

NATIONAL WATER RESOURCES BILL, 2016

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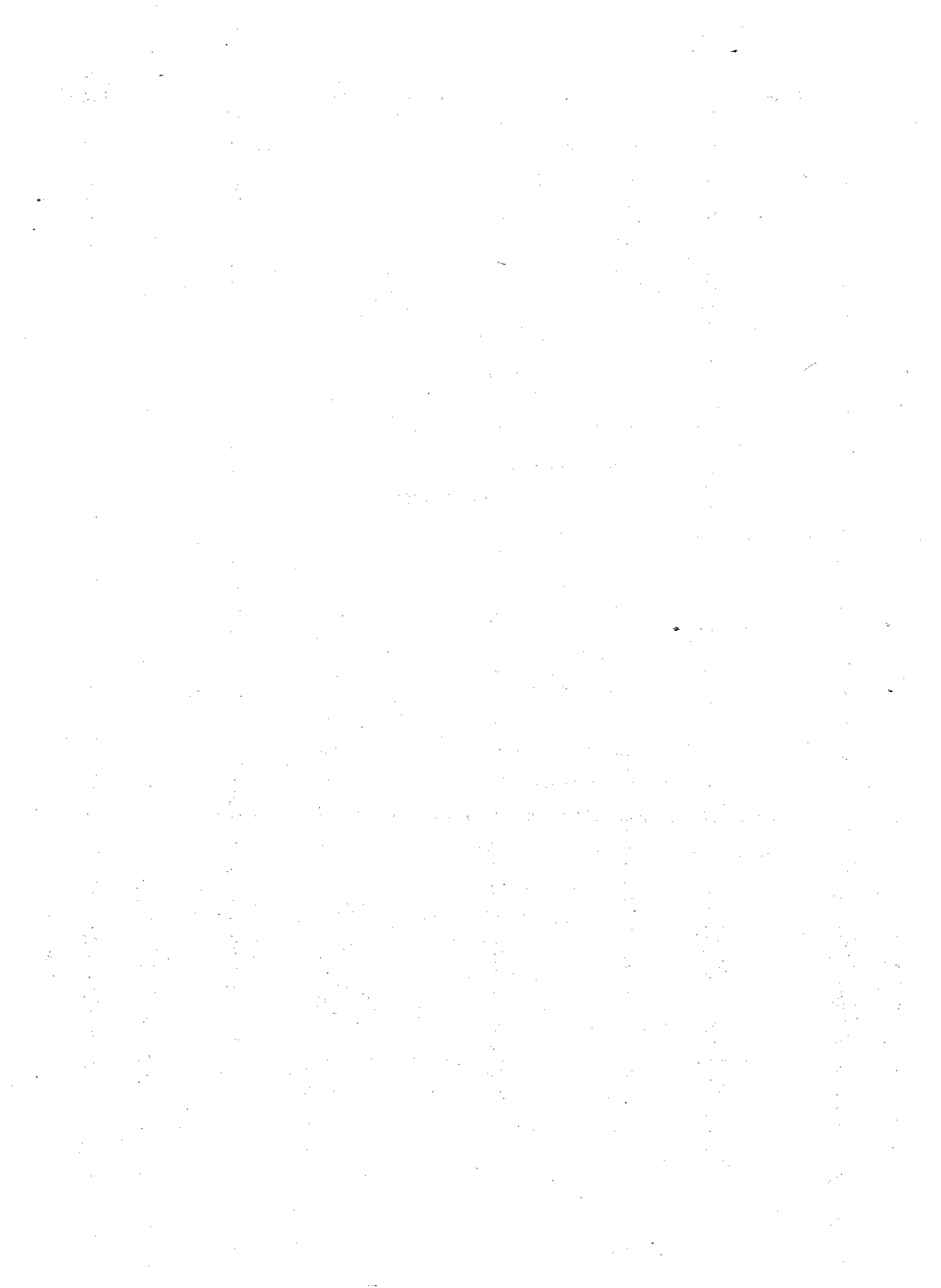
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A BILL

FOR

AN ACT TO PROVIDE FOR THE EQUITABLE, BENEFICIAL, EFFICIENT AND SUSTAINABLE DEVELOPMENT, MANAGEMENT, USE AND CONSERVATION OF NIGERIA'S SURFACE AND GROUNDWATER RESOURCES; TO ESTABLISH INSTITUTIONAL ARRANGEMENTS FOR NIGERIA'S WATER RESOURCES SECTOR, TO REGULATE THE WATER RESOURCES SECTOR AND FOR RELATED MATTERS

Sponsored by Hon. Aliyu Ahman B. Pateji

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

1 PART I - FUNDAMENTAL PRINCIPLES AND ENTITLEMENT TO

2 USE OF WATER

3 1.-(1) The purpose of this Act is to ensure that the nation's water Purpose of the Act

4 resources are protected, used, developed, conserved, managed and
5 controlled in ways which take into account amongst other factors:

6 (a) citizens' right of access to clean water and sanitation;

7 (b) meeting the basic human needs of present and future
8 generations;

9 (c) promoting equitable and affordable access to water and
10 reducing poverty;

11 (d) adopting hydrological boundaries as the basic units for water
12 resources management;

13 (e) protecting the water environment for sustainability of the
14 resource and protection of aquatic ecosystems, and recognizing the polluter
15 pays principle;

16 (f) providing for existing customary uses of water and avoidance of
17 significant harm to other water users;

1 (g) promoting the efficient, sustainable and beneficial use of water in
2 the public interest;

3 (h) facilitating social development, poverty reduction, improved
4 public health, economic development, and gender equity;

5 (i) providing for growing demand for water use, promoting
6 conservation of use and recognizing the economic value of water;

7 (j) supporting initiatives to reduce and prevent pollution and
8 degradation of water resources and the aquatic environment;

9 (k) managing floods, desertification, droughts, erosion control and
10 land drainage;

11 (l) encouraging comprehensive and equitable coverage of water
12 supply and sanitation including promoting public- private sector partnerships
13 in delivery of water services;

14 (m) Promoting PPP in the development and management of water
15 resources infrastructure;

16 (n) promoting dams' safety and appropriate reservoir operation and
17 management;

18 (o) meeting international obligations; and

19 (p) recognizing and implementing the principle of water as an
20 economic good and social good, taking into consideration the socio-economic
21 status of the users, particularly affordability.

22 (2) The institutions established in this Act are to achieve the purposes
23 set out in subsection (1) and shall be guided by the following principles:

24 (a) participation and consultation with States, local governments,
25 communities, women and other stakeholders;

26 (b) management of resources at the lowest appropriate level;

27 (c) administrative efficiency;

28 (d) transparency;

29 (e) accountability; and

30 (f) Implementing national policies on gender and the environment.

1 (3) In implementing the principles under subsections (1) and (2),
2 the institutions established under this Act shall promote integrated water
3 resources management (IWRM) and the coordinated management of:

4 (a) economic development, social welfare and environmental
5 sustainability;

6 (b) land and water resources;

7 (c) surface water and groundwater resources;

8 (d) the river basins and adjacent marine and coastal environment;

9 and

10 (e) upstream and downstream interests.

11 2.-(1) All surface water and groundwater wherever it occurs is a Public trusteeship
12 resource common to all people, the use of which is subject to statutory of water
13 control.

14 (2) There shall be no private ownership of water but the right to use
15 water in accordance with the provisions of this Act.

16 (3) The right to the use, management and control of all surface
17 water and ground water affecting more than one State pursuant to item 64 of
18 the Exclusive Legislative list in Part 1 of the Second Schedule to the
19 Constitution of the Federal Republic of Nigeria, 1999 and as set out in
20 Schedule 1 to this Act, together with the beds and banks thereof, is vested in
21 the Government of the Federation to be exercised in accordance with the
22 provisions of this Act.

23 (4) As the public trustee of the nation's water resources the Federal
24 Government, acting through the Minister and the institutions created in this
25 Act or pursuant to this Act, shall ensure that the water resources of the nation
26 are protected, used, developed, conserved, managed and controlled in a
27 sustainable and equitable manner, for the benefit of all persons and in
28 accordance with its Constitutional mandate.

29 (5) States may make provisions for the management, use and
30 control of water sources occurring solely within the boundaries of the State

1 but shall be guided by the policy and principles of the Federal Government in
2 relation to Integrated Water Resources Management, and this Act.

Entitlement to
use of water

3 3.-(1) Notwithstanding the provisions set out in section 2 of this Act a
4 person may, without a licence:

5 (a) take water from a water source to which the public has free access
6 for the use of his household or for watering domestic livestock;

7 (b) use water for the purposes of subsistence fishing or for navigation
8 to the extent that such use is not inconsistent with this Act or any other existing
9 law;

10 (c) where a statutory or customary right of occupancy to any land
11 exists, take or use water without charge from the underground water source, or
12 if abutting the bank of any watercourse, from that water course, for reasonable
13 household use, watering livestock and for personal irrigation not for
14 commercial purposes; or

15 (d) store and use runoff water from a roof.

16 (2) A person may continue with an existing lawful water use,
17 including a customary use, in accordance with Part X of this Act.

18 (3) A person may use water in terms of a general authorisation as
19 defined in section 107 or pursuant to a licence issued under this Act.

20 (4) Any entitlement granted to a person by or under this Act
21 supersedes any right to use water which that person might otherwise have been
22 able to enjoy or enforce under any other law to:

23 (a) take or use water;

24 (b) obstruct or divert a flow of water;

25 (c) affect the quality of any water;

26 (d) receive any particular flow of water;

27 (e) receive a flow of water of any particular quality; or

28 (f) construct, operate or maintain any waterworks.

Establishment
of the Council

29 PART II NATIONAL COUNCIL ON WATER RESOURCES

30 4.-(1) There is established an advisory standing body to be known as

1 the "National Council on Water Resources".

2 (2) The Council shall meet at least once every year and at other
3 times as directed by the Chairperson.

4 (3) The Council shall establish committees and sub-committees as
5 required to investigate and analyse issues tabled for discussion before the
6 Council and to formulate recommendations.

7 (4) The Council shall establish rules to govern its proceedings, the
8 workings of its committees and its decision-making processes based on the
9 provisions of this Act and its regulations.

10 (5) Annual reports of the Council providing details of its
11 discussions and recommendations shall be made public through publication
12 in the official gazette and transmitted to its Members within one month from
13 the date of the last council meeting.

14 (6) All existing directives or procedures relating to the composition
15 and functioning of the existing National Council on Water Resources shall
16 be in accordance with the provisions of this Act.

17 5. For the furtherance of the fundamental principles of water
18 resources management referred to in section 1 (1) of this Act, the Council
19 shall perform the following functions, to:

Functions of the
Council

20 (a) provide guidance for and review of the formulation of national
21 water-related legislation; water resources, water supply and sanitation
22 policies and strategies; and master plans;

23 (b) provide a forum for coordination across water sub-sectors and
24 discussion of issues of national importance;

25 (c) provide a forum for mediation of issues on the use or
26 management of water resources arising between sub-sectors or across river-
27 basin boundaries; and

28 (d) review performance of the water resources sector in Nigeria as
29 well as the Nation's compliance with obligations of international
30 agreements and commitments on water-related matters.

Membership of
the Council

- 1 6. The Council shall be made up of the following;
- 2 (a) The Federal Minister responsible for water resources who shall
- 3 Chair the Council;
- 4 (b) State Commissioners for Water Resources or any other person
- 5 responsible for water resources in the States.

Secretariat to
the Council

6 7.-(1) A Secretariat shall be established for the Council to act as an

7 administrative body for the purpose of convening meetings of the Council and

8 its committees, administering activities of the Council and coordinating the

9 working of its committees.

10 (2) The Secretariat shall be headed by the Secretary to the Council

11 who shall be the Permanent Secretary of the Federal Ministry responsible for

12 water resources who shall also be the chairperson of the Technical Committee

13 of the Council.

Representation
at the Technical
Committees of
the Council

14 8. The Council may direct that for the purpose of providing Technical

15 expertise and socio-economic advice with respect to any matter to be decided

16 by the council, relevant representatives and Experts from any of the following

17 may be invited to participate in the Sessions of the Technical Committees of the

18 Council, Federal and State Legislature (Water Committee Members);

19 professional bodies as well as water stakeholders at Federal, State, and local

20 government levels, federal ministries, departments and Agencies responsible

21 for water resources, environment, agriculture, health, inland waterways,

22 minerals, forestry, electricity generation; ministry of women affairs, State

23 water and environment Agencies; water consumers, water user associations,

24 industry, association of local governments, community-based organizations,

25 bodies responsible for protected or conservation areas, the Nigeria

26 Meteorological Agency, the National Emergency Management Agency, the

27 civil society organisations, the private sector and resource persons.

Financial
Provisions

28 9.-(1) funds of the Council shall comprise such amounts as shall be

29 provided by the President or as may be approved by the National Assembly.

30 (2) The cost of participation of Members of the Council/Technical

1 Committees shall be borne by the Organizations that they represent.

2 (3) Notwithstanding the generality of subsection (2) the Council
3 may, at its discretion, subsidize the participation of any participants.

4 PART III - POWERS AND FUNCTIONS OF THE MINISTER RESPONSIBLE
5 FOR WATER RESOURCES

6 10.-(1) It shall be the duty of the Minister to promote the
7 protection, use, development, conservation, and management of water
8 resources throughout Nigeria and to ensure the effective exercise of powers
9 and performance of duties by institutions and persons identified under this
10 Act and in the constitution.

General powers
of the Minister

11 (2) The Minister shall have the power to make regulations, policies
12 and strategies for the proper carrying out of the provisions of this Act and
13 functioning of the Ministry in accordance with this Act as well as in
14 accordance with other directives he may receive from the President and any
15 guidance from the Council.

16 (3) The Minister shall have and exercise reasonable powers as are
17 necessary and required in furtherance of the duties and functions conferred
18 pursuant to this Act, the directives of the President, or any other Law.

19 11.-(1) The Minister shall establish and chair ad-hoc committees
20 for each of the hydrological Basins and for any other situation where
21 development or management of the water resources affects more than one
22 hydrological area as defined in Schedule 2.

Powers related
to trans-boundary
waters within
Nigeria

23 (2) The Minister may delegate the power under subsection (1)
24 above to any person or Institution as deemed appropriate.

25 12.-(1) The Minister may, in consultation with the Federal
26 Executive Council, by notice in the Gazette, establish a Committee to
27 coordinate implementation of any international agreement entered into by
28 the Federal Republic of Nigeria and a foreign government or any other
29 international body or organisation relating to:

Powers related
to international
agreements,
negotiations and
meetings

1 (a) investigating, managing, monitoring, and protecting water
2 resources;

3 (b) regional co-operation on water resources;

4 (c) acquiring, constructing, altering, operating or maintaining a
5 waterworks connected to such agreement; or

6 (d) the allocation, use and supply of water according to the principles
7 of equitable and reasonable utilization and avoidance of significant trans-
8 boundary harm.

9 (2) The Minister shall consult with all affected States prior to entering
10 into any international agreement on a river basin.

Function of the
Minister

11 13.-(1) For the purpose of this Act, the functions of the Minister shall
12 be-

13 (a) to formulate national Policy and water resources Management
14 strategy to guide the integrated planning, management, development, use and
15 conservation of the nation's water resources and provide guidance for
16 formulation of hydrological area resources strategies under section 91. The
17 Policy and Strategy shall be based on basin strategies developed by the
18 Commission, recommendations of the National Council on Water Resources
19 and all other institutions in the water resources sector and consultations with
20 other stakeholders;

21 (b) to provide guidance for policy and standards for water supply and
22 sanitation towards promoting uniform technical and service standards and
23 infrastructure development across the country;

24 (c) to facilitate the periodic review and update national water
25 legislation to ensure consistency with national policy under sub-sections (a)
26 and (b);

27 (d) to undertake planning for implementation of Sector Policies,
28 Strategies and Master Plans, and in consultation with the Commission, to
29 provide general guidance to relevant Sector institutions on achievement of the
30 objectives;

- 1 (e) based on the performance of existing irrigation systems and
2 considerations of relevant National and basin Policy and strategy on
3 irrigation, as well as economic efficiency and social development, provide
4 guidance to the Authorities responsible for irrigation management and
5 development on criteria to govern decisions on investments for future
6 development of irrigation Programs;
- 7 (f) to provide guidance to institutions in the sector in formulating
8 development plans and projects;
- 9 (g) to monitor the level of service provision for water supply and
10 sanitation across Nigeria with a view to providing and disseminating data
11 for planning, socio-economic development, investments, as well as
12 infrastructure distribution to both Federal and state Governments, National
13 water Council and other Stakeholders;
- 14 (h) to provide technical support for the survey, investigation,
15 planning and design of water resources projects with input from relevant
16 Professional institutions;
- 17 (i) to implement development projects of a multi-purpose nature,
18 and for flood management, that are outside the mandate of individual
19 service delivery Agencies but in collaboration with relevant sector
20 Agencies;
- 21 (j) to support, monitor and evaluate programme and institutions in
22 the sector;
- 23 (k) to provide technical guidance to the National Council on Water
24 Resources and its committees;
- 25 (l) to liaise with donors and supervise donor and government
26 funded projects;
- 27 (m) to promote all aspects of public-private partnerships in the
28 development of water resources infrastructure;
- 29 (n) to prepare an annual report for the National Assembly within 90
30 days of the end of each financial year that monitors and evaluates the

1 quantitative and qualitative status of the nation's water resources and report on
 2 the Ministry's commitments related to water resources development and
 3 service delivery;

4 (e) to represent the Federation in international conferences, meetings
 5 and, negotiations on matters related to water;

6 (p) in consultation with relevant Sector institutions, identify areas
 7 which, in accordance with the laws of the Federation and Nigeria's
 8 international obligations, should be designated as protected areas by the
 9 Commission and collaborate with the Commission to achieve this;

10 (q) to undertake such activities and issue such directives as shall be
 11 expedient subject to due notification to appropriate Agencies to remediate
 12 emergency situations that may threaten any water course within the country;
 13 and

14 (r) to receive the reports of the National Council on Water Resources
 15 and implement such decisions as they affect the duties of the Minister as
 16 identified in such reports.

17 (2) The Minister shall undertake such other functions as are provided
 18 in this Act as well as any other functions as may be directed by the President.

19 (3) The Minister may delegate any of his functions in writing to any
 20 person, body, institution, agency or authority for the purpose of performing
 21 those functions in accordance with this Act.

22 14.-(1) The Minister may make regulations for the performance of
 23 any of the functions of the Minister in this Part.

24 (2) Before making any Regulations under this Act, the Minister shall
 25 consult with the Commission and any other relevant Agencies and shall:

26 (a) Publish a notice in the Gazette:

27 (i) setting out the draft regulations;

28 (ii) inviting written comments from stakeholders within 60 days in
 29 accordance with consultation procedures under section 122.

30 (b) Consider what further steps are appropriate to bring the contents to

1 the attention of interested persons;

2 (c) Consider all comments received on or before the date specified
3 in sub-section (a)(ii) and report on the extent to which comments were
4 incorporated or the reason for not taking a comment into account; and

5 (d) Submit the regulations to the Federal Executive Council for
6 consideration.

7 (2) The Minister shall within 30 days after making any regulations
8 under this Act, ensure that such regulations are published in the Gazette.

9 PART IV - REGULATORY FRAMEWORK FOR THE WATER

10 RESOURCES SECTOR

11 15.-(1) There is hereby established an independent regulatory body
12 to be known as the Nigeria Water Resources Regulatory Commission (In
13 this Act referred to as the "Commission").

Establishment of
an independent
regulatory body

14 (2) The Commission shall be a body corporate, with perpetual
15 succession and a common seal, and may sue or be sued in its corporate name
16 and may, subject to this Act, perform all acts that bodies corporate may by
17 law perform.

18 (3) The head office of the Commission shall be in the Federal
19 Capital Territory, Abuja or at such other place within Nigeria as may be
20 designated by the President from time to time.

21 16. The objectives of the Commission shall be to

Objectives of
the Commission

22 (a) regulate, protect, conserve and control water resources defined
23 in this Law as the "National water resources" for equitable and sustainable
24 social and economic development and to maintain environmental integrity;

25 (b) regulate the allocation, supply and distribution of water
26 resources for all uses, and to promote equitable, sustainable and efficient
27 best practices and conduct;

28 (c) Ensure that licensees or authorized developers and water
29 services providers and users as well as their infrastructure meet the
30 technical, social and commercial obligations specified under this Act in a

- 1 manner which promotes fairness as well as the wellbeing of all citizens;
- 2 (d) protect licensees and the public from unfair conduct of providers
- 3 of water resources services, with regard to the quality of service and the
- 4 payment of tariffs;
- 5 (e) ensure that licensees achieve the highest possible level of
- 6 accountability and responsiveness to customer and community needs;
- 7 (f) Through Licensing, ensure that public water services are supplied
- 8 as efficiently and economically as possible and at standards which reasonably
- 9 meet the social, industrial, and commercial needs of the community; and
- 10 (g) promote the development of other sectors of the Nigerian
- 11 economy through the efficient and sustainable supply of water services within
- 12 the framework of this Act.

The Governing
Board of the
Commission

13 17.-(1) There is hereby established for the Commission a Governing

14 Board (in this Act referred to as "the Board").

15 (2) The Board shall consist of the following Members:

- 16 (a) a part time Chairman to be appointed by the President on the
- 17 recommendation of the Minister who shall be a Professional in the water
- 18 Sector;
- 19 (b) one Member each to be nominated by the following Professional
- 20 bodies and appointed by the President who must have a minimum of fifteen
- 21 years cognate experience:
- 22 (i) Nigerian Bar Association;
- 23 (ii) Nigerian Society of Engineers;
- 24 (iii) Institute of Chartered Accountants of Nigeria.
- 25 (c) One Member each representing the following Ministries and
- 26 Agencies not below the rank of a director:
- 27 (i) Federal Ministry responsible for water Resources;
- 28 (ii) Ministry for Environment;
- 29 (iii) Ministry for Agriculture;
- 30 (iv) Nigeria Hydrological Services Agency.

1 (d) The Executive Secretary

2 (3) The Supplementary provisions set out in the Schedule 4 to this
3 Act shall have effect with respect to the proceedings of the Board and the
4 other matters contained therein.

5 (4) The quorum of the Commission shall be six Members.

6 18.-(1) An ex-officio Member, including the Chairman shall hold
7 office for a period of four years from the date of his appointment and shall be
8 eligible for re-appointment for one further term of three years and thereafter
9 he shall no longer be eligible for re-appointment.

Tenure of office
of Members

10 (2) The Chairman may resign his appointment by a letter addressed
11 to the President while any other Member may resign his appointment by a
12 letter addressed to the Chairman of the Board.

13 19. The Board shall have power to:

Powers of the
Governing Board
of the Commission

14 (1) manage and superintend the affairs of the Commission;

15 (2) subject to the provisions of this Act, make, alter and revoke
16 rules and regulations for carrying on the functions of the Commission;

17 (3) fix the terms and conditions of service including remuneration
18 of employees of the Commission;

19 (4) do such other things which in the opinion of the Board are
20 necessary to ensure the efficient performance of the functions of the
21 Commission;

22 (5) in the absence of a duly constituted Board for the Commission,
23 the Executive Secretary of the Commission shall with the approval of the
24 President carry out such functions of the Board as may be required for a
25 period not exceeding 90 days;

26 (6) any action taken or decision reached in compliance with the
27 provisions of sub-section (e) above shall be valid for all intent and purpose.

28 20.-(1) Notwithstanding the provisions of section 18 of this Act, a
29 person shall cease to hold office as a Member of the Board if:

Vacation of office
by Members

- 1 (a) he becomes bankrupt, suspends payments or compounds with his
2 creditors;
- 3 (b) he is guilty of a serious misconduct in relation to his duties;
- 4 (c) he is convicted of a felony or any offence involving dishonesty or
5 fraud;
- 6 (d) he becomes of unsound mind, or incapable of carrying out duties;
- 7 (e) in the case of a qualified professional, he is disqualified or
8 suspended, other than at his own request, from practicing his profession in any
9 part of the world by an order of a competent authority; or
- 10 (f) he resigns his appointment by a letter addressed to the President or
11 the appointing Minister as the case may be.

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

16 (3) A Member may be removed by the President on the
17 recommendation of the Chairman if he is satisfied that it is not in the interest of
18 the Commission or the interest of the public that the Member continues in
19 office.

Remuneration
of Members

20 21. A Member of the Board shall be paid such allowances as the
21 President may, from time to time, direct in accordance with National Salaries
22 and Wages Commission guidelines.

Functions of the
Commission

23 22.-(1) The Commission shall:

- 24 (a) implement regulatory policies on activities relating to the
25 management of water resources in Nigeria;
- 26 (b) be responsible for economic and technical regulation of all aspect
27 of National water resources exploitation and provision;
- 28 (c) ensure the safety and quality of Water Resources development and
29 public water services by regulating standards for execution and performance;
- 30 (d) liaise with relevant Agencies to conduct studies and surveys for

- 1 the purpose of establishing water resources balance, catchments
2 management plans and water efficiency strategies (including Basin
3 management strategies);
- 4 (e) interact and consult with approved local and international
5 organizations engaged in Integrated Water Resources Management and
6 liaise with other relevant Agencies to determine Nigeria's input into the
7 setting of international technical standards for Water Resources
8 development within the provisions of this Act;
- 9 (f) promote competition in the water resources sector;
- 10 (g) protect developers and suppliers of public water resources
11 services or facilities under this Act from unfair practices of other Water
12 Resources developers or services providers which are damaging to
13 competition;
- 14 (h) facilitate the entry into the market by persons wishing to
15 provide water services and facilities;
- 16 (i) protect licensees from misuse of market power by other
17 developers and service providers;
- 18 (j) arbitrate disputes between all stakeholders especially the
19 licensees and other participants in the water resources sector;
- 20 (k) receive and investigate complaints from licensees, developers,
21 consumers and other persons in the water resources sector;
- 22 (l) liaise with relevant national and international Agencies and
23 advise the Minister on ways of promoting cooperation for effective and
24 equitable management of trans-boundary waters within and outside Nigeria;
- 25 (m) Protect the interest of the public by ensuring that the provisions
26 of this Act are carried out with due regard to public interest;
- 27 (n) protect water users and developers, as well as consumers from
28 unfair practices of licensees and other persons in the supply of water
29 resources services and facilities;
- 30 (o) develop performance indices in relation to the quality of Water

1 Resources services and facilities supplied to consumers having regard to
2 international best practices, performance indicators and Nigerian conditions;

3 (p) render report to the President annually on the regulation of water
4 resources in Nigeria, including regulations issued by the Commission, tariff
5 charged by the Commission, licences and all other matters as have been
6 addressed by the Commission within the year immediately preceding such
7 report;

8 (q) issue licences for water resources use in accordance with the
9 provisions of this Act;

10 (r) monitor the conduct of holders of the licences and to enforce the
11 conditions included in the licences;

12 (s) regulate operational rules of dams, barrages weirs, diversion
13 works and other hydraulic works that affect the flow of water in a river taking
14 into account principles of any national policy or strategy on reservoir
15 operations and dams safety;

16 (t) regulate other activities that may affect water quantity or quality
17 including dredging and programs for weed prevention, clearing and
18 containment activities;

19 (u) facilitate technical assistance through research and development
20 in all aspects of Integrated Water Resources Management; and

21 (v) perform such other functions which in the opinion of the
22 Commission are required for the purpose of achieving its objectives under this
23 Act.

24 (2) For the purpose of subsection (1) of this section, water resources
25 management includes securing water for the people, food production, job
26 creating activities, protection of vital ecosystem, recreation and hydro power,
27 containment of the variability of water in time and space, management of risks
28 and any other activities that impact the water resources of Nigeria.

29 (3) Without derogating from subsection (1), the Commission shall
30 perform its functions and exercise its powers in such a manner as it considers

1 best in achieving any of its objectives under this Act.

2 (4) The Commission may carry out any of its functions in
3 association with any person or authority as may be considered necessary for
4 the efficient performance of functions under this Act, including delegation
5 of management and administrative functions to the private sector under a
6 contractual arrangement.

7 23. The Commission shall have power to:

Powers of the
Commission

8 (a) make rules and Regulations to regulate water use by the
9 issuance of licences in accordance with Part X of this Act;

10 (b) the Commission shall exercise the Power to issue Licences in
11 each Hydrological region with respect to water use and allocation through
12 Catchment Management Offices in their respective areas;

13 (c) require establishment of effective management systems by
14 water users;

15 (d) give written directives to a licensee, authorized developer or
16 other service provider in connection with the functions of the Commission
17 in accordance with the provisions of this Act and the terms and conditions of
18 the License issued to such Licensee;

19 (e) consult, where appropriate with the President, commercial and
20 industrial organizations, professional bodies, consumers and standards
21 organizations as well as other relevant bodies;

22 (f) delegate any of its powers to a Committee properly constituted
23 in accordance with the provisions of this Act;

24 (g) require any person to appear before the Commission or any
25 committee of the Commission to:

26 (1) discuss any matter which the Commission deems necessary for
27 the purpose of effective discharge of the Commission's duties under this Act,

28 and

29 (2) give evidence or produce any document which is likely to assist
30 the Commission or any of its committees in the discharge of the duties of the

1 Commission under this Act;

2 (h) enter into contracts or partnership with any company, firm or
3 person which in the opinion of the Commission is intended to facilitate the
4 duties specified in this Act;

5 (i) establish and maintain such number of Catchments' Management
6 Offices for the discharge of the functions identified in section 22 herein; and

7 (j) do anything which, in the opinion of the Commission, is calculated
8 to facilitate the carrying out of the functions of the Commission under this Act.

Commission
not subject to
direction

9 **24.** The Commission shall not be subject to the direction or control of
10 any person in respect of the exercise of its functions, or the issuance of any
11 report, or conduct of any inquiry, but shall be guided by policy approved by the
12 Federal Executive Council and the provisions of this Act.

Appointment
of the Executive
Secretary, etc.

13 **25.-(1)** There shall be for the Commission, an Executive Secretary,
14 who shall be appointed by the President.

15 (2) The Executive Secretary shall be:

16 (a) the Chief Executive and accounting officer of the Commission;

17 (b) responsible for the day-to-day administration of the Commission;

18 and

19 (c) a professional who shall have served in public or private
20 organizations at senior management level for a minimum of five years.

21 (3) The Executive Secretary shall hold office on such other terms and
22 conditions as are specified in the letter of appointment.

The Secretary/
Legal Adviser

23 **26.-(1)** The Board shall appoint for the Commission, a
24 Secretary/Legal Adviser who shall be a legal practitioner and shall have a
25 minimum of ten (10) years post-call experience.

26 (2) The Secretary/Legal Adviser shall-

27 (a) be Secretary to the Board;

28 (b) be responsible for keeping the books and proper records of
29 proceedings and correspondences of the Board and the upkeep of the records of
30 the Commission;

1 (c) administer and discharge all insurance requirements of the
2 Commission;

3 (d) recommend the engagement of external legal services on behalf
4 of the Commission as may be necessary; and

5 (e) perform such other functions as the Board or the Executive
6 Secretary as the case may be, may from time to time, assign to him.

7 27.-(1) The Commission shall develop such terms and conditions
8 of service concerning remunerations, fringe benefits, pension scheme and
9 other benefits which would enable it attract and retain high quality
10 manpower and submit for approval of the President as appropriate.

Staff of the
Commission

11 (2) Notwithstanding the provisions of the Pensions Act, service in
12 the Commission shall be approved service for the purpose of that Act and
13 accordingly, officers and other persons employed in the Commission shall
14 in respect of their service in the Commission be entitled to pensions and
15 other retirement benefits as are enjoyed by persons holding equivalent
16 grades in the public service of the Federation, so however that nothing in this
17 Act shall prevent the appointment of a person to any office on terms which
18 preclude the grant of pension in respect of that office.

19 FINANCIAL PROVISIONS

20 28.-(1) The Commission shall establish and maintain a "fund"
21 from which shall be defrayed all expenditure incurred by the Commission.

Funds and
resources of the
Commission

22 (2) There shall be paid and credited to the fund established in
23 subsection (1) of this section:

24 (a) allocation to the Commission from the Federation Account;

25 (b) 2% of Nigeria Ecological Fund;

26 (c) such money as may, from time to time, be granted or received
27 from-

28 (i) the organised private sector;

29 (ii) international donor Agencies and non-governmental
30 organizations;

1 (d) all monies raised for the purposes of the Commission by way of
2 gifts, loans grant-in-aid, testamentary disposition or otherwise;

3 (e) Proceeds of all fees, charges received from licensees and services
4 rendered other than fines and penalties;

5 (f) all other assets that may, from time to time accrue to the
6 Commission.

Application of
the fund

7 **29.** The Commission shall apply the proceeds of the fund established
8 pursuant to section 28 of this Act to-

9 (a) the cost of the administration of the Commission;

10 (b) the payment of salaries, fees, remunerations allowances and
11 pensions payable to Members and the employees of the Commission;

12 (c) the payment for all contracts, including mobilization, fluctuations,
13 variations, legal fees and cost on contract administration;

14 (d) the payment for all purchases; and

15 (e) undertake such other activity as are connected with all or any of the
16 functions of the Commission under this Act.

Gifts, etc. to the
Commission

17 **30.-(1)** The Commission may accept gifts of land, money or other
18 property on such terms and conditions, if any, as may be specified by the person
19 or organization.

20 (2) The Commission shall not accept any gift if the conditions
21 attached by the person or organization making the gift are inconsistent with the
22 functions of the Commission under this Act.

Borrowing
Powers

23 **31.** The Commission may with the prior consent of the President
24 borrow on such terms and conditions as the Commission may determine, such
25 sums of money as the Commission may require in the exercise of its functions
26 under this Act.

Budget Provisions

27 **32.** The Board shall, not later than 30th September each year submit to
28 the President an estimate of the expenditure and income of the Commission
29 during the next succeeding year.

1 33. The Board shall prepare and submit to the President, not later Annual Report
2 than 30th June each year, a report in such form as the President may direct on
3 the activities of the Commission during the immediate preceding year, and
4 shall include in the report a copy of the audited account of the Commission
5 for the financial year and the auditor's report thereon.

6 34.-(1) In the exercise of its functions under this Act, the Additional
7 Commission may request from any public organization, available suitable facilities and
8 equipment, facility or personnel which may assist the Commission in the personnel
9 efficient and effective regulation of the water resources sector in Nigeria.

10 (2) Any Person(s) who willfully obstructs or impedes the
11 Commission or any person acting under the authority of the Commission in
12 the exercise of any powers or duties under this Act is guilty of an offence and
13 therefore liable on conviction.

14 (3) The Commission shall pay adequate compensation for loss or
15 damage arising from the use of any equipment, facility or personnel
16 received under this section of this Act.

17 35.-(1) For the purpose of providing offices and premises Acquisition of
18 necessary for the performance of its functions under this Act, the Land, properties,
19 Commission, may, subject to the Land Use Act- etc.

20 (a) purchase or take on lease any interest in land, or other property;
21 and

22 (b) construct offices and premises and equip and maintain same.

23 (2) The Commission may, subject to the Land Use Act and the prior
24 approval of the President, sell or lease any office or premises held by it,
25 which offices or premises is no longer required for the performance of its
26 functions under this Act.

27 36. Subject to the provisions of this Act, the President may, give to Directives on
28 the Commission, directives relating generally to matters of policy with policy issues
29 regard to the performance by the Commission of its functions which shall be
30 in accordance with the provisions of this Act.

Power to make
Regulations

1 37. The Commission may with the approval of the Federal Executive
2 Council make regulations generally for the purpose of giving effect to the
3 provisions of this Act and may in particular, without prejudice to the generality
4 of the foregoing provisions make regulations in relation to the following
5 matters, that is-

6 (a) technical standards and rules;

7 (b) payment of license fees, annual levy on gross turn-over by
8 specified licensees and other charges;

9 (c) procedures for obtaining licenses or permits and the conduct of
10 holders of licenses and permits;

11 (d) tariff charged by operators;

12 (e) customer equipment;

13 (f) accreditation of water quantity and quality testing Agencies and
14 borehole drillers;

15 (g) piping, canal structures and water conveyance facilities; and

16 (h) such other matters as may be necessary for the achievement of the
17 objectives of the Commission or referred to it by the Minister and/or the
18 President.

Contravention
of Regulations

19 38.-(1) Any person who contravenes any provisions of this Act or any
20 rules and regulations there under is guilty of an offence and liable on
21 conviction, where no specific penalty is prescribed therefore, to:

22 (a) a fine of N50,000 or to imprisonment for a term not exceeding one
23 year or to both, such fine and imprisonment as a first offender;

24 (b) N150,000 or to imprisonment for a term not exceeding three years
25 or to both, such fine and imprisonment for subsequent convictions and for a
26 continuing contravention under Section 95, a fine of N100,000 for each day
27 that the offence continues.

28 (2) The Commission may make regulations generally to provide for
29 the imposition of a fine and in any proper case, for the payment of

1 compensation or for confiscation of the equipment or facilities as it may
2 deem fit.

3 (3) Where an offence against this Act or any rules or regulations
4 made thereunder has been committed by a body corporate or a partnership,
5 that body corporate or partnership shall on conviction, be liable to a fine not
6 exceeding N500,000. In addition any director or partner found to have been
7 negligent or to have wilfully connived in the Commission of the offence
8 shall upon conviction, be liable to a term of imprisonment not exceeding 1
9 year.

10 39.-(1) There is established for each Hydrological Area, a
11 Catchment Management Office (in this Act referred to as "CMO").

Establishment of
Catchment
Management
Offices

12 (2) The purpose of a Catchment Management Office shall be to
13 regulate, protect, conserve and control water resources and their use within
14 its Hydrological Area or Basin for equitable and sustainable social and
15 economic development and to maintain environmental integrity in
16 accordance with the Policies and Regulations developed by the
17 Commission.

18 (3) The CMO shall:

19 (a) comprise sufficient supporting staff of various relevant
20 competencies;

21 (b) produce quarterly reports which shall be sent to the office of the
22 Executive Secretary;

23 (c) be accountable to the Commission for all funds accruing to it in
24 the course of discharging its functions under this Act; and

25 (d) perform other duties as may be assigned by the Executive
26 Secretary.

27 40.-(1) Each Catchment Management Office shall be headed by a
28 Catchment Director who shall be at either:

Management of
the Catchment
Management
Offices

29 (a) At least a Deputy Director in the Service of the Federal
30 Government with experience in water resources management;

1 (b) a person with a minimum of ten (10) years' experience in the
2 management of water resources from the private Sector; or

3 (c) a person who has held Management position in a public quoted
4 company for a minimum of ten (10) years.

Functions of
the Catchment
Management
Offices

5 41.-(a) formulate and implement a water resources management
6 strategy for its area of operation or Hydrological Area as defined in section 91
7 including thematic strategies relevant to the situation in its area;

8 (b) regulate, protect, conserve, and control water resources and their
9 use within its Basin for equitable and sustainable social and economic
10 development and to maintain environmental integrity, including management
11 and protection of river and lake catchments;

12 (c) prepare an indicative basin strategy and plan for its water
13 management area;

14 (d) advise interested persons on the protection, use, development,
15 conservation, management and control of the water resources in its Basin;

16 (e) With respect to water sources declared to be national water
17 resources, licence water allocation, wastewater discharge, construction of
18 hydraulic works and other related activities in accordance with Part X,
19 implement the charging policy for raw water abstractions and monitor water
20 abstraction;

21 (f) regulate and monitor operational rules of dams, barrages, weirs,
22 diversion works and other hydraulic works that affect the flow of water in a
23 river taking into account principles of any national policy or strategy on
24 reservoir operations;

25 (g) promote improved river quality and control of pollution through a
26 cooperative working arrangement with Federal and State environment
27 Agencies;

28 (h) promote community participation in the protection, use,
29 development, conservation, management and control of the water resources in
30 its Basin;

- 1 (i) co-ordinate the related activities of water users and of the other
2 water management institutions within its Basin;
- 3 (j) maintain a database on hydro-meteorological, hydrological,
4 hydro-geological and water quality monitoring networks in its Basin;
- 5 (k) monitor water use and the quality of water sources within its
6 Basin and take action for remediation where water quality is adversely
7 affected under section 95;
- 8 (l) facilitate resolution of water-related conflicts relating to its
9 Basin;
- 10 (m) participate in and coordinate with the other CMOs in upstream
11 or downstream basins as provided by section 11 (1);
- 12 (n) regulate other activities that may affect water quantity or
13 quality including dredging and programs for weed prevention, clearing and
14 containment activities;
- 15 (o) prepare an annual report for the Commission describing the
16 status of the Basin's water resources, major issues, activities and propose
17 related future plans and necessary financial report;
- 18 (p) promote co-ordination with the implementation of any
19 applicable development plan established pursuant to any other law or policy
20 in the water resources sector; and
- 21 (q) Present all strategies, regulations and studies with respect to the
22 matters in (a) to (p) above to the Catchment Committee.
- 23 42.-(1) There shall be established for each Hydrological Area, a
24 Catchment Committee comprising the following Members:
- 25 (a) a Director from the Commission sitting for that purpose as
26 Chairman;
- 27 (b) a representative of each of the following:
- 28 (i) Nigeria Hydrological Services Agency;
- 29 (ii) Ministry responsible for water resources in each of the States
30 within the Hydrological Area or Basin.

1 (iii) The State Water Regulatory Body in each State in the area

2 (2) The Committee may invite any party considered relevant to its
3 deliberations to appear before the Committee and to make contributions to the
4 matters being considered by the Committee as deemed necessary.

Functions of the
Catchment
Committee

5 43. The Catchment Committee shall advise the Catchment
6 Management Office on all matters relating to the following:

7 (a) Issuance of Licences for raw water abstraction;

8 (b) Setting of tariffs;

9 (c) Basin Policies;

10 (d) Basin management strategies;

11 (e) Conflict resolution within the catchment; and

12 (f) water quality control

Proceedings of
the Catchment
Committee

13 44. The meetings of the Catchment Committee shall be on quarterly
14 basis or as deemed necessary in accordance with rules drawn up by the
15 Commission.

16 PART V - ESTABLISHMENT, FUNCTIONS AND POWERS OF RIVER BASIN

17 DEVELOPMENT AUTHORITIES (RBDA)

Establishment
of River Basin
Development
Authorities

18 45.-(1) There are hereby established River Basin Management
19 Authorities to be known by the names specified in column 1 of Schedule 3 to
20 this Act which shall have such powers and exercise such functions as are
21 specified in this Act.

22 (2) The objectives of the Authorities shall be to harness, develop and
23 manage available land and surface and underground water resources with a
24 view to improving agriculture and providing raw water for multi-purpose uses.

25 (3) Each Authority shall operate within the area specified in column 2
26 of Schedule 3 to this Act and have its headquarters in the location specified in
27 column 3 of the said schedule.

28 (4) Each Authority shall be a body corporate with perpetual
29 succession and a common seal and may sue and be sued in its corporate name.

1 46.-(1) Each Authority shall have a Board appointed by the Membership of
 2 President upon recommendation of the Minister and consisting of a each Authority
 3 Chairman and the following other Members:

4 (a) a representative of the Federal Ministry for Water Resources;

5 (b) a representative of the Federal Ministry of Agriculture;

6 (c) One representative of each of the States in the basin; and

7 (d) the Managing Director.

8 (2) The Board of each Authority shall have power to:

9 (a) formulate the general business plans, policies and guidelines
 10 relating to the achievement of the objectives of the Authority in accordance
 11 with the regulations of the Commission and the Basin and National Water
 12 Resources Policies and Strategies;

13 (b) supervise the management of the affairs of the Authority;

14 (c) subject to the provisions of this Act and the regulations of the
 15 Commission, set fees and charges relating to services rendered by the
 16 Authority.

17 (3) The provisions of the Schedule 5 to this Act shall have effect
 18 with respect to the proceedings of each Authority and the other matters
 19 therein mentioned.

20 47.-(1) A Member of the Board of an Authority other than the Tenure of office
 21 Managing Director shall hold Office for a period of four years and no more. of Members of
each Authority

22 (2) The Managing Director shall hold office for the period stated in
 23 the Letter of appointment.

24 48. Members of the Board of the Authorities shall be paid such Remuneration
 25 remuneration and allowances as may be determined by National Salaries,
 26 Income and Wages Commission.

27 49.-(1) The functions of each Authority shall be-

28 (a) to undertake comprehensive development of both surface and Functions of
 29 underground water resources for multipurpose use with particular emphasis each Authority
 30 on the provision of irrigation infrastructure, control of floods and erosion,

1 for inter basin transfer and for water-shed management;

2 (b) to construct, operate and maintain dams, dykes, polders, wells,
3 boreholes, irrigation and drainage systems, and other works necessary for the
4 achievement of the Authority's functions and hand over all lands allocated to
5 the Authority for cultivation under the irrigation scheme to the farmers;

6 (c) supply raw water from each Authority's reservoirs for irrigation,
7 water supply, recreation as well as other uses under commercially viable
8 arrangements;

9 (d) to construct, operate and maintain infrastructural services such as
10 roads and bridges linking project sites: provided that such infrastructural
11 services are included and form an integral part of the list of approved projects;

12 (e) to develop and keep up-to-date a comprehensive water resources
13 Master plan identifying all water resources requirements in the Authority's area
14 of operation, through adequate collection and collation of water resources,
15 water use, socio-economic and environmental data of the River Basin in
16 consultation with the Commission;

17 (f) to procure private investment and Public Private Partnership
18 agreements for the development of infrastructure necessary for the
19 achievement of the Authority's mandate and takeover the operation and
20 maintenance of the works at the end of construction;

21 (g) promote auxiliary developments such as agro-allied industries,
22 fisheries and water tourism in the Authority's area of operation;

23 (h) in cooperation or partnership with power supply companies
24 generate and supply hydroelectric power from dams where feasible;

25 (i) in cooperation with Federal and State Ministry of Agriculture,
26 support agriculture generally and in particular provide extension services in
27 crop, Livestock and fish farming.

28 (2) Projects within the limits of the functions enumerated in
29 subsection (1) of this section shall be executed with the approval of the
30 Minister responsible for water resources.

1 50.-(1) Each Authority shall have power to prescribe, terms and
2 conditions of service by way of Service Level Agreements with Water Users
3 and other third Parties with which it transacts business which may include
4 rules for the management of irrigation, drainage and flood management
5 systems and infrastructure by which water is abstracted or transferred to the
6 water Users in accordance with regulations issued by the Commission.

Powers of the
Authority

7 (2) An Authority may with the prior consent of the Minister borrow
8 on such terms and conditions as the Authority may determine, such sums of
9 money as the Authority may require in the exercise of its functions under this
10 Act.

11 51.-(1) No River Basin Development Authority may acquire or
12 lease land or take over any existing project without the knowledge and
13 consent of the State Governments in its area of operation in which such is
14 located.

Restriction on
acquisition of
land, etc.

15 (2) Subject to the Land Use Act, the control of land development
16 for irrigation by each Authority shall be as provided under sections 28 (2)
17 and (6) of the Land Use Act.

18 52.-(1) Each Authority shall have a Managing Director who shall
19 be the Chief Executive of the Authority and Other Directors including the
20 following:

Appointment of
Managing Director
and other staff of
the Authority

21 (i) Director (Projects) to be responsible for Planning, Design and
22 Construction of new projects as well as major repairs of facilities;

23 (ii) Director (Operations) to be responsible for management of
24 completed dams, irrigation, water supply together with associated
25 infrastructure as well as maintenance of plant and equipment;

26 (iii) Director (Agriculture and Commercial Services) to be
27 responsible for agricultural support including extension services;

28 (iv) Director (Finance & Administration) to be responsible for all
29 Accounting and Financial matters as well as Human Resources and General
30 Administration;

1 (v) Such other directorate as deemed necessary by the Managing
2 Director.

3 (2) Without prejudice to subsection(1) of this Section, each Authority
4 shall have power:

5 (a) to appoint such other staff and upon such terms as it may
6 determine;

7 (b) to pay its staff such remuneration and allowances as are payable to
8 persons of equivalent grades in the civil service of the Federation;

9 (c) as regards any staff to pay such pension and gratuities as are
10 payable under the Pensions Reform Act; and

11 (d) to give loans to its staff for purposes approved by the Authority.

The Secretary/
Legal Adviser

12 53.-(1) The Board of each Authority shall appoint a Secretary/Legal
13 Adviser who shall be a legal practitioner and shall have a minimum of ten years
14 post-call experience.

15 (2) The Secretary/Legal Adviser shall:

16 (a) be Secretary to the Board;

17 (b) be responsible for keeping the books and proper records of
18 proceedings and correspondences of the Board and the upkeep of the records of
19 the Authority;

20 (c) administer and discharge all insurance requirements of the
21 Authority;

22 (d) recommend the engagement of external legal services on behalf of
23 the Authority as may be necessary; and

24 (e) perform such other functions as the Board or the Managing
25 Director as the case may be, may from time to time assign to him.

Water Users
Associations

26 54.-(1) Water Users Associations established under the relevant
27 Cooperative Society Laws of States or other State Laws may be registered by
28 the Authority having jurisdiction in their areas of operation in accordance with
29 regulations prepared by the Commission while the Authority may make rules
30 for the purpose of operating and maintaining irrigation and drainage systems or

1 sub-systems to be connected to the infrastructure of the Authorities by the
2 Association Members.

3 (2) The objects of a Water Users Association may include:

4 (a) operation and maintenance of an irrigation, erosion control and
5 drainage system or sub-system as determined by an Authority;

6 (b) consultations during the Authority's decision-making
7 processes for the larger irrigation systems;

8 (c) purchasing of bulk water from a watercourse or extracting
9 groundwater from an aquifer and distribution of the water to its Members
10 according to an irrigation plan by the Authority and approved by the
11 Commission;

12 (d) ensuring efficient and economical use of water;

13 (e) collection of irrigation service fees from its Members and
14 management of its fund;

15 (f) optimizing agricultural production;

16 (g) encouraging participatory approaches to irrigation
17 management;

18 (h) protecting the environment and assisting the Authority in its
19 watershed and ecosystem management activities;

20 (i) facilitating the resolution of conflicts related to the activities of
21 its Members.

22 (3) A Water User Association shall provide periodic reports on
23 water use, asset management and performance of its Members to an
24 Authority as may be requested by such Authority;

25 (4) In the event of mismanagement of water resources by Members
26 of a WUA or of the funds of the Association by the Executives of a Water
27 User Association, an Authority shall undertake an investigation and
28 recommend actions to be taken by the relevant State Government,
29 including, in appropriate extreme cases, recommendation for
30 disestablishment procedures.

Fund of each Authority	1	55.-(1) Each Authority shall maintain an account from which shall be
	2	paid all expenditure incurred by the Authority.
	3	(2) There shall be paid or credited to the fund -
	4	(a) such sums of money as may be provided by the Federal
	5	Government or by the government of any State in the Federation for the
	6	purposes of this Act either by way of budgetary allocations, loans or grants; and
	7	(b) Such other sums of money as may, from time to time, accrue to the
	8	Authority. Provided that revenue generated internally by each Authority's fees
	9	or charges from operation of dams, irrigation and water supply either directly
	10	by itself or through public/private partnership arrangement shall be paid
	11	directly into the Federation Account.
Annual estimates	12	56. Each Authority shall submit to the Minister not later than so"
	13	September of each year an estimate of its expenditure and income during the
	14	next succeeding year.
Annual Reports	15	57.-(1) Each Authority shall prepare and submit to the Federal
	16	Executive Council through the Minister, once every year, a report in such form
	17	as the he may direct on the activities of the Authority during the last preceding
	18	financial year and shall include in the report a copy of the audited accounts of
	19	the Authority for that year and of the auditor's report thereon.
	20	(2) The Minister shall cause copies of each report made to him under
	21	this section to be submitted to the President and shall also send a copy to the
	22	Governors of the States in the
	23	area of operation of the Authority concerned.
	24	PART VI - NIGERIA HYDROLOGICAL SERVICES AGENCY
Establishment of the Nigeria Hydrological Services Agency	25	58.-(1) There is established the Nigeria Hydrological Services
	26	Agency (in this Act referred to as "the Agency").
	27	(2) The Agency:
	28	(a) shall be a body corporate with perpetual succession and a common
	29	seal;
	30	(b) may sue and be sued in its corporate name;

1 (c) may acquire, hold or dispose of property, whether movable or
 2 immovable; and
 3 (d) shall do all such things as are necessary for or incidental to the
 4 carrying out of its functions and duties under this Act.

5 **59. There is established for the Agency, a Governing Board**
 6 **(hereinafter referred to as "the Board") which consists of:**

Establishment
and
Membership
of the Governing
Board

- 7 (a) a Chairman;
- 8 (b) one representative each of the Following:
 - 9 (i) Nigeria Meteorological services Agency;
 - 10 (ii) Ministry of Environment;
 - 11 (iii) Ministry responsible for Water Resources;
 - 12 (iv) Ministry of Agriculture;
 - 13 (v) National Water Resources Institute;
 - 14 (vi) National Association of Hydrologists;
- 15 (c) the Director-General of the Agency.

16 **60. Other than ex-officio Members, a Member shall hold office:**

Tenure of office

- 17 (a) for a term of 4 years and no more; and
- 18 (b) on such other terms and conditions as may be specified in the
 19 Letter of appointment.

20 **61.-(1) Notwithstanding the provisions of section 60 of this Act, a**
 21 **person shall cease to hold office as a Member of the Board if:**

Cessation of
Membership

- 22 (a) he becomes bankrupt;
- 23 (b) he is convicted of a felony or any offence involving dishonesty
 24 or fraud;
- 25 (c) he becomes of unsound mind or is incapable of carrying out his
 26 duties;
- 27 (d) he is guilty of a serious misconduct in relation to his duties;
- 28 (e) in the case of a professional, he is disqualified or suspended
 29 from practicing his profession in any part of the country by an order of a
 30 competent authority; or

1 (f) he resigns his appointment by a letter addressed to the President.

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

6 (3) A Member may be removed by the President directly or on the
7 recommendation of the Minister if he is satisfied that it is not in the interest of
8 the Agency or public that the Member continues in that office.

Dissolution of
the Board

9 62. Notwithstanding anything to the contrary in this Act, the Minister
10 shall, for not more than 3 months, exercise all the powers of the Board where:

11 (a) the Board has not been constituted;

12 (b) the Board has been dissolved; and

13 (c) any action taken or decision reached in compliance with the
14 provision of this subsection shall be valid for all intent and purposes.

Allowances of
Members etc.

15 63. A Member shall be paid such allowances as the President may,
16 from time to time, direct.

17 FUNCTIONS OF THIS AGENCY

Functions of
the Agency

18 64.-(1) The Agency shall;

19 (a) advise the Federal and States Governments on all aspects of
20 hydrology;

21 (b) project, prepare and interpret Government policy in the field of
22 hydrology;

23 (c) work with all meteorological services Agencies and Institutions,
24 local and international, to issue forecasts for floods and other water related
25 issues;

26 (d) provide hydrological services in agriculture, draught and
27 desertification activities;

28 (e) provide hydrological services in operational hydrology and water
29 resources activities;

30 (f) collect, process and disseminate all hydrological data and

1 information within and outside Nigeria;

2 (g) keep in safe custody all hydrological records in the Agency's
3 archive;

4 (h) promote uniform standards of observation of all hydrological
5 phenomena in Nigeria;

6 (i) promote international standards and best practices in
7 hydrological operations;

8 (j) train, conduct and undertake research particularly in the field of
9 surface and groundwater hydrology and other related areas of hydrology;

10 (k) provide consultancy services to the public on hydrology;

11 (l) monitor hydrology components of the environment including
12 ground water pollution through industrial, commercial and agricultural
13 activities;

14 (m) establish stations for hydrological observation;

15 (n) carry out river training activities to improve conveyance of
16 water in river channels including monitoring of the sediment road and
17 provide this data to other Sector institutions;

18 (o) carry out other activities as are necessary and expedient for the
19 full discharge of any of its functions under this Act; and

20 (p) carry out geo-physical investigations for sitting ground water
21 development projects, for dam foundation and saline water intrusion.

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

26 **65. The Board shall have power to:**

27 (a) formulate the general policies and guidelines relating to the
28 functions of the Agency;

29 (b) supervise the management of the affairs of the Agency; and

30 (c) formulate policy guidelines which, in the opinion of the Board,

Powers of the
Board

1 are necessary to ensure the efficient performance of the functions of the
2 Agency.

3 APPOINTMENT OF THE DIRECTOR-GENERAL AND OTHER STAFF
4 OF THE AGENCY

Appointment, etc.,
of the Director-
General

5 66.-(1) There shall be appointed for the Agency a Director - General
6 who shall be appointed by the President on the recommendation of the
7 Minister.

8 (2.) The Director - General shall be:

9 (a) the Chief Executive and Accounting Officer of the Agency;

10 (b) responsible to the Board for the day-to-day administration of the
11 Agency;

12 (c) a Sector professional with cognate experience who has held a
13 management position in a public or Private organization for a period of five
14 years or more.

15 (3) The Director-General shall hold office on such terms and
16 conditions as are specified in his Letter of appointment.

Appointment of
Secretary and
Legal Adviser

17 67.-(1) The Board shall appoint for the Agency a Secretary and Legal
18 Adviser who shall be a legal practitioner and shall have been so qualified for a
19 period of not less than 10 years.

20 (2) The Secretary and Legal Adviser shall:

21 (a) be the Secretary to the Board;

22 (b) be responsible for keeping the books and proper records of
23 proceedings and correspondences of the Board and the upkeep of the records of
24 the Agency;

25 (c) administer and discharge all legal obligations of the Agency;

26 (d) administer and discharge all insurance requirements of the
27 Agency;

28 (e) retain external legal services on behalf of the Agency as he deems
29 necessary; and

30 (f) perform such other functions as the Board or the Director -

1 General, as the case may be, may, from time to time, assign to him.

2 68.-(1) The Board may deploy or appoint for the Agency other
3 employees, upon such terms and conditions as may be determined by the
4 Board.

Appointment of
other Staff

5 (2) Service in the Agency shall be approved service for the purpose
6 of the Pension Reform Act.

7 FINANCIAL PROVISIONS

8 69. There is established for the Agency a Fund into which shall be
9 paid:

Funds of the
Agency

10 (a) 2% of the Ecological Fund;

11 (b) all subventions and budgetary allocations from the Federal
12 government;

13 (c) gifts, loans, grants-in-aid from national, bilateral and
14 multilateral Agencies;

15 (d) fines payable for violation of hydrological regulations; and

16 (e) returns on investments made by the Agency.

17 70.-(1) Subject to subsection (2) of this section, the Agency shall
18 apply the proceeds of the Fund established under section 69 of this Act:

Expenditure

19 (a) to the cost of administration of the Agency;

20 (b) to the payment of emoluments, allowances and benefits of

21 Members of the Board and for reimbursing Members of the Board of any
22 committee of the Board and for such expenses as may be expressly
23 authorized by the Board;

24 (c) to the payment of the salaries, fees or other remunerations or
25 allowances, gratuities, pensions and other benefits payable to the offices and
26 other employees of the Agency;

27 PROVIDED that no payment of any kind under this paragraph
28 (except such as may be expressly authorized by the Board) shall be made to

29 any person who is, within the relevant period, in receipt of emoluments from
30 the Federal or State Government;

1 (d) for the development and maintenance of any property vested in or
2 owned by the Agency;

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

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

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

Annual estimates
and accounts

9 71.-(1) The Agency shall, not later than so" September in each year,
10 submit to the Minister an estimate of its expenditure and income (including
11 payments to the Fund) for the next succeeding year.

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

Annual reports

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

Power to accept
gifts

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

Power to borrow

27 74.-(1) The Agency may, from time to time, borrow by way of
28 overdraft or otherwise such sums as it may require for the performance of its
29 functions under this Act.

30 (2) The Agency shall not, without the approval of the Board, borrow

1 money which exceeds, at any time, the amount set by the Government as the
2 limit of the authority of the Agency.

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

6 75.-(1) A suit shall not lie or be instituted in any court against the
7 Agency or its employees unless it is commenced:

Limitations of
suits

8 (a) within 3 months after the Act, neglect or default complained of,
9 and

10 (b) in the case of a continuation of damage or injury, within 3
11 months after the ceasing thereof.

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

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

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

23 76. The notice in section 75 (2) of this Act, summons or other
24 document required or authorized to be served on the Agency under the
25 provisions of this Act or any other law or enactment may be served by:

Service of
documents

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

29 77.-(1) In any action or suit against the Agency, no execution or
30 attachment of process in any nature shall be issued against the Agency

Restriction on
execution against
property

1 unless a notice of not less than 3 months of the intention to execute or attach has
2 been given to the Agency.

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

7 PART VII.—NATIONAL WATER RESOURCES INSTITUTE

Establishment
and functions of
the National Water
Resources Institute

8 78.—(1) There is hereby established an institute to be known as the
9 National Water Resources Institute (in this Act referred to as "the Institute")
10 which shall be a body corporate with perpetual succession and a common seal
11 and may sue and be sued in its corporate name.

12 (2) The Institute shall be responsible generally for the promotion and
13 development of training courses in water resources and without prejudice to
14 the generality of the fore-going shall—

15 (a) advise the Minister on national water resources training needs and
16 priorities;

17 (b) perform engineering research functions related to such major
18 water resources projects as may be required for flood control, river regulation,
19 reclamation, drainage, irrigation, domestic and industrial water supply, sewage
20 and sewage treatment;

21 (c) perform such ancillary services on planning of water resources
22 management and river basin development and produce necessary codes of
23 practice in water resources engineering related to and suitable for Nigerian
24 conditions in consultation with relevant Sector institutions;

25 (d) promote the establishment of a uniform national data collection
26 system relating to surface and subsurface water resources in consultation with
27 NIHSA;

28 (e) provide for the training of engineers and technicians on short
29 courses and formulate programmes of work in the field of water resources;

30 (f) establish and maintain a water resources library documentation

1 and conference centre;

2 (g) publish or sponsor publication of water resources journals;

3 (h) promote co-operation in water resources development
4 management with similar bodies in other countries and with international
5 bodies connected with water resources management and operation;

6 (i) carry out such other activities as are necessary or expedient for
7 the full discharge of its functions under this Act.

8 79.-(1) There shall be a governing Board of the Institute (in this Act
9 referred to as "the Board") which shall consist of:

Board of the
Institute, its
functions, etc.

10 (a) a part-time Chairman who must be a water sector professional;

11 (b) a representative of a university or other institution of higher
12 learning in Nigeria not below the rank of a senior Lecturer in a water-related
13 discipline;

14 (c) a representative of Federal Ministry of Water Resources not
15 below the rank of Director;

16 (d) a representative of the Federal Ministry of Science and
17 Technology;

18 (e) a representative of the Nigeria Society of Engineers;

19 (f) a representative of the Nigeria Hydrological Services Agency;

20 (h) the Executive Director of the Institute.

21 (2) The Chairman and the persons mentioned in paragraph (b) and
22 (c) of subsection (1) of this section shall be appointed by the President.

23 (3) The Board shall, in general, outline the policy and decide in
24 broad terms on the programme of work of the Institute and prepare detailed
25 estimates of expenditure which will be required to carry out such
26 programmes.

27 (4) The Chairman and the other Members of the Board appointed
28 by the President by virtue of this section shall each hold office for a term of
29 three years and, subject to the provisions of subsection (5) of this section,
30 shall be eligible for re-appointment for another term of three years.

1 (5) The office of a Member of the Board mentioned in subsection (4)
2 of this section shall become vacant if:

3 (a) he resigns his office by notice in writing under this hand,
4 addressed to the Minister; or

5 (b) the Minister is satisfied that it is not in the interest of the Institute
6 for the person appointed to continue in office and notifies the Member in
7 writing to that effect.

8 (6) Members of the Board (not being ex-officio Members) may be
9 paid such travelling and other allowances as may, from time to time, be
10 approved by the Minister.

11 (7) The Board may act notwithstanding any vacancy in its
12 Membership or any defect in the appointment of a Member or the absence of a
13 Member.

14 (8) The provisions of the Schedule 7 to this Act shall have effect with
15 respect to matters under this Part.

Director-General,
Secretary/Legal
Adviser and other
Staff of the Institute

16 80.-(1) There shall be a Director-General of the Institute who shall be
17 appointed by the President.

18 (2) Subject to the general control of the Board, the Executive Director
19 shall be the chief executive officer of the Institute and shall be responsible for
20 the execution of the policy of the Institute and the day-to-day running of its
21 affairs.

22 (3) There shall be a Secretary/Legal Adviser to the Institute who shall
23 be appointed by the Board; and the Secretary/Legal Adviser to the Institute
24 shall also be the Secretary to the Board and shall perform such other functions
25 as may be assigned to him by the Board or the Executive Director.

26 (4) The remuneration and the tenure of office of the employees of the
27 Institute (other than the Director-General) shall be determined by the Board in
28 accordance with scales and conditions laid down by government in that behalf.

Power to accept
gifts, etc.

29 81.-(1) Subject to subsection (2) of this section, the Board may accept
30 gifts of land, money or other property upon such terms and conditions, if any, as

1 may be specified by the person making the gift.

2 (2) The Board shall not accept any gift if the conditions attached by
3 the person making the gift are inconsistent with the functions of the Board
4 under this Act.

5 82.-(1) It is hereby declared that service in the Institute shall be Pensions
6 public service for the purpose of the Pension Act and, accordingly, officers
7 and other staff of the Institute shall in respect of their service in the Institute
8 be entitled to such pensions, gratuities and other retirement benefits as are
9 prescribed thereunder, so however that nothing in this Act shall prevent the
10 appointment of a person to any office on terms which preclude the grant of
11 pension and gratuity in respect of that office.

12 (2) For the purposes of providing for the application of the
13 provisions of the Pensions Act, any Power exercisable thereunder by a
14 Minister or other authority of the Government of the Federation (not being
15 power to make regulations under section 23 thereof) are hereby vested in
16 and shall be exercisable by the Board and not by any other person or
17 authority.

18 83.-(1) For the purpose of providing offices and premises Offices and
19 necessary for the performance of its functions, the Board may: premises

20 (a) purchase or take on lease any land;

21 (b) build, equip and maintain offices and premises.

22 (2) The Board may, with the approval of the Minister, give out on
23 lease any land, office or premises held by it and no longer required for the
24 performance of its functions.

25 84.-(1) The Board shall prepare and submit to the Minister (not Financial
26 later than six months before the end of any financial year) an estimate of its provisions
27 revenue and expenditure for the following financial year.

28 (2) The Institute shall establish and maintain a fund from which
29 there shall be defrayed all expenditure incurred by the Institute.

30 (3) There shall be paid and credited to the fund established under

1 subsection (2) of this section:

2 (a) such sums as may, from time to time, be granted to the Institute by
3 the Federal Government;

4 (b) all monies raised for the purposes of the Institute by way of gifts,
5 grant-in-aid, testamentary dispositions and sales of publications;

6 (c) all subscriptions, fees and chargers for services rendered by the
7 Institute; and

8 (d) all other sums that may accrue to the Institute from any source.

Accounts and
audit

9 85.-(1) The Board shall keep proper accounts and proper records in
10 relation to the fund and shall prepare in respect of each financial year a
11 statement of accounts in such form as the Minister may direct.

12 (2) The Board shall ensure that the accounts of the Institute shall be
13 audited annually by auditors appointed from the list and in accordance with
14 guidelines issued by the Auditor-General for the Federation.

Annual report

15 86.-(1) The Board shall prepare and submit to the Minister not later
16 than the end of each financial year a report in such form as the Minister may
17 direct on the activities of the Institute during the immediately preceding
18 financial year, and shall include in the report a copy of the audited accounts of
19 the Institute for that year and of the auditors' report on the accounts.

20 (2) The Minister shall submit the report and recommendations made
21 by him thereon to the President.

Procedure in
respect of suits
against the
Institute

22 87. No suit shall be commenced against the Institute before the
23 expiration of a period of one month after written notice of intention to
24 commence the suit shall have been served upon the Institute by the intending
25 plaintiff or his agent; and the notice shall clearly and explicitly state-

26 (a) the cause of action;

27 (b) the particulars of the claim;

28 (c) the name and place of abode of the intending plaintiff; and

29 (d) the relief which he claims.

1 88. The notice referred to in section 87 of this Act and any
2 summons, notice or other document required or authorized to be served
3 upon the Institute under the provisions of this Act or any other enactment or
4 law may be served by delivering the same to the Chairman of the Board or
5 the director of the Institute, or by sending it by registered post addressed to
6 the director at the principal office of the Institute.

Service of
documents

7 89. In any action or suit against the Institute no execution or
8 attachment or process in the nature thereof shall be issued against the
9 Institute but any sums of money which may, by the judgment of the court, be
10 awarded against the Institute shall, subject to any directions given by the
11 Institute, be paid from the general reserve fund of the Institute.

Restriction on
execution against
the property of
the Institute

12 90. The Minister may give the Board directions of a general
13 character or relating generally to particular matters (but not any individual
14 or case) with regard to the exercise by the Board of its functions under this
15 Act, and it shall be the duty of the Board to comply with such direction.

Power to give
direction

16 PART VIII - WATER RESOURCES PLANNING AND MANAGEMENT

17 91.-(1) Following public consultation and discussion by the
18 National Council on Water Resources, the Minister shall formulate, and
19 publish in the Gazette, a national water resources strategy in accordance
20 with which the water resources of Nigeria shall be protected, used,
21 conserved, managed, developed, and controlled as provided under section
22 13(1)(a) of this Act.

National Water
Resources
Strategy

23 (2) The National Water Resources Strategy set out in sub-section
24 (1) shall prescribe the principles, objectives, procedures and institutional
25 arrangements for the protection, development, conservation, management
26 and control of the nation's water resources and provide the framework
27 within which hydrological areas resources strategies will be formulated
28 under section 91.

29 (3) The Minister and all public bodies shall, when exercising any
30 statutory power or performing any statutory function, take into account and

Hydrological
Areas Resources
Strategy and Plans

1 give effect to the national water resources management strategy.

2 **92.-(1)** The Commission, in consultation with Nigeria Hydrological
3 Services Agency and other stakeholders, through its Catchment Management
4 Offices shall formulate a comprehensive cross-sectoral Hydrological Area
5 water resources strategy for the protection, development, use, conservation,
6 management, control and administration of all surface water and groundwater
7 resources in the Hydrological Areas by reference to: (a) national water
8 resources policy and strategy;

9 (b) prevailing social, economic, financial, technological and
10 environmental conditions;

11 (c) the activities, plans and proposals of State, local government,
12 community and private sector bodies in respect of water resources.

13 (2) A Hydrological Area water resources strategy shall provide
14 guidance on the priority of water use within a water management area for
15 consideration in the licensing of water use under Part X.

16 (3) A Hydrological Area water resources strategy shall be subject to
17 public consultation under section 122 and be published in the Gazette.

18 (4) A Hydrological Area water resources strategy may be prepared in
19 a phased and progressive manner over time and shall be reviewed every ten
20 years or earlier as the Minister shall deem expedient but in any event not later
21 than a ten year period.

22 (5) A Hydrological Area water resources strategy referred to in sub-
23 section (1) shall prescribe principles, objectives, procedures and institutional
24 arrangements for management, protection, use, development, conservation,
25 control and administration of the water resources in the Hydrological Area and
26 in particular, for-

27 (a) classifying water resources and determining resource quality
28 objectives;

29 (b) setting out principles for allocating water;

30 (c) defining mechanisms and facilities for stakeholder participation in

1 development of the Hydrological Area strategy and activities related to
2 management of the water resources of the Hydrological Area.

3 (6) A Hydrological Area water resources strategy shall be
4 consistent with the provisions of this Act and the national water resources
5 strategy, comprise an inventory and assessment of water resources projects
6 in the Hydrological Area, present an assessment of water resources
7 availability and use in the Hydrological Area, and, as required by the type of
8 water resources issues experienced in the hydrological area, incorporate
9 thematic strategies among which may include:

10 (a) water conservation, efficiency of use, and demand-side
11 management;

12 (b) watershed and erosion management and protection;

13 (c) upgrading of existing assets;

14 (d) flood management;

15 (e) drought management;

16 (f) groundwater management; and

17 (g) water quality management.

18 (7) All public and private sector bodies and community
19 organizations within the Hydrological Area shall submit their water-related
20 development and management plans to the CMO for consideration in
21 respect of the Hydrological Area's water resources and consolidation into a
22 Hydrological Area development and management plan.

23 (8) Based on the Hydrological Area water resources strategy, the
24 CMO shall formulate and publish short to medium term management and
25 development plans as a basis for its financial plan.

26 (9) The Minister, Commission, and any public authority shall,
27 when exercising any statutory power or performing any statutory function,
28 take into account and give effect to any Hydrological Area water resources
29 strategy in force under this section.

Classification of
water resources
and resource
quality objectives

1 **93.-(1)** The Minister shall introduce a system of classifying all
2 significant watercourses and aquifers which shall be used by the Commission
3 as the basis for determining license applications and for developing plans for
4 the progressive improvement of water quality in watercourses and aquifers.

5 (2) The Minister, in consultation with relevant stakeholders at Federal
6 and State levels, shall prescribe a system for classifying water resources for the
7 purpose of determining resource quality objectives for each class of water
8 resources and guiding decisions on water allocation, which includes
9 procedures for-

10 (a) determining an interim classification;

11 (b) preparing a classification recommendation;

12 (c) public consultation; and

13 (d) approval and publication in the Gazette.

14 (3) The Commission shall implement the procedures of the prescribed
15 classification system and prepare a recommendation for the approval of the
16 Minister for-

17 (a) the classification of each water resource within its basin;

18 (b) resource quality objectives for a water resource;

19 (c) specifying the requirements for achieving the objectives and the
20 dates from which the objectives will apply.

21 (4) The Minister, the Commission, and any public authority shall,
22 when exercising any statutory power or performing any statutory function,
23 take into account and give effect to the resource quality objectives determined
24 under this section in respect of a water resource.

Determination
of reserve

25 **94.-(1)** As soon as reasonably practicable after classifying a water
26 resource, the Commission shall after consultation with the Minister, and by
27 notice in the Gazette, determine the reserve for the whole or part of each of that
28 water resource.

29 (2) The reserve set out in sub-section (1) shall comprise the quantity
30 and quality of water required:

1 (a) to satisfy basic human needs by securing a basic water supply,
2 as prescribed in regulations to this Act, for people who are now or will, in the
3 reasonably near future, be relying upon, taking water from, or being
4 supplied from the relevant water resource; and

5 (b) to maintain significant environmental services of the water
6 resource including protection of aquatic ecosystems in order to ensure
7 ecologically sustainable development and use of the water resource.

8 (3) The Minister, the Commission, and any public authority shall,
9 when exercising any statutory power or performing any statutory function,
10 take into account and give effect to the requirements of the reserve.

11 (4) Until a system for classifying water resources has been
12 prescribed or a class of a water resource has been determined, the
13 Commission-

14 (a) may for all or part of a water resource; and

15 (b) must before licensing or authorizing the use of water under Part
16 X, make a preliminary determination of the reserve.

17 (5) A determination in terms of sub-section (1) supersedes a
18 preliminary determination.

19 **95.-(1)** It shall be the duty of every institution established under
20 this Act to promote and observe the policy of the Federal Government on
21 point and non-point sources of pollution of the water resources of the
22 Federation.

Pollution
prevention

23 (2) Any such person or institution shall promptly notify both the
24 relevant environmental standards enforcement agency in charge of
25 pollution control in the area and the relevant Catchment Management Office
26 of any actual or threatened infringement whereupon such environment
27 agency shall take appropriate steps pursuant to the law establishing it.

28 (3) States shall take all appropriate legal, economic and social
29 measures to control non - point source pollution including promoting-

30 (a) sustainable forestry practices, agro- forestry, reforestation and

1 good pasture husbandry;

2 (b) appropriate agricultural land use methods, soil conservation,
3 control and minimization of the use of agricultural chemical inputs;

4 (c) general land use planning and enforcement of urban planning
5 laws; and

6 (d) hygiene and sanitation.

7 (4) In cases of emergencies or threat of imminent serious pollution,
8 the Minister or other relevant sector institution shall take appropriate steps to
9 rectify the problem and as soon as practicable thereafter to inform such
10 appropriate enforcement agency.

11 (5) In the event that such pollution continues for a period of two days
12 after notification to the enforcement agency, the Commission in consultation
13 with the enforcement agency shall take further appropriate steps to abate such
14 pollution, including prosecution of such polluters and suspension of a licence
15 for wastewater discharge or related water supply.

16 (6) Upon a notification of a point or non-point source of pollution to
17 the enforcement agency by any person, the Catchment Management Office
18 shall continue to monitor and ensure actual abatement of such pollution
19 occurring within the Basin.

20 (7) Where the Minister or the Commission takes such steps as are
21 contemplated in this section, such costs as are incurred shall be recovered from
22 the parties directly or indirectly responsible in accordance with section 131.

23 PART IX - LICENSING

24 96.-(1) Subject to section 3 on entitlement to use water and section
25 107 on general authorizations, the use of water shall be subject to licensing
26 provisions under this Part and associated regulations.

27 (2) In considering an application for water use or waste water
28 discharge licence or a general authorisation, and in stipulating any conditions
29 to be imposed thereon, the CMO shall take into account such factors as it
30 considers relevant, including-

- 1 (a) national water policy and strategy;
- 2 (b) existing lawful uses of the water; including customary use to
- 3 the extent that such use does not conflict with the provisions of the Act, or
- 4 water resources policy of the Government or Hydrological Area Water
- 5 Resources Strategy;
- 6 (c) efficient and beneficial use of water in the public interest;
- 7 (d) any basin management strategy applicable to the relevant water
- 8 resource including consideration of water conservation measures;
- 9 (e) the likely effect of the water use to be authorised on the water
- 10 resource and on other water users, including avoidance of significant harm
- 11 to customary users;
- 12 (f) the class and resource quality objectives of the water resource;
- 13 (g) the investments already made and to be made by the water user
- 14 in respect of the water use;
- 15 (h) the strategic importance of the water use to be authorized;
- 16 (i) the quality of the water in the water resources which may be
- 17 required for the reserve and for meeting international obligations; and
- 18 (j) the probable duration if any undertaking for which a water use is
- 19 to be authorized.

20 97.-(1) The activities listed in this section referred to as "prescribed

21 activities" when undertaken by any person in relation to water courses listed

22 in Schedule 1, shall be licensed by the CMO:

Licencing
categories

- 23 (a) abstraction of surface water and groundwater;
- 24 (b) diversion, pumping, storage or use on a commercial scale of
- 25 any water;
- 26 (c) the construction of boreholes for commercial purposes;
- 27 (d) construction and operation of hydraulic structures for rivers,
- 28 dams, water intake barrages, groynes, bed and bank stabilisation, dykes,
- 29 polders, wells;
- 30 (e) public and private irrigation and drainage systems;

1 (f) diversion or impoundment of water for the purposes of mining and
2 discharge of waste water from mining into any water course;

3 (g) discharging industrial/agricultural waste or wastewater into a
4 water body through a pipe, canal, sewer, sea outfall or other conduit according
5 to environmental standards;

6 (h) disposing in any manner of water which contains waste from, or
7 which has been heated in, any industrial or power generation process according
8 to standards defined by the relevant environment standards enforcement
9 agency;

10 (i) undertaking drainage and land reclamation;

11 (j) removing, discharging or disposing of water found underground if
12 it is necessary for the efficient continuation of an activity or for the safety of
13 people;

14 (k) leachate containment activities according to environmental
15 standards;

16 (l) capital dredging;

17 (m) sand dredging, rock blasting and rock removal in rivers;

18 (n) construction of infrastructure, roads/bridges across rivers and
19 streams;

20 (o) any works affecting the banks and beds of water courses;

21 (p) carrying out commercial inland fisheries;

22 (q) transportation of "Specified Substances" over the watercourse;

23 (r) activities which reduce stream flow; and

24 (s) using reservoirs for recreational purposes.

25 98.-(1) An existing lawful water use means a water use which-

26 (a) has taken place at any time during a period of two years
27 immediately before the date of commencement of this Act; and

28 (b) was authorized by or under any law which was in force
29 immediately before the date of commencement of his Act.

30 (2) A person or that person's successor-in-title, may continue with an

1 existing lawful use, subject to:

2 (a) any existing conditions or obligations attaching to that use;

3 (b) its replacement by a licence within the specified period in terms
4 of this Act as defined in regulations; and

5 (c) any other limitation or prohibition by or under this Act.

6 (3) The Commission may, subject to any regulation made under this
7 Act, require the registration of an existing lawful water use.

8 99.-(1) No person shall undertake any of the prescribed activities
9 defined in section 97 except in accordance with a license issued by the
10 Commission or a general authorization pursuant to this Act.

Application for
a licence

11 (2) Where a person has made an application for an authorization to
12 use water under another law, and that application has not been finalized
13 when this Act takes effect, the application shall be regarded as being an
14 application for a water use under this Act.

15 (3) An application shall be in a form approved by the Commission
16 and shall be accompanied by such documents as shall be prescribed by the
17 Commission.

18 (4) An application shall be accompanied by the required
19 application fee fixed by the Commission.

20 (5) The Commission-

21 (a) may, to the extent that is reasonable to do so, require the
22 applicant, at the applicant's expense, to obtain and provide it by a given date
23 with-

24 (i) other information, in addition to the information contained in
25 the application;

26 (ii) an assessment by a competent person of the likely effect of the
27 proposed licence on the resource quantity and quality;

28 (iii) an independent review of the assessment furnished in terms of
29 subsection (li), by a person acceptable to the Commission.

30 (b) may conduct its own investigation on the likely effect of the

1 proposed licence on the protection, use, development, conservation,
2 management and control of the water;

3 (c) may invite written comments from any organ of state which or
4 person who has an interest in the matter; and

5 (d) must afford the applicant an opportunity to make representations
6 on any aspect of the licence application.

7 (6) An applicant is responsible for demonstrating compliance and
8 consistency with the respective basin water resources strategy, resource quality
9 objectives or reserve determination as appropriate to the type of licence being
10 applied for.

11 (7) An applicant is responsible for complying with the requirements
12 of other Acts including for environmental assessment and management.

13 (8) The Commission may, at any stage of the application process,
14 require the applicant-

15 (a) to give suitable notice in newspapers and other media in a form and
16 with content prescribed by the Commission:

17 (i) describing the licence applied for;

18 (ii) stating that written objections may be lodged against the
19 application before a specified date, which must not be less than 60 days after
20 the last publication of the notice;

21 (iii) giving an address where written objections must be lodged; and

22 (iv) containing such other particulars as the Commission may require;

23 (b) to take such other steps as it may direct to bring the application to
24 the attention of relevant organs of state, interested persons and the general
25 public; and

26 (c) to satisfy the Commission that the interests of any other person
27 having an interest in the land will not be affected.

Essential contents
of licences

28 **100.**-(1) A licence contemplated in this Part shall specify-

29 (a) the water use or uses or activity for which it is issued;

30 (b) the property or area in respect of which it is issued;

1 (c) the person to whom it is issued;

2 (d) the conditions subject to which it is issued;

3 (e) the licence period, which may not exceed twenty-five years for
4 hydro Power generation Projects and ten years for other Projects. Licenses
5 for discharges shall be treated on the on a case by case basis; and

6 (f) the review periods during which the licence may be reviewed.

7 (2) Subject to subsection (3), and notwithstanding section 100, the
8 Commission may extend the licence period of a licence if this is done as part
9 of a general review of licences.

10 (3) An extension of a licence period contemplated under
11 subsection (2) may only be made after the Commission has considered the
12 factors specified in section 103, and all other relevant factors, including new
13 applications for water use, and has concluded that there are no substantial
14 grounds not to grant an extension.

15 (4) If the validity period of a licence is extended in terms of
16 subsection (3), the licence may in respect of the period for which it is
17 extended, be issued subject to different conditions which may include a
18 lesser permitted water use.

19 **101.** The Commission may grant or refuse to grant an application
20 for the issue of a license for any reason the Commission considers
21 appropriate having regard to the objectives specified in section 1 of this Act.

Determination of
application

22 (1) In determining whether to grant an application or not the
23 Commission shall-

24 (a) follow the procedure for notification and consultation as
25 stipulated in regulations issued by the Commission from time to time
26 pursuant to section 122;

27 (b) be satisfied that harm will not be caused to existing lawful uses,
28 including customary uses, subject to provisions to vary the terms of existing
29 licenses under section 100.

30 (2) The Commission shall notify the applicant for a license and any

1 person who has objected to the application in writing of its decision to grant or
2 refuse to grant the application and in the case of a decision to refuse to grant the
3 application, of the reasons for its decision.

4 (3) The Commission shall keep a register of licences issued with
5 respect to water sources within its area of authority which register shall be
6 available for the inspection of the public in accordance with the rules of the
7 Commission in respect thereof.

8 (4) The issue of a licence to use water does not imply a guarantee
9 relating to-

10 (a) the statistical probability of supply;

11 (b) the availability of water; or

12 (c) the quality of water.

13 **102.-(1)** If the Commission is satisfied that, by reason of an actual or
14 anticipated exceptional shortage of water in a hydrological area, or by reason of
15 accident or other unforeseen circumstance, a serious deficiency of water for
16 essential domestic purposes or damage to the environment exists, or is
17 threatened in any area, the Commission may-

18 (a) declare that an emergency exists; and

19 (b) direct a person who has a supply of water in excess of his needs for
20 domestic purposes to reduce the amount he is permitted to abstract under the
21 terms of any licence or general authorization.

22 (2) Any person so directed by an Order under this section who fails to
23 comply with the provisions of the order shall be guilty of an offence.

24 (3) An order under this section may require or authorize:

25 (a) the laying of pipes and the construction of works on any land;

26 (b) the entry on to any land by officers or agents of the Commission;

27 and

28 (c) such other measures as the Commission may consider necessary to
29 overcome the shortage of water or effects of any accident.

30 (4) If a person to whom such an order under this section is directed

Emergency
powers in case
of shortage of
water

1 fails to comply with the order, the Commission or any person deputed by
2 him:

3 (a) may take possession of the water supply and operate any works
4 of the person concerned for the drawing, diversion, or use of water; and

5 (b) shall have and may exercise the person's rights in connection
6 with them during the period of the order.

7 (5) It shall be the duty of any person exercising any powers under
8 this section to do so with reasonable care and in such a manner as to cause as
9 little damage as possible in so doing.

10 (6) A person who, without lawful authority, hinders or obstructs
11 any person acting in pursuance of an order under his section, or interferes
12 with any works constructed or under construction in pursuance of such an
13 order, shall be guilty of an offence.

14 (7) Any person who contravenes any provision of this section shall
15 be guilty of offence and liable, on first conviction to a minimum fine of
16 N50,000 or imprisonment for a period not exceeding 2 years, or to both such
17 fine and imprisonment and in the case of a second or subsequent conviction
18 to a minimum fine of N100,000 or imprisonment for a period not exceeding
19 5 years or to both such fine and imprisonment

20 103.(1) The Commission may attach conditions to every general
21 authorization or licence-

Conditions of
licences

22 (a) relating to the protection of-

23 (i) the water resource in question;

24 (ii) the stream flow regime;

25 (iii) other existing and potential users.

26 (b) relating to water management by-

27 (i) specifying practices and general requirements for any water use,
28 including water Conservation;

29 (ii) requiring the monitoring, analysis and reporting on water use or
30 water quality;

- 1 (iii) requiring the preparation, approval and adherence of a water
2 management plan;
- 3 (iv) requiring the payment of water charges as provided for in section
4 99;
- 5 (v) requiring the licensee to provide or make water available to a
6 person specified in the licence; and
- 7 (vi) in the case of a general authorization, requiring the registration of
8 the water use with the responsible authority and the payment of a registration
9 fee as a pre-condition of that use.
- 10 (c) relating to a return flow and discharge or disposal of waste-
- 11 (i) specifying a water resource to which it must be returned or
12 disposed of;
- 13 (ii) specifying permissible levels for some or all of its chemical and
14 physical properties in accordance with standards and guidelines issued by the
15 Federal Ministry responsible for the Environment;
- 16 (iii) specifying treatment to which it must be subjected before it is
17 discharged; and
- 18 (iv) specifying the volume which may be returned
- 19 (d) in the case of taking or storing of water-
- 20 (i) setting out the specific quantity or percentage of water which may
21 be taken;
- 22 (ii) setting out the rate of abstraction;
- 23 (iii) setting out the method of construction of a borehole;
- 24 (iv) specifying the place from where water may be taken;
- 25 (v) specifying the times when water may be taken;
- 26 (vi) identifying or limiting the area of land on which any water taken
27 from a resource may be used;
- 28 (vii) limiting the quantity of water that may be stored; and
- 29 (viii) specifying locations where water may be stored;
- 30 (e) which are necessary or desirable to achieve the purpose for which

- 1 the licence was issued;
- 2 (f) which are necessary or desirable to achieve compliance with the
- 3 provisions of this Act; and (g) in the case of a licence-
- 4 (i) specifying times when water may or may not be used;
- 5 (ii) containing provisions for its termination if an authorized use of
- 6 water is not implemented or not fully implemented;
- 7 (iii) designating water for future or contingent use; or
- 8 (iv) which have been agreed to by the licensee.

9 104.-(1) The use of prescribed water abstracted from a water Charges for

10 resource shall be subject to a water charge that reflects- water use

- 11 (a) the available water and resource quality objectives;
- 12 (b) the costs of water resources development and management;
- 13 (c) the affordability of water among water users;
- 14 (d) the equitable, efficient and sustainable allocation of water; and
- 15 (e) protection and conservation of the water resource and water
- 16 related environment.

17 (2) The water charge shall form a source of income for the

18 Commission.

19 (3) The pricing structure for water use adopted by the Commission

20 shall be approved by the National Council and may-

- 21 (a) differentiate on an equitable basis between;
- 22 (i) different types of geographic areas;
- 23 (ii) different categories of water use; and
- 24 (iii) different water users.
- 25 (b) include subsidies to promote equitable allocation;
- 26 (c) provide a transparent mechanism for establishing charges; and
- 27 (d) define any circumstances under which water charges may be
- 28 subject to waiver.

29 (4) The pricing structure for waste water discharges shall be

30 approved by the National Council and may provide a differential rate taking

- 1 into account the-
- 2 (a) context in the area concerned;
- 3 (b) characteristics of the waste discharged;
- 4 (c) amount and quality of the waste discharged;
- 5 (d) nature and extent of an impact on a water resource caused by the
- 6 waste discharged;
- 7 (e) extent of permitted deviation from prescribed waste standards or
- 8 management practices; and
- 9 (f) required extent and nature of monitoring the water discharge.
- 10 (5) The pricing structure shall prescribe procedures for recovery of
- 11 water charges.
- 12 (6) In preparing the pricing structure the Commission shall follow
- 13 procedures for public consultation set out in section 122.
- 14 **105.**-(1) A licensee may, before the expiry date of a licence, apply to
- 15 the Commission for the renewal or amendment of the licence in a form and
- 16 containing such information as required by the Commission.
- 17 (2) A licence may, at the request of the licensee, be varied by the
- 18 Commission if the Commission is satisfied that the variation is not contrary to
- 19 the public interest or the rights of others, so as to:
- 20 (a) vary the point of abstraction or diversion;
- 21 (b) vary the use of water authorized by the licence;
- 22 (c) to remedy any defect whereby the licence is incomplete or
- 23 indefinite in its terms and conditions; or
- 24 (d) to reflect one or more successors-in-title as new licensees.
- 25 (3) A variation relating to the use of water or terms and conditions of a
- 26 licence shall not be made without public consultation.
- 27 (4) The Commission may vary a licence or its conditions where, it is
- 28 shown to the satisfaction of the Commission, that owing to changes in
- 29 hydrological conditions, prolonged drought, increased demand or other cause,
- 30 the use of water under a licence, or the method or point of abstraction or other

1 manner in which the water is so used, causes-

2 (a) inequity;

3 (b) a deterioration in the quality of water;

4 (c) a shortage of water for domestic purposes; or

5 (d) a shortage of water for any other purpose which in the opinion
6 of the Commission should have priority.

7 (5) A variation contemplated in sub-section (4) may only be made
8 if the conditions of other licences for similar water use from the same water
9 resource in the same vicinity, all as determined by the Commission, are also
10 being amended in an equitable manner through a general review process.

11 (6) Notwithstanding sub-section (4), a Commission may review
12 the terms of a licence, other than the time period, only at the periods
13 stipulated in a licence for that purpose

14 (7) A licensee whose license is varied under subsections (4) or (5)
15 and, as a result of which the economic viability of any undertaking is
16 severely prejudiced, shall be paid compensation in such an amount as shall
17 be agreed between the permit holder and the Commission, or in default of
18 agreement, as may be determined by mediation or appeals procedures under
19 this Act.

20 (8) A licensee may, before the expiry date of a licence, apply to the
21 Commission for the renewal or amendment of a licence which shall be dealt
22 with according to the same procedures and considerations as application for
23 a new licence.

24 (9) A licence may be cancelled, suspended or varied by the
25 Commission if the licensee-

26 (a) contravenes any conditions of the licence; or

27 (b) fails to make beneficial use of the water or any part thereof.

28 (10) No licence shall be varied, suspended or cancelled under this
29 section unless notice of the proposed variation, suspension or cancellation
30 has been served on the licensee and the licensee has been afforded a

1 reasonable opportunity to show cause to the Commission why the licence
2 should not be varied or cancelled.

Groundwater
conservation
areas

3 **106.**-(1) The Commission may, following public consultation, by
4 order published in the Gazette, declare an area to be a groundwater
5 conservation area in cases where the Commission is satisfied that, in the public
6 interest in such area, special measures for the conservation of groundwater are
7 necessary-

8 (a) for the protection of public water supplies;

9 (b) for the protection of the environment; or

10 (c) for the protection for water supplies used for agriculture, industry
11 or other private purposes.

12 (2) The Commission may impose such requirements, and regulate or
13 prohibit such conduct or activities, in or in relation to groundwater
14 conservation areas such as the Commission may deem necessary to protect the
15 area and its groundwater.

General
authorizations

16 **107.**-(1) The Commission may, subject to regulations made under this
17 Act and conditions imposed, authorize all or any category of persons to use
18 water by notice in the Gazette-

19 (a) generally;

20 (b) in relation to a specific water resource; or

21 (c) within an area specified in the notice,

22 (2) The notice must state the geographical area in respect of which the
23 general authorization will apply, and the date upon which the general
24 authorization will come into force, and may state the date on which the general
25 authorisation will lapse.

26 (3) A water use may be authorized under subsection (1) on condition
27 that the user obtains any permission or authority required by any other
28 specified law.

29 (4) Before issuing a general authorization, the Commission must-

30 (a) publish a notice in the Gazette setting out the proposed general

1 authorisation and an address to which and date before which comments are
2 to be submitted;

3 (b) consider what further steps, if any, are appropriate to bring the
4 contents to the attention of interested persons and, takes those steps which
5 the Commission considers appropriate; and

6 (c) consider all comments received on or before the date specified.

7 (5) Any authorization to use water under this section does not
8 replace or limit any entitlement to use water which a person may otherwise
9 have under this Act.

10 **108.**-(1) The Commission shall have the power to determine
11 whether a person is engaging in or is about to engage in any activity that is a
12 prescribed activity in accordance with the provisions of this Part.

Contravention of
or failure to
comply with
licence provisions

13 (2) A person who contravenes the provisions of section 99(1)
14 commits an offence and is liable on conviction to a fine or to imprisonment
15 for a period of two years or to both such fine and imprisonment.

16 (3) The Commission shall have the authority to order any person
17 who contravenes section 99(1) to cease such activities and to make such
18 other orders as may be deemed necessary to prevent continuation or
19 reoccurrence of the contravention

20 (4) The Commission shall have the authority to penalize a licensee
21 for violation of the terms and conditions of his license or to cancel or
22 suspend such license in accordance with the provisions of this Act.

23 PART X - MONITORING, REPORTING AND INFORMATION SYSTEMS

24 **109.**-(1) The Minister shall, through NIHSA, establish and
25 maintain national monitoring systems on water resources.

Monitoring
Systems

26 (2) The systems shall provide for the collection of appropriate data
27 and information necessary to assess, among other matters-

28 (a) the quantity of water in the various water sources;

29 (b) the quality of water resources;

30 (c) the use of water resources; and

National
information
systems on water
resources

- 1 (d) the state of the aquatic environment.
- 2 **110.** The Minister shall, through NIHSA, establish national
3 information systems regarding water resources, for the following-
- 4 (a) hydrological and hydro-geological monitoring networks;
5 (b) hydro-meteorological monitoring network;
6 (c) databases and information systems that summarize the
7 information systems maintained at catchment level under section 111; and
8 (d) information on water resources of international river basins of
9 which Nigeria is a party.

Establishment
of Catchment
information
systems

10 **111.-(1)** The Commission in collaboration with Nigeria Hydrological
11 Services Agency shall establish and maintain catchment-level information
12 systems on water resources.

13 (2) The systems shall provide for the collection of appropriate data
14 and information necessary to assess, among other matters-

- 15 (a) the quantity of water in the various water sources;
16 (b) the status of groundwater aquifers;
17 (c) the quality of water resources and state of the aquatic
18 environment;
19 (d) the use of water resources, including a register of water use
20 authorizations for irrigation, municipal and industrial use and other uses;
21 (e) the extent and quality of coverage of water supply and sanitation
22 services; and
23 (f) compliance with water resource quality objectives.

24 (3) The Commission shall submit necessary information and reports
25 to the Minister for the purposes of compilation into the national information
26 systems.

Information on
floods and
droughts

- 27 **112.-(1)** The Ministry, NIHSA, the Commission, an Authority or any
28 other water sector institution shall, at its own expense, make information at its
29 disposal available to the public in an appropriate manner in respect of-
- 30 (a) a flood which has occurred or is likely to occur;

- 1 (b) an impending drought or drought which has occurred;
2 (c) a waterworks that might fail or has failed;
3 (d) any risk posed by a dam or other water resources infrastructure;
4 (e) levels likely to be reached by flood waters from time to time;
5 (f) any risk posed by the quality of any water to life, health or
6 property; and

- 7 (g) any matter connected with water or water resources which the
8 public needs to know.

9 (2) Any of the institutions mentioned in sub-section (1) above,
10 shall where reasonably practicable, establish an early warning system in
11 relation to the events contemplated in sub-section (1).

12 (3) For the purposes of ensuring that all persons who might be
13 affected have access to information regarding potential flood hazards, no
14 person shall establish a housing project unless the layout plan shows, in a
15 form acceptable to the local authority concerned, lines indicating the
16 maximum level likely to be reached by floodwater on average once in every
17 100 years.

18 **113. The objectives of the national information systems are to-**

19 (a) store and provide data and information for the protection,
20 sustainable use and management of water resources;

21 (b) provide information for the development and implementation
22 of the national water resources strategy; and

23 (c) provide information to government, water management
24 institutions, water users and the public on the status of water resources-

25 (i) for research and development;

26 (ii) for planning and environmental management;

27 (iii) for determining licence applications;

28 (iv) for public safety and disaster management; and

29 (v) for international cooperation.

Objectives of
national and
hydrological area
information systems

Provision of
information

1 114. The institutions identified in S.112(1) may require that any
2 person shall, within a reasonable given time or on a regular basis, provide any
3 data, information, documents, samples or materials reasonably required for-

4 (a) the purposes of respective national or hydrological area
5 monitoring networks or information systems; and

6 (b) the management and protection of water resources.

Access to
information

7 115. Information contained in any national or hydrological area
8 information system established under this Part shall be made available to the
9 public within a reasonable time frame, subject to any limitations imposed by
10 law and the payment of a reasonable fee.

Regulations for
monitoring,
assessment and
information

11 116. The Commission and the Nigeria Hydrological Services Agency
12 shall jointly develop guidelines prescribing-

13 (a) procedures, standards and methods for monitoring; and

14 (b) the nature, type, time period and format of data to be submitted in
15 terms of this Part.

16 PART XI - BOREHOLE DRILLING

Qualification to
drill borehole

17 117. No person shall commence or carry on any kind of borehole
18 drilling business in Nigeria except:

19 (a) a company duly incorporated as a limited liability company or any
20 person registered as a business name under the Companies and Allied Matters
21 Act, 1990; or

22 (b) a body or individual duly authorized by or pursuant to any other
23 Enactment to carry on the business of borehole drilling.

Borehole drillers'
licence

24 118. Subject to the provisions of this Act, no borehole driller, whether
25 corporate or individual shall commence borehole drilling business in Nigeria
26 unless such driller has obtained a Water Well Driller's Licence issued by the
27 Commission.

Commercial
borehole

28 119.-(1) The owner of a borehole constructed for non-domestic
29 purpose shall obtain a Permit for that Borehole(s) which Permit shall prescribe
30 terms and conditions to be observed by the Owner.

1 (2) The Commission shall by Regulations determine matters to be
 2 considered and provided by the owner in the application for permit
 3 including information on proposed location, use, depth, and other geo-
 4 physical details of the borehole which shall be in compliance with the Code
 5 of Practice for water well drilling issued by the Commission on the
 6 recommendation of the NWRI and the SON.

7 (3) the borehole Permit shall be renewable every five years or such
 8 other period as the Commission may prescribe.

9 120. A drilling permit shall; Drilling permit

10 (a) authorize the construction of one or multiple wells in specified
 11 location(s) in compliance with the conditions of approval specified for the
 12 purpose;

13 (b) be given at the catchment level by the CMO subject to licensing
 14 provisions under PART IX of this Act and associated regulations;

15 121. Any driller who fails to comply with the provisions of this Failure to comply
 16 Part commits an offence and is liable to imprisonment for a term of one year
 17 or to a fine of N500,000

18 PART XII - GENERAL

19 122.-(1) A requirement under this Act for a person, in this section Public
 20 called the "designated person", to undertake public consultation in relation Consultation
 21 to any strategy developed, reserve determined, or other action to be taken,
 22 except licensing covered under section 94, that involves notification of the
 23 public or a restricted set of water stakeholders, or action proposed to be
 24 taken, under this Act shall be construed as a requirement to ensure that this
 25 section is complied with in relation to that action.

26 (2) The designated person shall publish notice, in relation to the
 27 application or proposed action:

28 (a) in the Gazette;

29 (b) in at least one national newspaper circulating in the locality to
 30 which the application or proposed action relates;

- 1 (c) at local government offices or other location(s) accessible to those
2 affected by the proposed action; and
- 3 (d) if the designated person is an institution, on its website.
- 4 (3) The notice shall in each case-
- 5 (a) set out a summary of the application or proposed action;
- 6 (b) state the premises at which details of the application or proposed
7 may be inspected;
- 8 (c) invite written comments on or objections to the application or
9 proposed action;
- 10 (d) specify the person or body to which any such comments are to be
11 submitted; and
- 12 (e) specify a date by which any such comments are required to be
13 received not being a date earlier than 30 days after publication of the notice.
- 14 (4) The designated person shall make arrangements for the public to
15 obtain copies, at reasonable cost, of documents relating to the application or
16 proposed action.
- 17 (5) The designated person shall-
- 18 (a) consider any written comments received on or before the date
19 specified under subsection (3)(e);
- 20 (b) consider any comments whether in writing or not, received at any
21 public meeting held in relation to the application or proposed action or
22 pursuant to any other invitation to comment; and
- 23 (c) acknowledge receipt of all written comments, prepare a summary
24 of the comments received and publish a consolidated response indicating how
25 the comments have been considered.
- 26 (6) The designated person shall publish, through the same media
27 employed in subsection (2), notice of the fact that a copy of the decision in
28 writing of the designated person in relation to the application or proposed
29 action, and of the reasons there for, is available for public inspection at the same
30 premises as were notified under subsection (3)(b).

1 (7) Where regulations made under this Act so require, the
2 designated person shall cause a public meeting to be held in relation to the
3 application or proposed action.

4 123.-(1) The Minister, Executive Secretary of the Commission,
5 Managing Director of an Authority may in writing, appoint any suitable
6 person as an authorized person to perform the functions of this section
7 subject to the limitations of their powers and functions under this Act.

Entry onto land
in furtherance of
duties

8 (2) An authorized person may, at any reasonable time and on
9 production of their identity card or other instrument or certificate of
10 designation if so required, enter a property with the necessary persons,
11 vehicles, equipment and material in order to carry out routine inspections of
12 the use of water or disposal of waste water under any authorization.

13 (3) An authorized person, may, at any reasonable time and on
14 production of their identity card or other instrument or certificate of
15 designation if so required, and after giving reasonable notice to the owner or
16 occupier of the property, which notice must state the purpose of the proposed
17 entry, enter a property with the necessary persons, vehicles, equipment and
18 material in order to-

19 (a) clean, repair, maintain, remove or demolish any government
20 waterworks operated by any water management institution;

21 (b) undertake any work necessary for cleaning, clearing,
22 stabilizing and repairing the water resource and protecting the resource
23 quality;

24 (c) establish the suitability of any water resource or site for
25 constructing a waterworks;

26 (d) undertake any work necessary to comply with an obligation
27 imposed on any person under this Act;

28 (e) erect any structure and to install and operate any equipment on a
29 temporary basis for monitoring and gathering information on water
30 resources; or

1 (f) bring heavy equipment on to a property or occupy a property for
2 any length of time.

3 (4) An authorized person may, at any reasonable time and without
4 prior notice, enter a property that is not a dwelling under subsection (7) with the
5 necessary persons, vehicles, equipment and material, and perform any action
6 necessary to-

7 (a) investigate whether under this Act, or other law related to the
8 quality of water, any condition attached to any authorized water use by or under
9 this Act or any notice or directive is being contravened;

10 (b) investigate whether any information supplied in connection with
11 the use of water is being contravened;

12 (c) inspect any works including hydraulic works, boreholes, dams
13 dykes or any other apparatus which appears to the water management
14 institution to be one to which this Act or the regulations thereunder apply and
15 which may be capable of being used in contravention of the provisions of this
16 Act or regulations made pursuant thereto;

17 (d) inspect any works or water body poses an imminent or potential
18 threat of pollution of water bodies and take necessary samples for analysis;

19 (e) take a sample, specimen or other permanent evidence of any works
20 or other article to which this Act or the regulations apply or which an authorized
21 person has power to examine;

22 (f) examine any book, document or other record which he reasonably
23 believes may, contain any information relevant to the enforcement of this Act
24 or the Regulations and make copies thereof or extracts therefrom;

25 (g) revoke a licence issued under this Act;

26 (h) support action taken by the environment enforcement agency in
27 obtaining an order of the court to suspend activities that are in contravention of
28 this Act.

29 (5) The owner or person in-charge of any premises or other structure
30 whatsoever, entered by an authorized person in pursuance of their duties under

1 this section, shall give all reasonable assistance in their power to the
2 authorised person and shall make available all such information as may be
3 reasonably required for the purpose of this Act.

4 (6) The results of any investigation carried out upon any premises
5 shall be notified to the owners of the premises within a reasonable time.

6 (7) Notwithstanding any provision of this section an authorized
7 person shall not, under any circumstances, enter a dwelling without the
8 consent of the occupier or without a warrant authorizing entry.

9 **124.** Any of the institutions established pursuant to this Act may
10 acquire for its use in furtherance of its duties under this Act and Regulations
11 made pursuant thereto such land within its area of operation as it shall deem
12 necessary subject to the provisions of the Land Use Act, Cap N19 LFN 2004.

Power to acquire
land

13 **125.-(1)** Institutions established under this Act shall keep proper
14 accounts in respect of each financial year and shall appoint an Auditor in
15 accordance with the general guidelines for the appointment of auditors
16 issued by the Auditor General of the Federation.

Appointment of
Auditors

17 (2) The accounts kept by the Institution referred to in subsection (1)
18 hereof shall be examined by the Auditors.

19 (3) The Auditor shall, within six months after the end of each
20 financial year of each such institution, make a report to the relevant
21 Institution and the President on the statement of account prepared by such
22 Institution and such report shall state, whether or not in the opinion of the
23 Auditor, the statement of account gives an accurate and fair view of the state
24 of the Institution's financial affairs.

25 (4) The Auditor General of the Federation may require that an
26 Institution instruct its Auditors to prepare and submit such other reports as
27 he may deem necessary.

28 (5) Every institution shall publish its audited statement of accounts
29 in a national daily newspaper or in any other manner as shall be approved by
30 the President within one month of such audited accounts being approved by

1 the Auditor General as final.

Powers of the
Auditors

2 **126.**-(1) The Auditor shall be entitled at reasonable hours to require to
3 be produced to him all accounts and other records relating to such accounts
4 kept by the Institution appointing such Auditor or its agents and to require from
5 any Member of the governing or apex body or employee or agent of such
6 Institution, information and explanation as in the opinion of the Auditor are
7 necessary for the purpose of their audit.

8 (2) Any of the persons referred to in subsection (1) who fails to
9 comply with any request by the Auditors pursuant to the same subsection shall
10 be guilty of an offence and is liable on conviction to a fine or to imprisonment
11 for a period not exceeding three months or to such fine and imprisonment.

Exemption from
liability

12 **127.** No liability shall attach to the Commission and/or Authority or
13 to any Member or employee of either of these institutions for any loss or
14 damage sustained by any person as a result of the bona fide exercise or
15 performance of any function which by or in terms of this Act is conferred or
16 imposed upon the Commission or Authority.

17 PART XIII - OFFENCES

False declaration

18 **128.** Any person who, in any declaration required to be made under
19 this Act, makes any statement which he knows to be false or does not have
20 reasonable grounds to believe it to be true commits an offence and is liable on
21 conviction to a fine of N50,000 or to imprisonment for a period not exceeding
22 six months or to both such fine and imprisonment.

Non-compliance

23 **129.**-(1) No person shall:
24 (a) use water otherwise than as permitted under this Act;
25 (b) fail to provide access to any books, accounts, documents or assets
26 when required to do so under this Act;
27 (c) fail to comply with any condition attached to a license issued or
28 deemed issued under this Act;
29 (d) fail to comply with a directive issued by the Commission
30 established pursuant to this Act;

1 (e) unlawfully and intentionally or negligently tamper or interfere
2 with any waterworks or any seal or measuring device attached to a
3 waterworks;

4 (f) fail or refuse to give data or information, or give false or
5 misleading data or information when required to give information under this
6 Act;

7 (g) fail to procure a licence or other approval required under this
8 Act upon the expiration of an existing right to use water recognised upon the
9 commencement of this Act;

10 (h) intentionally refuse to perform a duty, or obstruct any other
11 person in the exercise of any power or performance of any of that person's
12 duties in terms of this Act;

13 (i) unlawfully and intentionally or negligently commit any act or
14 omission which pollutes or is likely to pollute a water resource;

15 (j) unlawfully and intentionally or negligently commit any act or
16 omission which detrimentally affects or is likely to affect a water resource;

17 (k) fail to comply with a temporary restriction on the use of water in
18 terms of section 97; or

19 (l) undertake any prohibited activity in a watershed;

20 (2) Any person who contravenes any provision of subsection (1) is
21 guilty of an offence and liable, on the first conviction, to a fine of N50,000 or
22 imprisonment for a period not exceeding five years, or to both a fine and
23 such imprisonment and, in the case of a second or subsequent conviction, to
24 a fine of N100,000 or imprisonment for a period not exceeding ten years or
25 to both a fine and such imprisonment.

26 (3) Any person who violates the provisions of the regulations made
27 pursuant to this Act, commits an offence and shall on conviction, where no
28 penalty is provided in the Regulation, be liable to a fine of up to N50,000 or
29 to imprisonment for a term not exceeding two years or to both such fine and

1 imprisonment and an additional fine of N10,000 for every day the offence
2 subsists.

3 (4) Where an offence under subsection (1) is committed by a body
4 corporate, it shall on conviction, be liable to a minimum fine of N100,000 and
5 an additional fine of N20,000 for every day the offence subsists.

6 (5) The scale of fines specified in this Act shall be reviewed after
7 every 5 years by the National Law Reform Commission in collaboration with
8 the Institutions created under the Act at the instance of the Ministry.

Enquiry in respect
of compensation
for harm, loss or
damage suffered

9 130. Where any person is convicted of an offence under this Act and-

10 (a) another person has suffered harm or loss as a result of the act or
11 omission constituting the offence; or

12 (b) damage has been caused to a water resource, the Court may, in the
13 same proceedings-

14 (i) at the written request of the person who suffered the harm or loss;

15 (ii) at the written request of the Commission in respect of the damage
16 caused to a water resource; and

17 (iii) in the presence of the convicted person, enquire without
18 pleadings into the harm, loss or damage and determine the extent thereof and
19 consider the award of damages under section 131.

Award of damages

20 131.-(1) After making a determination in terms of section 130, the
21 Court may-

22 (a) award damages for the loss or harm suffered by the person referred
23 to against the accused;

24 (b) order the accused to pay for the cost of any remedial measures
25 implemented or to be implemented; and

26 (c) order that the remedial measures to be implemented, be
27 undertaken either by the accused or the relevant Commission.

28 PART XIV - CONSEQUENTIAL AND TRANSITIONAL PROVISIONS

Transitional
Provisions

29 132.-(1) All licences, permits, approvals, or certificates, issued in
30 terms of the acts referred to Part IX and, which had effect immediately prior to

1 the commencement of this Act shall continue to have effect, mutatis
2 mutandis for the remainder of its period of validity as if it had been issued
3 under the appropriate provision of this Act.

4 (2) Without prejudice to the generality of subsection (1), any
5 licenced or authorized use that is in conflict with a Hydrological Area Water
6 Resources Strategy developed under Part VIII shall be subject to
7 notification by the Commission and shall be varied in accordance with
8 procedures under Part VIII section 116(4).

9 (3) Any tariff, price, levy, or surcharge which, immediately before
10 the commencement of this Act, was chargeable with respect to any activity
11 for which provision is made under this Act shall, on and after the
12 commencement of this Act and until further provision is made pursuant to
13 this Act by the relevant authority, continue to be chargeable in respect of
14 these activities and services provided by the relevant authorities.

15 (4) Subject to this Act, any right, obligations, or duty accruing to
16 any person or authority by virtue of any licences, permits, approvals or
17 agreements with respect to any of the activities for which provision is made
18 under this Act, together with any rights in or over any land or water vested in
19 any person pursuant to the Water Resources Act Cap W2 LFN, 2004, as well
20 as the River Basin Development Authority Act, Cap 396 LFN 1990, shall
21 continue to vest in such person or authority as if it had accrued, vested or
22 been acquired pursuant to this Act.

23 (5) Subject to this Act, any permission granted, direction given or
24 other thing whatsoever made, done or commenced which immediately
25 before the commencement of this Act, had or was capable of acquiring force
26 and effect pursuant to the Water Resources Act or the River Basin
27 Development Act shall on and after the commencement of this Act continue
28 to have, or as the case may be, be capable of acquiring force and effect as if it
29 had been granted, given made or commenced as the case may be pursuant to
30 the equivalent sections of this Act.

1 (6) Any existing agreement(s) for the management of water resources
2 in a hydrological area existing at the time this Act enters into force, shall,
3 provided it is generally consistent with the principles of this Act, continue to be
4 effective until it is incorporated into a Hydrological Area Water Resources
5 Strategy.

6 (7) The provisions of the Utilities Charges Commission Act 1992, as
7 amended shall not apply with respect to any of the activities for which
8 provision is made under this Act nor to any of the institutions and authorities
9 created pursuant to this Act.

Savings and
Repeal of Laws

10 133.-(1) Water Resources Act Cap W2 LFN 2004 is hereby repealed.

11 (2) The River Basin Development Authority Act, Cap R8 LFN 2004 is
12 hereby repealed.

13 (3) The Nigeria Hydrological Services Agency (Establishment) Act,
14 2010 is hereby repealed.

15 (4) The National Water Resources Institute Act, Cap N83 LFN 2004 is
16 hereby repealed.

17 (5) The provisions of the National Inland Waterways Act is hereby
18 amended to the extent of any inconsistency with this Act.

19 (6) Any law, regulation, bye-law, or notice, of any State or Local
20 Government Council in force immediately prior to the date of commencement
21 of this Act, in relation to any subject matter or activity provided for under this
22 Act shall be of no force and effect to the extent that it is covered under this Act.

23 PART XV - INTERPRETATION AND CITATION

Interpretation

24 134.-(1) In this Act-

25 "approved professional person" means a person registered as a professional
26 engineer in Nigeria by the Council for Regulation of Engineering in Nigeria
27 (COREN), Council for Mining Engineers and Geo-Scientists (COMEG) or of
28 another country having at least similar standards for registration and who
29 meets the requirements for inspection of dams as laid down by the Minister in
30 regulations;

- 1 "Authority" means River Basin Development Authority established under
2 this Act;
- 3 "basic human needs" means the prescribed minimum quantity and quality of
4 water to households to support life and personal hygiene as quantified in the
5 regulations;
- 6 "basic sanitation" means the prescribed minimum standards of services
7 necessary for the safe, hygienic and adequate collection, removal, disposal
8 or purification of human excreta, domestic waste-water and sewage from
9 households, including informal households;
- 10 Basin" means the land area formed by drainage boundaries of the major river
11 and lake systems as delineated by natural topographical features and
12 international borders, and which may be subdivided into a number of
13 constituent parts, as defined in Schedule 2, and which includes both surface
14 water and groundwater resources;
- 15 "Basin Strategy" means a water resources strategy for a Basin under this
16 Act;
- 17 "Borehole" means any hole that is driven, drilled, dug or bored either cased
18 or uncased by any method into the ground, for the purpose of obtaining
19 water or knowledge of water bearing or soil formation, or for the disposal of
20 surface water drainage;
- 21 "catchment area" means the area from which any rainfall will drain into the
22 watercourse or watercourses or part of a watercourse, through surface flow
23 to a common point or common points;
- 24 "Catchment Management Office" means a body established by the
25 Commission in each hydrological zone and headed by a Catchment
26 Management Officer;
- 27 "Commission" means Nigeria Water Resources Commission;
- 28 "Council" means the National Council on Water Resources established
29 under this Act;
- 30 "designated person" means a person nominated under this Act to undertake

- 1 public consultations in accordance with this Act and its associated rules;
- 2 "drinking water standards" mean standards for safe drinking water adopted by
- 3 the Federal Republic of Nigeria;
- 4 "Federation" means the Federal Republic of Nigeria;
- 5 "groundwater" means water from aquifers or other underground sources;
- 6 "hydrological zone" means area defined in Schedule 2;
- 7 "hydraulic works" means all reservoirs, dams, barrages, weirs, canals,
- 8 channels, tunnels, pipelines, aqueducts, sluices, structures, embankments
- 9 constructed for the storage, conveyance, supply, measurement, regulation of
- 10 water and protection from the effects of floods;
- 11 "large dam" means a structure, whether constructed or proposed to be
- 12 constructed, which together with its abutments, appurtenant works and
- 13 foundation, is capable of diverting or storing water and which:
- 14 (i) has a vertical height of fifteen metres or more measured from the
- 15 non-overflow crest of the wall of the structure to the lowest point on the
- 16 downstream face of the wall;
- 17 (ii) is capable of storing one million or more cubic metres of water at
- 18 full supply level;
- 19 (iii) has foundations which, in the opinion of the Inspectorate as
- 20 notified to the owner of the structure, may or does cause special or unexpected
- 21 difficulties; or
- 22 (iv) in the opinion of the Inspectorate as notified to the owner of such
- 23 structure, is a small dam of unusual design.
- 24 "licence" means a licence in force under this Act;
- 25 "licensee" means the holder of a licence under this Act;
- 26 "Minister" means the Federal Minister responsible for water resources;
- 27 "Ministry" means the Federal Ministry responsible for water resources;
- 28 "Nigeria Water Resources Commission" means the body established under this
- 29 Act with the Responsibility for the Regulation and Management of Water in
- 30 Nigeria;

1 "person" includes an individual, company, government agency, partnership
2 or any other association of individuals, whether incorporated or not;

3 "owner of a dam" means the person entitled to divert or store water by means
4 of the large dam or small dam and includes the person in charge of that dam;

5 "personal irrigation" means the use of water for subsistence agriculture and
6 in no case exceeding 0.5ha;

7 "pollution" means man-made or man-induced alteration of the chemical,
8 physical, biological and radiological integrity of water;

9 "prescribed activity" means any activity requiring a licence under section 97
10 of this Act;

11 "reasonable domestic use" means an amount needed by a household for
12 drinking, cooking, washing, sanitation and domestic livestock that is set out
13 in the regulations;

14 "Reserve" in relation to a water resource means that quantity of water
15 required under this Act-

16 (a) to satisfy basic human needs for all people who are or may be
17 supplied from the water resource; and

18 (b) to maintain significant environmental services of the water
19 resource including protection of aquatic ecosystems.

20 "safe drinking water" means water that does not represent any significant
21 risk to health over a lifetime of consumption including different sensitivities
22 that may occur between life stages;

23 "Secretary" means the Secretary to the Government of the Federation;

24 "small dam" means a structure, whether constructed or proposed to be
25 constructed, which, together with its abutments, appurtenant works and
26 foundations, is capable of diverting or storing water and which:

27 (i) has a vertical height of more than eight metres but less than
28 fifteen metres measured from the non-overflow crest of the wall of such
29 structure to the lowest point on the downstream face of such wall; or

30 (ii) is capable of storing more than five hundred thousand but less

- 1 than one million cubic metres of water at full supply level;
- 2 "State" means one of the 36 States of the Federal Republic of Nigeria;
- 3 "State water" means water that comes under the jurisdiction of a State in terms
4 of the Constitution of the Federal Republic of Nigeria;
- 5 "State water agency" means an agency established by the Government of a
6 State for the delivery of water supply and sanitation services or management of
7 State Water;
- 8 "State regulatory water Commission" means a body established by a State for
9 the regulation of the provision of water services in urban and semi-urban areas.
- 10 "stream flow reduction activity" means any activity that reduces runoff from a
11 catchments to a river system;
- 12 "surface water" means any natural or man-made body of water, flowing or
13 standing, on the surface of the land including rivers, streams, lakes, reservoirs,
14 lagoons, wetlands, swamps, creeks, deltas and estuaries;
- 15 "task" includes a task relating to designing, constructing, altering, repairing,
16 impounding water in, operating, evaluating the safety of, maintaining,
17 monitoring, abandoning or de-Commissioning a dam;
- 18 "this Act" include the regulations;
- 19 "waste" means any material that is suspended, dissolved or transported in water
20 (including sediment) and which is spilled or deposited on land or into water
21 resources in such volume, composition, or manner as to cause, or be reasonably
22 likely to cause, the water resource to be polluted;
- 23 "water bodies" means groundwater or surface water;
- 24 "water course" means any natural channel or depression in which water flows
25 regularly or intermittently;
- 26 "water management area" means an area over which a water management
27 institution has jurisdiction under this Act;
- 28 "water management institution" means the National Council on Water
29 Resources, Federal Ministry of Water Resources, Nigeria Water Regulatory
30 Resources Commission, a body established for an international basin, a River

1 Basin Development Authority, a Water User Association, a State Water
2 Agency, or other person who fulfils the functions of a water management
3 institution under this Act;

4 "water well" means borehole

5 "water services" means any service of or incidental to the supply of water, or
6 the provision of sewerage, sanitation or irrigation;

7 "water users association" means an association of water users with a
8 common use of water and involved in the local management thereof, either
9 registered under State legislation or recognised as an effective community
10 based organisation.

11 135. This Bill may be cited as the National Water Resources Bill, Citation
12 2016.

13 SCHEDULES

14 SCHEDULE 1

15 Designation of Water Bodies declared as affecting more than one State
16 pursuant to item 64 of the Exclusive Legislative list in Part 1 of the Second
17 Schedule to the Constitution of the Federal Republic of Nigeria, 1999.

18 All water, whether surface or underground, from time to time contained
19 within or flowing or percolating through such sources, and the tributaries
20 and catchment areas thereof:

21 (1) Source 1 - The River Niger from the border between the Federal
22 Republic of Nigeria and the Niger Republic to the outlet of the Kainji
23 reservoir, including-

24 (a) the Sokoto Rima River from the border with the Federal
25 Republic of Nigeria;

26 (b) all the tributaries of the River Niger crossing the border to the
27 Benin Republic; and

28 (c) the Sokoto sedimentary (western) hydro-geological area.

29 (2) Source 2 - The River Niger from the outlet of the Kainji

1 reservoir to the point of confluence of the River Niger and the Benue River,
2 including-

- 3 (a) The Kaduna River with the tributaries;
4 (b) the Gurara River;
5 (c) all the tributaries of the River Niger crossing the border to the
6 Benin Republic; and
7 (d) the upper Niger sedimentary (Niger) hydro-geological area.

8 (3) Source 3 - The Benue River from the border between the Federal
9 Republic of Nigeria and the Republic of Cameroon to the point of confluence
10 of the Benue River and the River Niger, including:

- 11 (a) the Gongola River;
12 (b) the Pai-yul River;
13 (c) the Wase River;
14 (d) the Shemankar River;
15 (e) the Dep River;
16 (f) the Mada River.
17 (g) all the tributaries of the Benue crossing the international border to
18 the Republic of Cameroon, and
19 (h) the Benue sedimentary (Benue) hydro-geological area.

20 (4) Source 4 - The River Niger from the confluence thereof and of the
21 Benue River, including the Delta of the River Niger and all water tributaries or
22 influent thereto or diffluent therefrom, including:

- 23 (a) the Anambra River;
24 (b) the Imo River;
25 (c) the Akwa Ibom River; and
26 (d) the Aboine River .
27 (5) Source 5 - All water courses directly or indirectly influent to the
28 Lagoon and other littoral Lagoons and water courses from the border with the
29 Republic of Benin to the mouth of the Forcados River, including:

- 30 (a) the Oshun River;

1 (b) the Ogun River;
 2 (c) the Shasha River;
 3 (d) the Owena River; and
 4 (e) the Ogun/Oshun sedimentary (south-western) hydro geological
 5 area.

6 (6) Source 6 - All water rising or situated in the Federal Republic of
 7 Nigeria which are directly or indirectly influent into the Lake Chad,
 8 including the Chad sedimentary (north-eastern) hydro geological area.

9 (7) Source 7 - The Cross River from the boundary between the
 10 Federal Republic of Nigeria and the Republic of Cameroon and all water
 11 tributaries or influent thereto or diffluent there from including the Cross
 12 River sedimentary (south-eastern) hydro-geological area.

13 SCHEDULE 2

14 *List of Hydrological Areas*

15 Name of Zone	16 Member States
17 HA-I	Katsina, Zamfara, Sokoto, Kebbi, Niger, Kano
18 HA-II	Niger, Kaduna, Plateau, Kogi, FCT
19 HA-III	Adamawa, Bauchi, Gombe, Plateau, Taraba, Yobe.
20 HA-IV	Benue, Nasarawa, Plateau, Taraba
21 HA-V	Anambra, Bayelsa, Delta, Imo, Kogi, Rivers
22 HA-VI	Abia, Akwa-Ibom, Cross River, Ebonyi, Enugu, Imo.
HA-VIII	Bauchi, Borno, Gombe, Jigawa, Kano, Yobe.

SCHEDULE 3

List of River Basing Development Authorities

SIN	Column 1 Name of Authority	Column 2 States of Operation	Column 3 Headquarters
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SCHEDULE 4

Supplementary provisions relating to the Board of Nigeria Water

Resources Commission, etc.

1. Subject to this Act the Board may make standing orders to

1 regulate proceedings or those of any of its committees.

2 2. The quorum of the Board shall be the Chairman or the person
3 presiding at the meeting and 5 other Members of the Board, and the quorum of
4 any Committee of the Board shall be as determined by the Board.

5 3. The Board shall meet at least four times a year or whenever it is
6 summoned by the Chairman or if the Chairman is required to do so by written
7 notice to him by not less than 4 other Members, he shall summon a meeting of
8 the Board to be held within 14 days of the written notice.

9 4. At any meeting of the Board, the Chairman shall preside but if he is
10 absent, the Members present at the meeting shall appoint one of their Members
11 to preside.

12 5. Where the Board desires to obtain the advice of a person on a
13 particular matter, the Board may co-opt him to the Board for such period as it
14 deems fit, but a person who is in attendance by virtue of this sub-paragraph
15 shall not be entitled to vote at any meeting of the Board and shall not count in
16 determining quorum.

17 *Committees*

18 6.-(1) The Board may appoint one or more committees to carry out, on
19 behalf of the Board, such functions as the Board may determine.

20 (2) A committee constituted under this paragraph shall, consist of
21 such number of persons as may be determined by the Board and a person shall
22 hold office on the Committee in accordance with the terms of his appointment.

23 (3) A decision of a committee of the Board shall be of no effect until it
24 is confirmed by the Board.

25 7. At any time when the office of the Chairman is vacant or the
26 Chairman is in the opinion of the Board temporarily or permanently unable to
27 perform the functions of his office, a Member of the Board duly appointed by
28 the Minister shall perform those functions and references in this Schedule to
29 the Chairman shall be construed accordingly.

30 8. The fixing of the seal of the Commission shall be authenticated by

1 the signature of the Chairman or of some other Member authorized
2 generally or specially by the board to act for that purpose for the
3 Commission.

4 SCHEDULE 5

5 BOARD OF AGENCIES ESTABLISHED UNDER PARTS V, VI, VII

6 *Proceedings of the Board Meetings*

7 1. The Board shall meet at least four times a year or whenever it is
8 summoned by the Chairman or if the Chairman is required to do so by
9 written notice to him by not less than 4 other Members, he shall summon a
10 meeting of the Board to be held within 14 days of the written notice.

11 2. At any meeting of the Board, the Chairman shall preside but if
12 he is absent, the Members present at the meeting shall appoint one of their
13 Members to preside.

14 3. Subject to the provisions of this Act, the Board may make
15 standing orders with respect to the holding of meetings, the nature of notice
16 to be given, the proceedings thereat, the keeping of minutes of such
17 proceedings and the custody and production for inspection of such minutes.

18 4. Where the Board desires to obtain the advice of a person on a
19 particular matter, the Board may co-opt him to the Board for such period as it
20 deems fit, but a person who is in attendance by virtue of this sub-paragraph
21 shall not be entitled to vote at any meeting of the Board and shall not count in
22 determining quorum.

23 5. Any Member of the Board or any of its Committees having a
24 personal interest in any contract or arrangement entered into or proposed to
25 be entered into by the Agency or any of its Committees shall declare his
26 interest to the Board or Committee and shall not vote on any question
27 relating to the contract or arrangement. Such declaration shall be recorded in
28 the minutes of meeting.

29 6. The validity of any proceeding of the Board or of any of its
30 committee shall not be affected:

1 (a) by any vacancy in the Membership of the Board or any such
2 committees;

3 (b) by any defect in the appointment of any Member;

4 (c) by reason of the fact that any person not entitled to do so took part
5 in the proceedings.

6 *Questions*

7 7.-(1) Every question put before the Board at a meeting shall be
8 decided by a majority of the votes of the Members present and voting.

9 (2) The chairman shall, at any meeting have a vote, and in the case of
10 an equality of votes, may exercise a casting vote.

11 *Committees*

12 8.-(1) The Board may appoint one or more committees to carry out, on
13 behalf of the Board, such functions as the Board may determine.

14 (2) A committee constituted under this paragraph shall, consist of
15 such number of persons as may be determined by the Board and a person shall
16 hold office on the Committee in accordance with the terms of his appointment.

17 (3) A decision of a committee of the Board shall be of no effect until it
18 is confirmed by the Board.

19 9. Subject to this Act the Board may make standing orders to regulate
20 proceedings or those of any of its committees.

21 10. At any time when the office of the Chairman is vacant or the
22 Chairman is in the opinion of the
23 Board temporarily or permanently unable to perform the functions of his
24 office, a Member of the Board duly appointed by the Minister shall perform
25 those functions and references in this Schedule to the Chairman shall be
26 construed accordingly.

27 11. The fixing of the seal of the Commission shall be authenticated by
28 the signature of the Chairman or of some other Member authorized generally or
29 specially by the board to act for that purpose for the Commission.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the equitable, beneficial, efficient and sustainable development, management, use and conservation of Nigeria's surface and groundwater resources; to establish institutional arrangements for Nigeria's water resources sector, to regulate the water resources sector.

