the notice as it shall specify.
- (4) An order served under subsection (1) of this section, may specify a penalty for each day the Services Provider remains in default of compliance with the order.
- (5) The Commission may impose penalty on any Service Provider, public or private or individual who pollutes or causes to pollute, changes, alters or cause to change or alter the status of any surface or groundwater source or resources without the specific approval of the Commission.

Suspension or  
Cancellation of  
Licence

- 173.** (1) After an inquiry, including providing an opportunity for the Licensee, the subject of the complaint, to show cause as to why a Licence should not be cancelled, the Commission may cancel or suspend any Licence if, in its opinion -

- (a) the Licence was issued through fraud or the misrepresentation or non-disclosure of a material fact by the water services provider;
  - (b) the Services Provider has failed, without reasonable cause, to comply with an enforcement order issued by the Commission;
  - (c) the Services Provider has failed, after appropriate notice in accordance with the terms of the Licence, to comply with any terms or condition of its Licence, the breach of which is expressly declared by such Licence to render it liable to cancellation; or
  - (d) the financial position of the Services Provider is such that he is unable to fully and efficiently discharge the duties and obligations imposed by the Licence.
- (2) Before cancelling a Licence, the Commission shall notify the WSP in writing of its intention to cancel the Licence concerned and the reasons for doing so, and shall allow the Water Services Provider an opportunity to demonstrate, within 60 days following the delivery of such a notification that circumstances have changed such that cancellation may no longer be warranted.
- (3) Notwithstanding subsections (1) to (2) of this section, the Commission may allow a Licence to remain in force, subject to such further terms and conditions as it may deem necessary to impose, and such terms and conditions shall form part of the Licence.

Power in relation  
to  
Statutory  
Managers

- 174.** (1) Without prejudice to the powers of the Commission to cancel a License, where a Licence has been suspended or cancelled, the Governor or the relevant Ministry may acting on the recommendation of the Commission and in



- the public interest direct that the utility or service be operated under the management and control of a competent person (in this section referred to as the 'statutory manager').
- (2) The statutory manager shall exercise all relevant powers and perform all relevant duties on behalf of the Services Provider, and shall use the infrastructure of the original Services Provider to perform all necessary functions
  - (3) When a Service Provider resumes its functions, the powers exercised and duties performed by the statutory manager shall cease.
  - (4) The statutory manager may recover from the original Water Services Provider:
    - a) all outstanding expenses which it incurred; and
    - b) all losses which it suffered in the cause of any act performed under this section.
  - (5) The suspension or cancellation of a licence and the appointment of a statutory manager under this section shall not prejudice or affect the security of any holder of any security interest in the business of the WSP or any mortgage or the right of enforcing the security.

*Review of  
Decisions  
by Commission*

- 175.** (1) Any person who is aggrieved by -
- a) decision of the Commission not to issue a Water Service Provider Licence;
  - b) any terms or condition of a Licence issued to him, or a refusal by the Commission to specify a term or condition in a Licence;
  - c) a refusal by the Commission to renew a Licence;
  - d) any amendment of a water service provider Licence or a refusal by the Commission to amend the said Licence;
  - e) the cancellation of a Licence;
  - f) the grant or refusal by the Commission to

- grant any approval or authority in terms of this Law;
- g) the outcome of any arbitration or mediation by the Commission of a dispute between Service Providers or between a Service Provider and consumer
  - h) a decision of the Commission with respect to tariff; or
  - i) any other decision of the Commission may within fourteen days of the delivery of the decision, apply to the Commission for reconsideration of the matter.
- (2) An application for review of decision of the Commission may also be sought under this section if the applicant relies on new facts or changed circumstances that could not, with due diligence, have become known to the applicant while the matter was being considered by the Commission.
- (3) Any disputes or differences arising between licensees or users in respect of activities carried out under this Law may be referred to the Commission for arbitration.
- (4) For the purpose of subsection (3) of this section, the Commission may act as Arbitrator or nominate an Arbitrator to adjudicate and settle the dispute.

*Right of action*

- 176.** (1) Notwithstanding anything contained in section 172 of this Law, a person who has made an application for a Licence may challenge any failure by the Commission to take a decision on the application within a reasonable time and
- (2) The provision of section 172 shall not operate to prejudice the right any person who is aggrieved by any decision of the Commission to challenge the decision before the Court: or any other court of law so designated.



Provided that the action shall be commenced within 21 days of the decision.

**ENSWRC WATER SERVICE DEVELOPMENT PLAN  
AND STATE-WIDE DEVELOPMENT PLANS  
PRIVATE SECTOR PERSON [PSP] AGREEMENTS**

PSP Agreements

- 177.** (1) Subject to this Law, a WSP may enter into a PSP Agreement with any person to perform any functions, services or provide facilities which may be exercised, performed or provided by a Services Provider under this Law or any other applicable Law.
- (2) The award of a PSP Agreement shall be carried out in accordance with all applicable laws and policies, including the following provisions -
- a) except as otherwise authorized by the Commission, PSP/PPP Agreements shall be awarded by open and competitive bidding, subject to bidding and award guidelines, including adequate technical requirements issued by the Commission.
  - b) the scope of the project or activities the subject of the PSP Agreements (including the design, construction, maintenance or operation of new Water Services works or the modernisation, rehabilitation, expansion, management or operation of existing Water services works) shall conform with the State Wide Development Plan, or otherwise as approved by the responsible State Executive Council;
  - c) any award of contract pursuant to this section shall be consistent with the bidding and award guidelines developed for the PSP Agreement and any relevant Laws, circulars, regulations and guidelines relating to the tendering of public contracts and Private Sector Investment on

- infrastructure;
- d) the Commission shall approve a PSP Agreement only if the Agreement complies with this Law, the Water Services Development Plan and the State-Wide Development Plan and any prescribed procedures for award of the PSP Agreement.
- (3) The Commission may develop further provisions for the procedure for award of PSP Agreements which may include compulsory provisions to be included in a PSP Agreement.
- (4) Upon the conclusion of a PSP Agreement or joint venture agreement, the Service Provider shall within fourteen days of the signing of the Agreement supply a copy thereof to the Commission

*Transfer  
Agreements to  
Community  
Based  
Associations*

- 178.** The Commission shall develop model Agreements for the transfer of assets from State owned Agencies, STOWA and EN-RUWASSA to the Community based Associations and Organisations in accordance with this Law and the State WASH Policy.

#### **CHAPTER V SANITATION AND ENVIRONMENTAL PROVISIONS**

*Sanitation and  
Environmental  
Provisions*

- 179.** In this law sanitation shall mean excreta and sewage disposal, urban drainages, industrial liquid discharge, and other liquid pollutants, and sanitation services shall be the collection, removal, disposal or purification of human excreta, domestic waste-water, sewage, as well as effluent, resulting from the use of water for commercial purposes;

*Duties of the  
LGAs*

- 180.** All LGAs shall -
- (1). In collaboration with all WCAs, WSPs, WASHCOMs within the Local Government Area, the State Ministry responsible for Water



Resources, Ministry responsible for rural development, Ministry of Health, Ministry of Education, Ministry of Environment and other stakeholders, ensure and promote;

- a. hygiene and sanitation education and awareness in respect of water usage, conservation and protection, among the people of the area;
- b. health education including prevention of water related diseases and its effects;
- c. programmes for Child education on hygiene and sanitation in respect of water and sanitation, both at home and in their schools;
- d. in conjunction with the State Government, primarily provide funding for the promotion of water sanitation and hygiene with support from Donor Agencies if available;
- e. in consultation with WCAs and WASHCOMs in the area set and enforce all regulations that will protect all categories of water systems in the state including water works, boreholes, hand-pumps and any other water system from effluents;
- f. conduct active and regular house to house sanitary inspection;
- g. mobilize and encourage private sector participation in the provision of sanitary facilities in strategic areas for transient population within the L.G.A.;
- h. ensure disposal of dead and animal carcasses found near or in any water source or system;
- i. take all measures including environmental impact assessment before construction of any water system in the area that will reduce environmental impact to the surrounding areas;

- j. control the rearing of animals in relation to water sources or water schemes and impound any stray animal and
- k. sensitize and mobilize its community members to contribute and participate in any water sanitation programme and sanction anybody who fails to do so.

*Duties of State  
Ministry*

- 181.** The State Ministry responsible for water resources shall collaborate with the State Ministry of Education on matters of water sanitation and hygiene education with a view of revising primary and secondary school curricula.

*Pollution  
prevention*

- 182.** (1) It shall be a duty of every person or institution established under any law of the State to promote and observe the State Policy on point and non-point sources of pollution of the water resources of the State.
- (2) Any such person or institution shall promptly notify both the relevant Federal and State environmental standards enforcement agency in charge of pollution control, the ENSWRC, the State Ministry of Water Resources and Rural Development, Ministry of Environment and any other Agency responsible for standards enforcement in the area of any actual or threatened infringement whereupon such agency shall take appropriate steps pursuant to this Law and/or the Law establishing it.
- (3) All WCAs, WSPs, relevant government Ministries and Agencies, and the ENSWRC shall take all appropriate measures to control non - point source pollution including promoting -
- (a) sustainable forestry practices, agro-forestry, reforestation and good pasture husbandry;



- (b) appropriate agricultural land use methods, soil conservation, control and minimization of the use of agricultural chemical inputs;
  - (c) general land use, planning, and enforcement of planning laws;
  - (d) creating awareness on hygiene and sanitation; and
  - (e) enforcement of treatment standards for industrial effluents discharged into water sources.
- (4) In cases of emergencies or threat of imminent serious pollution, the Ministry for Water Resources, and Rural Development in collaboration with other relevant State Ministries and the ESWRC, will take appropriate steps to rectify the problem as soon as practicable and thereafter inform the relevant enforcement agency.
- (5) In spite of a notification of a point or non-point source of pollution to the enforcement Agency by any person, the Ministry responsible for Water Resources in collaboration with other relevant State Ministries and the ESWRC shall continue to monitor and ensure actual abatement of such pollution occurring within the State.
- (6) In the event that such pollution continues for a period of two days after notification to the enforcement agency, the Ministry responsible for Water Resources in collaboration with other relevant State Ministries may take appropriate steps to abate such pollution including prosecution of such polluters and suspension of a license for wastewater discharge or related water supply.
- (7) Where the Ministry for Water Resources takes such steps as are contemplated in this section, such costs as are incurred shall be recovered

from the party(s) directly or indirectly responsible for the pollution.

## CHAPTER VI OFFENCES AND PENALTIES

*Illegal  
Construction  
of Water Works*

- 183.** (1) No person shall construct any waterworks or water supply facilities in the State, without obtaining a license or other authorization from the ESWRC
- (2) No person shall construct any illegal structure within a defined waterworks premises
- (3) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine of N200,000 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment
- (4) The provisions of subsections (1) and (2) of this section shall not apply to a person who constructs a well having a depth not exceeding 6 meters within his premises for his domestic use.

*Offence relating  
to  
water diversion,  
pollution, etc*

- 184.** Any person who –
- (a) willfully damages any water works, public fountain or service; or
- (b) unlawfully draws, diverts or takes water from any source or from any stream by which any waterworks is supplied, or
- (c) makes an unauthorized opening or closes any valve, sluice or manhole of any waterworks; or
- (d) pollutes any water or water source; or
- (e) allows or causes any foul liquid or gas or other noxious or toxic or injurious substance or matter to be discharged into any water source or any facility of any, State owned or private water facilities, Commits an offence shall be liable on conviction to a fine not below the sum



of N150, 000 or to imprisonment for a term not exceeding [6] months or to both such fine and imprisonment and to a further penalty of N5000 for each day that the act or omission that constitutes the offence continues.

Offences relating  
to Wastage

- 185.** Any person who alters, causes or permits to be altered any pipeline, fittings or fountains of any waterworks leading to wastage of treated water without the consent of any treated water supply utility, commits an offence shall be liable on conviction to a fine of N200,000 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

Offences relating  
to Fraudulent  
Measurements

- 186.** Any person who alters, causes or permits to be altered, any pipeline, fittings, meters of any waterworks with the intent to -
- (a) avoid the accurate measurement or register of water by means of any Meter,
  - (b) obtain a greater supply of water than he is entitled, or to avoid payment for such supply; or
  - (c) willfully or negligently damage, alter, cause or permit to be damaged or altered any meter, commits an offence and shall be liable on conviction to a fine of N200,000 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

Offences relating  
to Nuisance

- 187.** (1) Any person who puts, allows to be put or to remain, or to accumulate on any tenement owned or occupied by him or his servant or agent, any foul material or substance in such manner or place that it causes nuisance or may fall or be washed or be carried into or obstructs any water works of any water supply utility, commits an offence and shall be liable on conviction to a fine of N200,000 or to

imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

- (2) Any person who allows any material or substance or any nuisance to remain after notice for the cleanup or removal or remediation has been served on him by the ESWRC, the Ministry responsible for Water Resources or any other relevant State Agency shall, in addition to the penalty specified in subsection (1) of this section, be liable to a further penalty of N5000 for each day that the act or omission that constitutes the offence continues.

Obstruction of  
the  
staff of relevant  
Government  
bodies

- 188.** Any person who obstructs or assaults any staff, officer or employee of the Government bodies established pursuant to this Law or any other person authorized by such government bodies in the course of carrying into effect any of the provisions of this Law commits an offence and shall be liable on conviction to a fine of N200, 000 or imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

Offences of  
Impersonation

- 189.** Any person, including staff of any government bodies established under this law, who, not being lawfully authorized to carry out any function under this Law and who under any guise or cover holds out himself as having been authorized to enforce any part of this Law commits an offence and shall be liable on conviction to a fine N200, 000 or to imprisonment for a term not exceeding 6 months or both such fine and imprisonment.

Conspiracy

- 190.** Any person who conspires with, procures, instigates, aids, or facilitates another person to do anything or act prohibited under any of the provision of this Law, commits an offence and shall



be liable under the relevant provisions of this Law relating to such offence and shall be punished as if he committed the offence himself.

*Unauthorized  
activities  
in relation to  
water  
supply facilities*

- 191A** (1) No person shall -
- (a) bathe in any part of any reservoir,
  - (b) wash or throw clothes, materials or things into any water source;
  - (c) wash or cause any horse, dog, goat, pig or any other animal to enter any reservoir; or
  - (d) wrongfully open or close any lock, valve sluice or manhole belonging to or installed by the water supply utility
- (2) A person who contravenes any of the provisions of subsection (1) commits an offence and is liable on conviction to a fine of N200,000 or imprisonment for 6 months or to both the fine and imprisonment.

*Court of  
Jurisdiction*

- 191B** The High court, the magistrate court or water court or any other court so designated shall have jurisdiction to entertain the matters aforesaid.

## **CHAPTER VII**

### **ROLE OF GOVERNMENT**

*The Enugu State  
Government*

- 192.** The Enugu State government shall -
- (1) be responsible for facilitating and coordinating the roles of the Ministries, Departments and Agencies as well as other stakeholders in the State Water Supply and Sanitation Services Sector by the activities of the MDAs identified in this Chapter.
  - (2) facilitate the funding of investments in the sector in the short to medium term and shall ensure that policy implementation, review and impact assessment is done on a continuous basis, monitoring, training, removal of officers, establishment of State information system.

Ministry  
responsible  
for Water  
Resources

- 193.** (1) Shall be responsible for -
- (a) policy advice and formulation, implementation, supervision and monitoring of all water resources management and related issues;
  - (b) coordination of matters relating to the provision and development of potable water and water related sanitation services in the State, including conduct of surveys, monitoring and evaluation,
  - (c) research and conduct of studies into the development, management and use of water resources;
  - (d) maintenance of data base on water supply and sanitation facilities and performance by the establishment of a state-wide information system
  - (e) increasing the access of the communities in the State to potable water supply through mobilization of funding for capital investments and technical support in the sector
  - (f) increasing access of the communities in the State to safe sanitation through investment, planning, and education;
  - (g) promotion and coordination of other collaborative activities by and liaison with the following bodies on water supply and sanitation -
    - i. Federal Government of Nigeria and its Agencies
    - ii. Other state government MDAs
    - iii. Local Government Authorities and Communities
    - iv. International Donor Organizations, Development Partners and Non-Governmental Organizations (NGOs)



- (2) Provide technical support and advice to the State water supply and sanitation Agencies in urban, small towns and rural areas and support the State Rural Water and Sanitation Schemes.
- (3) Create an enabling environment for meaningful PSP in the State water supply and sanitation sector.
- (4) Ensuring that water management and water service delivery is pro-poor and gender sensitive.
- (5) Alignment of policies and programs that have the potential to influence positively on water and sanitation service delivery.
- (6) Coordination and facilitation of effective communication and information sharing amongst key stakeholders.
- (7) Achievement of Integrated Water Resources Management (IWRM).
- (8) Review and development of state water sector investment plan.
- (9) Setting up ad hoc Committees such as the water and sanitation steering Committees as may be necessary in furtherance of the WASH Policy.
- (10) Research into and development of low cost, affordable, practical and appropriate technologies for water and sanitation services delivery, including research into local technologies for manufacture of local spare parts and disposal and recycling of all wastes;
- (11) Planning for the WASH Sector development by the development of sector wide plans, with contributions from the urban, small towns, and rural subsector agencies, consumers, communities and other stakeholders.
- (12) The monitoring and evaluation of policy implementation and policy review.
- (13) The institutionalization of a training programme for sector technicians and professionals to ensure that the best qualified

people are available in the sector and the entrenchment of best industry practices in all activities across board.

- (14) Establishment of policy for the control of effluent and waste discharges.
- (15) Management of raw water quality, including enforcement of State and National standards, providing for incentives and deterrents for compliance.
- (16) Establishment of measures such as the precautionary "polluter pays principle" as well as the setting and enforcement of receiving water body quality standards.
- (17) Formulation of policy on watershed management in order to control factors such as erosion, sedimentation and diffuse pollution.
- (18) Prescribing standards for the quality of water taken from or discharged into any water body or natural water resource system in accordance with national standards.
- (19) Monitoring the abstraction of water for industrial use and the discharge of industrial effluents into water bodies in accordance with national standards and in collaboration with the State Environmental Protection Agency.
- (20) Establishment of State Information System -
  - (a) the Ministry shall establish a State Information System which shall report regularly to the National information system on Water resources and water services generally.
  - (b) all information provided shall be in a format accessible to all stake-holders
  - (c) for the purpose of subsection (a) of this Section, the Ministry may require any Service Provider and Consumers to furnish information to be included in the State Information System.



- (d) the Ministry shall submit to the ENSWRC, all data for input into the state information system for verification stating the source of the data and confirming the accuracy thereof and such data be made available to the public at a reasonable fee subject to the objectives of transparency and effective public access to relevant information

*Duty of the  
Ministry  
to prepare water  
services  
development  
plans*

- 194.** (1) Every water supply services operator and institution, whether public or private, government owned or community based, must, within one year after the commencement of this Law, as part of the process of preparing an integrated water supply and sanitation development plan for the state water and sanitation sector in terms of this Law, and in consultation with the consumers served, the Local government WASH Department, the community, and other stakeholders, prepare,
- (i) a draft water supply and sanitation services development plan for its area of jurisdiction: and
- (ii) a summary of that plan.
- (2) The Commissioner responsible for Water Resources may extend the one-year period in respect of a water services operator in consultation with the ESWRC giving reasons for the extension.
- (3) The draft plan thus prepared shall be submitted to the Ministry responsible for water resources to be integrated into the State Water and Sanitation Sector Development Plan.
- (4) The Plan shall be approved at a meeting of all stakeholders with the State Steering Committee and the ESWRC
- (5) Notwithstanding subsection (1) of this section,

the Ministry in consultation with the ESWRC may either;

- a) waive the requirement for a Water Services Development Plan, or
- b) establish a simplified planning questionnaire, for different WSP operators and institutions.

Contents of Draft  
Water Services  
Development  
Plan

**195.** Every draft water services development plan must contain details-

- (1) of the physical attributes of the area to which it applies;
- (2) of the size and distribution of the population within that area;
- (3) of a time frame for the plan, including the implementation programme for the following five years;
- (4) of existing water services;
- (5) of existing sanitation facilities and plans;
- (6) of existing industrial water use within the area of jurisdiction of the relevant water services operator;
- (7) of existing industrial effluent disposed of within the area;
- (8) of an estimate of the number and location of persons within the area who are not being provided with basic water supply and basic sanitation;
- (9) regarding the future provision of water services and water for industrial use and the future disposal of industrial effluent, Including -
  - (i) the water services providers which will provide those water services;
  - (ii) the contracts and proposed contracts with those water services providers;
  - (iii) the proposed infrastructure necessary;
  - (iv) the water sources to be used and the quantity of water to be obtained from and discharged into each source;
  - (v) the estimated capital and operating costs of



- those water services and the financial arrangements for funding those water services, including the existing tariff structures and recommendations for future tariff structures;
- (vi) any water services institution that will assist the water services operator;
- (vii) the operation, maintenance, repair and replacement of existing and future infrastructure and
- (10) of the number and location of persons to whom water services cannot be provided within the next five years setting out -
- (a) the reasons therefore and
  - (b) the time frame within which it may reasonably be expected that a basic water supply and basic sanitation will be provided to those persons; and
  - (c) of existing and proposed water conservation, recycling and environmental protection measures.

*Draft integrated  
water  
and sanitation  
services  
development  
plan*

- 196.** (1) The Ministry responsible for water resources must—
- (a) take reasonable steps to bring the integrated State Draft Water Supply and Sanitation Services Development Plan to the notice of all stakeholders, consumers, potential consumers, industrial users, and water services institutions in the State, and
  - (b) invite public comments thereon to be submitted within a reasonable time.
- (2) A copy of the draft integrated water supply and sanitation services development plan, a copy of its summary, all written comments, and a report on all comments other than written comments, must
- (a) be available for inspection at the offices of the Ministry, and

(b) obtainable against payment of a nominal fee

*Adoption of the  
integrated Water  
and Sanitation  
Sector  
Development  
Plan*

- 197.** (1) The Ministry responsible for water resources must consider all comments received by it before adopting the Water and Sanitation Services Development Plan;
- (2) The Ministry must, on request, report on the extent to which a specific comment has been taken into account or, if a comment was not taken into account, provide reasons therefore and
- (3) The Ministry must supply a copy of every Water and Sanitation Sector Development Plan submitted to it from the Water Services Operators as well as comments received thereon to the ESWRC.

*Review of the  
State  
integrated Water  
and Sanitation  
Development  
Plan*

- 198.** The Ministry must prepare and adopt a new development plan at intervals of five (5) years or any other interval as may be determined by the Commissioner in consultation with the ESWRC in accordance with the procedure set out in sections 134 to 136 of this Law

*Deviation from  
Development  
Plan*

- 199.** No substantial deviation from an approved integrated State Water and Sanitation Sector Development Plan is valid unless it is embodied in a new plan adopted in accordance with the procedure set out in sections 118 to 121 of this Law.

*Reporting on  
Implementation  
of the  
Development  
Plan*

- 200.** (1) Every water services operator, institution or community based organization must report on the implementation of its development plan during each financial year as well as at the time of submitting the new development plans for the succeeding year.
- (2) The report—
- (a) must be made within four months after the end of each financial year: and



- (b) must be submitted to the Ministry responsible for water resources as well as the ESWRC
- (3) The water services operator must publicize a summary of its report;
- (4) A copy of the report and its summary must be -
  - (a) available for inspection at the offices of the water services Operator; and
  - (b) obtainable against payment of a nominal fee.

Enugu State  
Ministry  
of Environment

**201.** Enugu State Ministry of Environment shall:

1. Control and monitor -
  - (a) the disposal and discharge of solid, liquid, and gaseous industrial waste products in the urban and semi-urban areas of the State;
  - (b) all types of erosion in the urban and semi-urban areas of the State and liaise with the appropriate Federal Government agencies responsible for erosion control;
  - (c) conduct of environmental impact assessment of water projects;
2. Ensure sustainable development of the environment of the State;
3. Conserve and use the environment and the natural resources for the benefit of the people of the State;
4. Cooperate and collaborate with the Federal, Local Government and non-Governmental organization, private sector and individuals on environment matters;
5. Conserve, protect and enhance the environment, the ecosystem and ecological process essential for the preservation of biological diversity;
6. Check and control erosion and flooding problems in the State and

7. Collaborate with the Ministry responsible for water resources in the development and enforcement of effluent standards for discharges and receiving water bodies composition.

*Enugu State  
Environmental  
Protection  
Agency*

**202.** Enugu State Environmental Protection Agency shall

1. Advise the State Government on State environmental policies and priorities and on scientific and technological activities affecting the environment.
2. Formulate and enforce policies: statutory rules and regulations on solid waste collections and disposal, general environmental protection control and regulation of the ecological system and all activities related therewith.
3. Conduct public enlightenment campaigns and disseminate vital information on environment and ecological matters.
4. Render advisory services and support to all LGs in the State in areas of flood control, ecological and sanitation matters.
5. Take measures to guarantee consistent effectiveness of environmental structures throughout the State for flood control, solid waste collection and general sanitation.
6. Co-ordinate the activities of all Agencies in the State connected with environmental and ecological matters
7. Monitor and control all types of erosion in the State and liaise with appropriate Federal Government Agencies charged with erosion control
8. Conduct environmental impact assessment of new and existing projects, and make recommendations for effective measures.
9. Monitor, regulate and approve the installation of any pollution control, solid waste treatment and disposal system.



*Enugu State  
Ministry  
of Health*

- 203.** Enugu State Ministry of Health shall undertake water quality surveillance and monitoring in line with the National Standards for Drinking Water Quality (NSDWQ), and report infractions to the ESWRC for enforcement.

*Local  
Governments*

- 204.** Each Local Government shall -
1. implement rural water supply and sanitation Programmes through the WASH departments in conjunction with EN-RUWASSA and community development associations/NGOs;
  2. contribute to policy formulation and development plans;
  3. fund water and sanitation infrastructure development in the rural areas;
  4. monitor and evaluate sector programmes and implementation of the State WASH Sector Plans;
  5. institutionalize capacity building for LGA staff and the community associations;
  6. provide a serviceable refuse compactor to carry refuse generated to the dump sites;
  7. have a public cemetery;
  8. construct Public toilets and involve the private sector in the maintenance of public toilets within their jurisdictions;
  9. through their WASH Department, be responsible for -
    - a. the development of rural water and sanitation sector development plans in collaboration with the WASHCOMs and the EN-RUWASSA
    - b. WASH Projects design, supervision and monitoring;
    - c. establishment of database on water and sanitation facilities in the local government area and their performance.
    - d. mobilizing and assisting communities to establish water and sanitation committees

- (WASHCOMS);
- e. the identification of community members with the assistance of the WASHCOMs for training on repairs and maintenance of hand pumps, boreholes and other equipment;
  - f. monitoring progress of LGA Rural Water and Sanitation Programme;
  - g. ensuring provision of water supply and sanitation to the communities in accordance with this Law;
  - h. ensuring that Environmental Health Officers continue with the performance of functions allocated to them under the Approved Scheme of Service for the Local Government Employees and
10. Annual financial allocation should be provided in the Local Governments annual budgets for items (1) to (5) above.

#### **CHAPTER VIII MISCELLANEOUS AND TRANSITIONAL PROVISIONS**

*Savings and  
transfers  
of liabilities and  
staff  
of the  
Corporation and  
the Agency*

- 205.** (1) The statutory functions, rights, obligations and liabilities of the Enugu State Water Corporation as they relate to the supply of water in the State existing before the commencement of this Law, under any contract or instrument, or in Law or in equity, apart from any contract or instrument, shall by virtue of this Law and without further assurance, be vested in the Corporation established under this Law for urban areas, and for assets in EN-RUWASSA, Small Towns, in the Agencies herein established.
- (2) Any such contract or instrument as is mentioned in subsection (1) of this section, shall be of the same force and effect against or in favor of the Corporation or the Agency



- established by this Law as the case may be and shall be enforceable as fully and effectively as if instead of the Water Corporation existing before the commencement of this Law, the Corporation or the Agencies established by this Law had been named therein or had been a party thereto.
- (3) The Corporation and the Agencies established by this Law shall be subject to all obligations and liabilities to which the Water Corporation/Agencies existing before the commencement of this Law was subject before the commencement of this Law and all persons shall have the same rights, powers and remedies against the Corporation and the Agencies established by this Law as they had against the Water Corporation/ Agencies.
- (4) Any proceedings or cause of action pending or existing immediately before the commencement of this Law, by or against the Water Corporation/Agencies existing before the commencement of this Law in respect of any right, interest, obligation or liability of the Water Corporation/ Agencies existing before the commencement of this Law may be continued or as the case may be commenced by or against the Corporation or the Agency as the case may be and any determination of a court, tribunal or other authority or person may be enforced by or against the Corporation or the Agency established by this Law to the same extent that such proceedings or cause of action or determination might have been continued, commenced or enforced against the Corporation.
- (5) Any person who immediately before the coming into force of this Law is the holder of any office in the Water Corporation/ Agency existing before the commencement of this Law shall, on

the commencement of this Law and without further assurance, continue in office and be deemed to have been appointed to his office by the Corporation/Agency established under this Law unless the authority by which the person was appointed terminates the appointment or varies it in accordance with the terms of such appointment.

Miscellaneous  
provisions  
with respect to  
the  
Commission

- 206.** (1) No approval given under this Law and nothing in this Law relieves any Water Services Provider or any other person from complying with any other law relating to the management or regulation of the environment or water resources; or with any other applicable State or Federal Water Laws or Policies including, where required, any obligation on a Water Services Provider to obtain a licence or permit to abstract water to be used in providing the Prescribed Water Services.
- (2) Entry and inspection of property -
- (a) any person authorised in writing by the Commission may subject to the provisions of subsection (3) of this section, at any reasonable time and without prior notice, enter any property and inspect any water services work in order to ascertain whether it is being carried out in compliance with this Law or any regulation made pursuant to this Law;
  - b) a duly authorised staff, employee or agent of the Commission, may after reasonable notice to the owner or occupier of any property, enter the property with the necessary vehicles, equipment and material for its work:
    - (i) to repair, maintain, remove or demolish any water services work belonging to or



- operated by the Water Services Provider concerned;
  - (ii) to establish the suitability of any water source or site for the construction of a water services work;
  - (iii) search, excavate, bore or carry on any activity necessary for the recovery of measurement of water; and
  - c) after reasonable notice to the owner or occupier of any property, cross the property in order to enter another property lawfully.
- (3) Any person entering any property shall identify himself or herself and present his or her authorisation.
- (4) A dwelling, private residence or business may only be entered: where it is necessary in terms of this Law to do so; and on reasonable notice; and at a reasonable time.
- (5) The service areas, and existing rights and obligations of any water services provider operating under a PSP Agreement pre-existing this Law remain as set out in the PSP Agreement.

*Miscellaneous  
Provisions with  
respect to  
EN-RUWASSA*

**207.** Preliminary investigation in respect of land for rural infrastructures -

1. Whenever it appears to the EN-RUWASSA that any land in the rural areas of the state is likely to be needed for the purpose of any rural infrastructures, the EN-RUWASSA may, by its servants and Agents, together with necessary workers enter upon any such land and
- (a) survey and take levels of the land;
  - (b) dig or bore under the subsoil; and
  - (c) do all other acts necessary to ascertain whether the land is suitable for such purposes

(d) clear, set out and make the boundaries of the land in respect of which it is proposed to make an application,

Provided that no such agent, servant or workmen shall enter any building or upon any enclosed court or garden attached to a dwelling house (except with the consent of the occupier thereof) before at least six weeks' notice of the intended entry has been given to such occupier;

2. As soon as any entry has been made under (1) of this section, the EN-RUWASSA shall pay compensation for all damages arising out of the exercise of any power conferred by (1) above referred to above and
3. In the event of a dispute as to the amount of any compensation payable under this Section, the amount may be determined by the ESWRC and upon appeal, by the Court having jurisdiction in the area where the land is situated.

## CHAPTER IX

Community  
Water  
Management &  
Maintenance

### 208. COMMUNITY WATER MANAGEMENT & MAINTENANCE

The Ministry of Water Resources has developed the following recommendation, which is to serve as guideline for the future management and maintenance of Small Town/Rural water schemes in Enugu State.

#### 1.0 GUIDELINE FOR THE FORMATION OF WATER MANAGEMENT COMMITTEES

- 1.1 Every beneficiary community that is served by a water scheme will form a Water Management Committee that is representative of all sections of the community and shall be selected by the community Development Committee/Town in conjunction with the traditional cabinet.
- 1.2 The Water Management Committee should



- reflect a gender balance. It is recommended that this committee have 3 males for every 2 females.
- 1.3 Each Water Management Committee should have representative from each village/clan or kindred in the communities benefiting from the scheme, each community should be equally represented on the Water Management Committee.
  - 1.4 A Chairman, Secretary, Treasurer and Scheme supervisor shall be elected for each Water Management Committee.
  - 1.5 The Water Management Committee will be a sub-committee of the Community Development Council/Town Development Union where one exists.
  - 1.6 There will be fixed two-year tenure for all Water Management Committees that may be renewable for another 2 years. The maximum stay for any Water Management Committee member will be four years.
  - 1.7 The Zonal Officer of Small Town/Rural Water Supply and Sanitation Agency will be a member of all Water Management Committees under his/her jurisdiction.
  - 1.8 Each community will forward a list of the members of their Water Management Committee to Small Town/Rural Water Supply and Sanitation Agency who will forward this to the Ministry of Water Resources.
  - 1.9 In the event that there are problems or irreconcilable difficulties in the selection of Water Management Committee, the State will be forced to take over the schemes from the communities, in line with the provision of the ENSWRC.

**2.0 GUIDELINE FOR THE PROVISION OF SECURITY ARRANGEMENTS FOR SMALL TOWN/RURAL WATER SCHEMES**

- 2.1 Communities are to take responsibility for the security of all water schemes using the Neighborhood Watch Association.
- 2.2 The amount of money (if necessary) to be paid as monthly salary to security personnel for the schemes will be determined by the Water Management Committee of each community.
- 2.3 The Local Government in which the schemes are sited will provide support for maintaining security personnel at the schemes.

**3.0 GUIDELINE FOR THE OPERATION AND MAINTENANCE (O&M) OF COMMUNITY WATER SCHEMES.**

- 3.1 The State Small Town/ RUWASSA will provide technical support and services for the O&M of Water Schemes in the communities
- 3.2 Communities will be responsible for the procurement of parts based on recommendations and specifications by the State Small Town/RUWASSA.
- 3.3 The State Small Town/RUWASSA will be responsible for paying allowances of and making other sundry provisions for their staff on the field for the duration of repairs and services.
- 3.4 All repairs and procurement of parts, including extension of pipelines, shall be done with the permission and under the supervision of how the operation and Maintenance of schemes are to be handled.
- 3.5 The Communities through Water Management Committee's (WMC)'s shall be responsible for the payment of both water and electricity bills to the appropriate government agencies. The water bill payable to the State Small



Town/RUWASSA by each community shall be calculated based on the current meter readings using the current approved rates.

- 3.6 Communities shall be responsible for the general upkeep of the borehole premises and the powerhouse.

#### **4.0 GUIDELINES FOR REVENUE GENERATION FOR COMMUNITY WATER SCHEMES**

- 4.1 To generate enough funds for the operation and maintenance of the Water schemes, water shall be partially commercialized in each Small Town/Rural Community.
- 4.2 The Community Water Management Committee shall determine the rate at which water should be sold. It is recommended that a minimum of Ten Naira every 20 liters of water, whilst a maximum of Fifteen Naira (N15.00) for every 25 liters of water is applied to the sale of water.
- 4.3 Each community shall operate a designated water account in which all revenues realized from the sales of water from public taps, private connections and stand posts shall be lodged and used for operation and maintenance, overhead costs, or any other sundry costs associated with the smooth running of water schemes.
- 4.4 The Chairman and Treasurer of the Water Management Committee shall be signatories to the account.
- 4.5 The Zonal Officer of the Small Town/RUWASSA must be a permanent Signatory to the account and must sign off on any withdrawals that are made on the account.
- 4.6 All private connections should be undertaken by the State Small Town/ RUWASSA upon payment of a statutory fee, which would be a

- minimum of ten thousand naira (N10,000.00). The individual will be responsible for the cost of all materials and labour for the connection apart from the statutory fee.
- 4.7 Monthly bills of private water connections shall be paid into the community water account, while the community pays monthly water bill of N5,000.00 only to the Small Town/RUWASSA.
- 4.8 The monthly rate to be paid by private connections will be determined by the Water Management Committee using appropriate guidelines developed by Small Town/RUWASSA. These monthly rates will be metered where such facilities are available. Where this option is not operational, a flat monthly rate will be applied.
- 4.9 Requests for private connections will pass through the Water Management Committee of each community, who will in turn recommend such persons to the Small Town/RUWASSA for private connections.
- 4.10 The State Small Town/RUWASSA will not entertain any private connections without recommendations from the Water Management Committee of the community.
- 4.11 In addition, the State Small Town/RUWASSA will develop and circulate guidelines covering all issues relating to private water connections including a time frame for the provision of services.
- 4.12 To ensure accountability and probity in the implementation of this strategy and sustenance of Small Town/ Rural water supply, an audit of community water accounts will be conducted quarterly to ensure that all the objectives of this management system are realized.



## **5.0 ROLE OF ENUGU STATE SMALL TOWN/ RURAL WATER SUPPLY AND SANITATION AGENCY**

- 5.1 The Small Town/RUWASSA will work with the community Water Management Committees with a view to establishing a good working relationship with the communities.
- 5.2 The Small Town/RUWASSA will in collaboration with the communities, be responsible for all repairs and services that may be required by the schemes.
- 5.3 The Small Town/RUWASSA will provide necessary guidelines to the communities in relation to repairs, maintenance and technical services.
- 5.4 The Small Town/RUWASSA will carry out routine borehole redevelopment at regular intervals of three years and equally carry out routine water quality analysis with a view to ascertaining the quality of water from time to time.
- The Small Town/RUWASSA will train the community-nominated operators in operation and maintenance of the schemes.

*Repeal of Laws  
and  
Savings*

- 209.** (1) The Enugu State Rural Water Supply and Sanitation Agency Law 2001, and the Enugu State Water Corporation, CAP 76, Laws of Enugu State are hereby repealed.
- (2) Anything done before the commencement of this Law by the State Water Corporation/ Agencies and any regulations made or conditions set under or in terms of any Law repealed by subsection (1) remain valid and is deemed to have been done, made or set under or in terms of the corresponding provision of this Law if –

- a) it is capable of being done, made or set under or in terms of this Law; and
- b) it is not in conflict with the main objects of this Law as set in Section 1.

*Objects of this  
Law*

## **SCHEDULE I**

### **FUNDAMENTAL PRINCIPLES AND OBJECTIVES**

#### **1. The main objects of this Law are to provide for:**

- (a) the right of access to basic water supply and the right to basic sanitation necessary to secure sufficient water and an environment not harmful to human health or well-being;
- (b) the setting of standards and norms for service provision and standards for tariffs in respect of water services;
- (c) the preparation and adoption of water services development plans by the Ministry responsible for water resources in accordance with this Law;
- (d) a regulatory framework for water services institutions and other water services providers;
- (e) the establishment of State water supply service delivery Agencies, their powers and duties, and of State Steering Committees;
- (f) the formulation, monitoring and review of the Enugu State WASH Policy for the water and sanitation Sector;
- (g) for coordination of intervention in water and Sanitation delivery by Federal, State and Local Governments as well as other Non-Governmental Agencies and bodies;
- (h) the gathering and dissemination of information in a State information system;
- (i) the accountability of water services providers in the water sector;



- (j) the promotion of effective water resource management and conservation particularly for water within the constitutional authority of the State;
- (k) collaboration of the Sector institutions with other national and state Agencies in the development of water and sanitation services in accordance with the National Water Policy, the State Master Plan and this Law;

*Directive  
Principles  
for Water and  
Sanitation  
Services  
delivery in the  
State*

## **2. Directive Principles for Water and Sanitation Services Delivery in the State;**

The principles and implementation responsibilities set out in this section shall be regarded by every Ministry, Department and Agencies of government as well as the water service providers, and other non-governmental Agencies and Organizations as being fundamental to every activity undertaken within the State Water and Sanitation Services Sector.

These principles are;

Water resources within the State are a common good belonging to all residents of the State, consequently, everyone has a right of access to basic water and sanitation which right takes precedence over supply for any other uses.

Within the context of an Integrated Water Resources Management (IWRM) approach to managing the water resources, the Government recognizes Water as a social good, an economic good, as well as an environmental good.

Economic considerations in water supply ensures viability and sustainability of the service through cost and capital recovery in urban areas and choice of technology options for rural areas, while environmental considerations ensure preservation and conservation of the resources.

Social considerations ensure the affordability of water supply and sanitation services for the low income and poor sections of the populace by the development and implementation of poverty reduction strategies in the WASH plans including cross subsidies as well as targeted and justifiable government subsidies.

The Government recognizes the role of the Private sector in water resources and sanitation development, and shall create necessary enablement for the participation of the private sector in the delivery of water and sanitation services.

Publicly owned water and Sanitation infrastructure and assets shall be held in trust for the people by the State Government and shall be vested in public water utilities established pursuant to this Law. Such assets may be granted to non-governmental private water service providers for the purpose of service provision in public private partnership arrangements.

The public water utilities shall be managed as commercial enterprises- free from political interference, autonomous in its managerial, financial, technical and personnel functions.

Water and Sanitation management and development shall be based on participatory approach. All citizens of the State, men, women, and children, including vulnerable groups shall have a voice in the WASH planning process, either directly or through their representatives.

Decisions should be made at the lowest appropriate level, transparent and open to public scrutiny.



There must be free flow of information which must also be accessible to all stakeholders and the public at large.

Women and men shall be equitably represented in all water and sanitation decision making organs at the State, Local, and community levels.

All water providers in the State shall produce potable water that meets the Nigerian Standards and WHO for Drinking Water Quality as issued and amended by the Standards Organization of Nigeria and the Federal Ministry of Health from time to time.

The Government shall develop investment plans for the development of Water and Sanitation infrastructure for the Sector and shall make provisions for necessary funds for such investments in accordance with the State Water Sector Development Plans, the State Development Plans and the State Economic Plans.

The State Government shall through the Ministry responsible for Water Resources, implement the short, medium and long term Goals for the Sector as articulated in the State Water and Sanitation Policy and Sector Strategy including periodic policy development and review, institutional reform, capacity building and creation of necessary enabling environment for sector development.

Emphasis shall be on conflict prevention and management in the Sector to assure water and food security as well as affordability, reliability, and sustainability of service through appropriate regulatory mechanisms.

The State shall ensure that the organizational responsibility for policy formulation and sector coordination, water service provision, and sector regulation shall be clearly separated and vested in individual institutions while the MWR oversees these functions.

The Regulatory Agency shall be independent, autonomous, and free from political interference.

Water supply service provision in the State shall be along the lines of urban water supply, small towns water supply and rural water supply PPP, for improved access and coverage to the citizens of the State. Water infrastructure and assets in the Urban area shall be vested in the state urban water utility, which may engage with the private sector for the performance of any of its statutory functions with respect thereto subject to the approval of the Governor in accordance with this Law.

Water infrastructure assets in the Small Towns shall be vested in the communities in the Small Towns and may engage with the private sector for the delivery of water supply and sanitation services in accordance with this Law.

Rural communities shall have ownership of water supply and sanitation assets at the rural level while the State Agency responsible for rural areas shall provide technical assistance and advisory services for construction, design, and maintenance in accordance with this Law.

The Ministry responsible for water resources and every water service Institution and water Service Provider must provide measures to realize these rights in their Water Sector Development Plans as well as in their operations.



The rights mentioned in this section are subject to the limitations contained in this Law.

## **SCHEDULE II**

### **PROVISIONS RELATING TO THE PROCEEDINGS OF THE BOARD OF THE SECTOR INSTITUTIONS**

*Provisions*

Each of the three major institutions in Water Sector namely - Enugu State Water Corporation, Enugu State Small Towns Water Supply and Sanitation Agency and Enugu State Rural Water Supply and Sanitation Agency must have Board Members.

#### **The Board Members shall include the following -**

- (1) Chairman
- (2) other members shall be
  - (a) Permanent Secretary, Ministry of Water Resources
  - (b) Permanent Secretary, Ministry responsible for women Affairs
  - (c) Permanent Secretary Ministry of Rural Development.
  - (d) Permanent Secretary, Ministry responsible for Local Government affairs
  - (e) Permanent Secretary, Ministry of Health
  - (f) Permanent Secretary, Ministry of Environment
  - (g) Permanent Secretary, Ministry of Works
  - (h) the General Manager.
- (3) 3 other persons, one each from the 3 senatorial zones not civil servants, who, in the opinion of the Governor are capable of contributing positively to the achievement of the objectives of the sector.
- (4) All members of the Board shall be appointed by the Governor and with the exception of the General Manager, shall serve as part-time members.

- (5) At least three of the Members shall be women notwithstanding that they may also be ex-officio Members.

### **SCHEDULE III**

#### **SUPPLEMENTARY PROVISIONS RELATING TO THE WCAs/WASHCOM**

##### **Model Constitution for WCAs/WASHCOM**

*Supplementary  
Provisions*

In constituting WCAs/WASHCOM Members in every Small Town/Rural community, two persons (one male and one female) must be selected to represent each of the villages that make up the Small Town/Rural community.

##### **Officials of WCAs/WASHCOM**

Officers are nominated from the above Members to fill the following positions -

- (i) Chairman
- (ii) Secretary
- (iii) Financial Secretary
- (iv) Treasurer (**Must be a woman**)
- (v) Scheme Supervisor



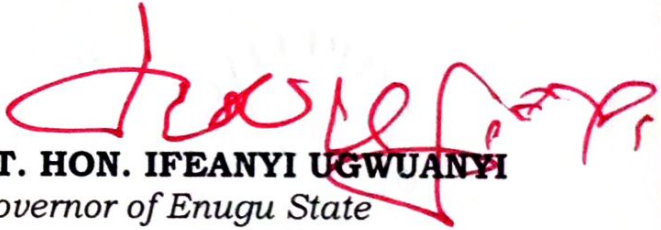
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This printed impression has been carefully compared by me with the Bill which has been passed by the House of Assembly of Enugu State of Nigeria, and is found by me to be a true and correctly printed copy of the said Bill.

  
**Ubosi Edward Uchenna**  
Speaker of the House of Assembly

  
**Dr. Emmanuel Okey Udaya, ACArb, CNA**  
Clerk of the House/Perm. Sec.

Assented to this <sup>3rd</sup>..... Day of <sup>August</sup>....., 2021.

  
**RT. HON. IFEANYI UGWUANYI**  
Governor of Enugu State