

# **RIVERS STATE**

## **WATER SECTOR DEVELOPMENT LAW**

**NO. 7, OF 2012**

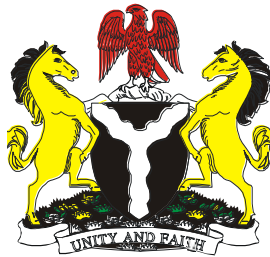
Assented to this ..... day of ..... 2012

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**Rt. Hon. Chibuike Rotimi Amaechi**

Executive Governor of Rivers State of Nigeria

GOVERNMENT OF RIVERS STATE OF NIGERIA



*A law to provide for the development and regulation of the Rivers State Water and Sanitation sector, the establishment of the Port Harcourt Water Corporation; Rivers State Small Towns Water Supply and Sanitation Agency; Rivers State Rural Water Supply and Sanitation Agency; Rivers State Water Services Regulatory Commission, Role of Government, Private Sector Participation and other matters connected therewith.*

*General  
Statement of  
Purposes*

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*Commencement*

BE IT ENACTED by the House of Assembly of Rivers State of

*Enactment*

Nigeria as follows:

## **PART 1**

### **GENERAL OBJECTIVES AND PRINCIPLES**

#### **1. General Objectives of the Law.**

The general objectives of this Law are to provide for:

- (a) the right of access to basic sanitation and basic water supply necessary to secure sufficient water and an environment not harmful to human health or well-being;
- (b) the setting of norms and standards for service provision for tariffs in respect of water and sanitation services;
- (c) the preparation and adoption of water services development plans by the Ministry responsible for water resources;
- (d) a regulatory framework for water services institutions and other water services providers;
- (e) the establishment of State Water Supply and Sanitation service delivery Agencies and of the State Water Supply and Sanitation (WSS) Steering Committee;
- (f) the formulation, monitoring and review of the Rivers State Policy for the water and sanitation sector;
- (g) coordination of intervention in water and sanitation delivery by Federal, State and Local Governments as well as other non-governmental agencies and bodies;
- (h) the gathering and dissemination of relevant information in a State information system;
- (i) the accountability of water and sanitation services providers;
- (j) the promotion of effective water resource management and conservation;
- (k) collaboration of the sector institutions with other National and State agencies in the development of water and sanitation services in accordance with the National water policy, the State Water Policy, the State Water Supply and Sanitation Sector master plan, and
- (l) encouraging private sector participation in Water Supply and Sanitation.

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

- (1) The principles, implementation and responsibilities set out in this section shall be regarded by every Ministry, Departments and Agencies of Government as well as the private Water Service Providers (WSP), and other non-governmental agencies and

organizations as being fundamental to every activity undertaken within the State Water and Sanitation Services Sector.

(2) These principles are as follows:

- (a) water resources within the State are a common good belonging to all residents of the State;
- (b) within the context of an Integrated Water Resources Management (IWRM) approach to managing water resources, the Government recognizes Water as a social good, an economic good, as well as an environmental good;
- (c) everyone has a right of access to basic portable water and basic sanitation which right takes precedence over supply for any other uses;
- (d) ensuring the affordability of water supply and sanitation services for the low income and poor sections of the populace by the development of mechanisms to ensure access to basic water and sanitation services through cross subsidies as well as targeted and justifiable Government subsidies;
- (e) the government recognizes the role of the Private Sector in water resources and sanitation development, and shall create necessary enablement for the participation of the Private Sector in the delivery of water and sanitation services;
- (f) publicly owned water and sanitation infrastructure and assets shall be held in trust for the people by the State Government and shall be vested in public water utilities established pursuant to this Law. Such assets may be granted to private Water Service Providers (WSP) for the purpose of service provision in Public Private Partnership (PPP) arrangements, other than absolute divestitures as may be approved by the State Government.
- (g) the public water utilities shall be managed as commercial enterprises, free from political interference, autonomous in its managerial, financial, technical and personnel functions to ensure effective operation, maintenance, and cost recovery.
- (h) water and Sanitation management and development shall be based on participatory approach, involving users, planners and policy makers at all levels. Decisions shall be made at the lowest appropriate level in accordance with the provisions of this Law;

- (i) equal gender representation in all water and sanitation decision making organs at the State, Local, and Community levels;
- (j) all water providers in the State shall produce potable water that meets quality standards issued by the Rivers Water Regulatory Commission (COMMISSION) based on the Nigerian Standards for Drinking Water Quality as issued and amended by the Standards Organization of Nigeria and the Federal Ministry of Health from time to time;
- (k) the State Government shall develop investment plans for the development of water and Sanitation infrastructure for the Sector and shall make provisions for necessary funds for such investments in accordance with the State water sector development plans, the State development plans and the State economic plans;
- (l) the State Government shall, through the Ministry responsible for water resources, implement the Short, Medium and Long term goals for the sector as articulated in the Rivers State Water and Sanitation Policy and Sector Strategy including periodic policy development and review, institutional reform, capacity building, and creation of necessary enabling environment for Sector development.
- (m) emphasis shall be on conflict prevention and management in the Sector to assure water and food security as well as reliability and sustainability of service through appropriate regulatory mechanism;
- (n) the State Government shall ensure that the organizational responsibility for Policy formulation and sector coordination, water service provision, and sector regulation shall be clearly separated and vested in individual institutions;
- (o) the Regulator shall be independent
- (p) water supply and sanitation service provision in the State shall be along the lines of: supply in Port Harcourt and Obio/Akpor as described in the schedule hereto, WSS service provision in small towns as described herein, as well as water supply and sanitation in rural areas of the State to ensure improved access and coverage to all residents of the State;
- (q) government-owned water and sewage infrastructure and assets in Port Harcourt and Obio/Akpor shall be vested in the Port Harcourt Water Corporation which may engage the Private Sector for the performance of any of its statutory functions with respect thereto, subject to the approval of the Governor;

- (r) water supply and sanitation service delivery in small towns shall be the responsibility of the Rivers State Small Towns Water Supply and Sanitation Agency (RSSTOWA) which shall collaborate with the Local Government and the Water Consumer Association in those small towns in the delivery of these services. The RSSTOWA may engage with the WCA or appropriate Private Sector Operators for the delivery of these services subject to the approval of the Governor;
  - (s) rural communities shall have ownership of water supply and sanitation assets at the rural level, while the Rural Water Supply and Sanitation Agency (RUWASSA) shall provide technical assistance and advisory services for finance, design, construction, operation and maintenance;
  - (t) cost recovery and affordability shall be the focus of water service provision for all water service institutions and providers in the State; and
  - (u) the Ministry responsible for water resources and every water service Institution and water service providers shall provide for measures to realize these Rights in their Water Sector Development Plans as well as in their operations.
- (3) The rights mentioned in this section are subject to the limitations contained in this Law.

## PART II

### ESTABLISHMENT, COMPOSITION, FUNCTIONS, POWERS ETC OF THE PORT HARCOURT WATER CORPORATION

#### 3. Establishment of the Port Harcourt Water Corporation.

- (1) There is hereby established the Port Harcourt Water Corporation, (hereinafter referred to in this Law as “the **Corporation**”).
- (2) The Corporation shall:
  - (a) be a body corporate with perpetual succession and a Common Seal;
  - (b) have power to sue and be sued in its corporate name; and
  - (c) be capable of holding, purchasing, acquiring and disposing of property, movable and immovable.

- (3) All existing and new State-owned water supply and sewage infrastructure in Port Harcourt and Obio/Akpor as described in Schedule 1 hereto are hereby vested in the Corporation.

**4. Objectives of the Corporation.**

The objectives of the Corporation shall be to;

- (a) provide safe, adequate and affordable water supply services to the residents of Port Harcourt and Obio/Akpor;
- (b) provide waste water and sewage management services by the collection, treatment, and disposal of waste water and sewage generated by consumers within its area of operation, and the provision of other services incidental thereto.
- (c) collaborate with the Ministry responsible for water resources to secure efficient use, conservation and protection of water resources including the preparation of development plans for input into the State Water, Sanitation and Hygiene (WASH) Sector Development Plans.
- (d) implement cost recovery and commercial orientation in service provision and maintain customer focus for service sustainability and efficiency.

**5. Composition of the Governing Board**

- (1) There is hereby established for the Corporation, a Governing Board (hereinafter referred to in this Law as the “Board”) which shall consist of eight (8) members who shall be professionals in the field of finance, Law, water engineering, sanitary engineering or public health engineering, and shall include;
- a. chairman;
  - b. managing director and chief executive officer (referred to in this Law as “the MD”);
  - c. the Commissioner responsible for Water Resources;
  - d. A professional in the water sector with a minimum of ten (10) years cognate experience;
  - e. A professional with fifteen (15) years cognate experience in Management and Administration;
  - f. A representative from the Civil Society Organization (CSO) involved in water sector.
  - g. A representative of the Ministry of Environment.

- (2) The Chairman and other members of the Board under subsection (1) shall be appointed by the Governor and shall serve as part-time members.
- (3) In the appointment of members, the Governor shall take into consideration gender representation.
- (4) The Board shall meet to conduct its business once a quarter and at such other times as may be expedient for the urgent dispatch of the affairs of the Board

**6. Remuneration of members:**

There shall be paid to the members of the Board such remuneration, allowances as the Governor may from time to time determine.

**7. Tenure of Office of Members.**

Subject to any other terms and conditions as may be stipulated in the letter of appointment,

- i) the Chairman shall hold office for a term of four (4) years while,
- ii) other members of the Board shall hold office for a term of four (4) years;
- iii) the Chairman and other members of the Board may be reappointed for another four years.

**8. Functions of the Governing Board.**

The functions of the Governing Board are as follows:

- (a) making strategic decisions on the mandate and activities of the Corporation;
- (b) reviewing and approving the business plans, budgets and performance of the Corporation;
- (c) approving pre-qualified Private Sector Participants in accordance with this Law and the Rivers State Public Private Participation in Infrastructure Development Law, No. 5 of 2009; the Rivers State Public Procurement Law No. 4 of 2008 and any other applicable Law;
- (d) monitoring the implementation of the State WASH Policy as it affects water supply and sewage management in its areas of operations;
- (e) ensuring compliance with regulations and standards set by the COMMISSION;
- (f) approving and monitoring the implementation of the water services development plans of the Corporation;
- (g) proposing tariffs for water supply and sewage management services for approval by the COMMISSION;



- (h) taking all steps to ensure that in the discharge of their duties, the Board does not engage in activities which prejudice, unduly influence, coerce or subvert the normal legal, commercial and financial activities of the Corporation, and
- (i) undertaking any other business which may be considered necessary by the Board in pursuance to the functions of the Corporation.

**9. Proceedings of the Board.**

The provisions contained in Schedule IV to this Law shall have effect with respect to the proceedings of the Board and other matters mentioned therein.

**10. Vacation of Office**

Notwithstanding the provisions of Section 7 of this Law, a member shall vacate his office and his office shall become vacant if:

- (a) he gives one month notice in writing to the Governor of his intention to resign;
- (b) he is convicted of any crime involving dishonesty or fraud by a court of competent jurisdiction;
- (c) he attains the age of 65 years;
- (d) he attends fewer than 75% of the Board's meetings in a year;
- (e) he is barred from practicing his profession by any professional body to which he belongs;
- (f) he becomes bankrupt;
- (g) he becomes of unsound mind or incapable of carrying out his duties; or
- (h) he is guilty of serious misconduct with relation to his duties as a member of the Board.

**11. Functions of the Corporation**

The functions of the Corporation shall be to:

- (1) Control and manage all existing State-owned water and sewerage infrastructure and assets for public, agricultural, domestic, industrial and general purposes in its area of operation;
- (2) Develop, manage, operate and maintain new water and waste/sewage infrastructure and assets for the purpose of providing wholesome, potable water for domestic consumption of the public, and water for commercial, industrial, scientific and other uses in its area of operation;

- (3) Supply wholesome portable water to consumers in line with Regulations issued by the Commission based on the National Drinking Water Quality Standards (NDWQS) for water quality;
- (4) Prepare plans for the development and maintenance of water supply services infrastructure in its areas of operation (referred to as the ***“Water and Sanitation Services Development Plans”***), in consultation with the relevant authorities, stakeholders, and consumer groups;
- (5) Identify and implement projects for the provision of water and sewage management services which may be undertaken with private sector participation after consultation with the relevant authorities and subject to the approval of the Governor;
- (6) Enter into and monitor compliance with terms of agreements with the private sector for the performance of any of the functions that the Corporation may by law perform subject to the approval of the Governor and in accordance with the ***Rivers State Public Private Participation in Infrastructure Development Law No. 5 of 2009, and, the Rivers State Public Procurement Law No. 4 of 2008*** and any other applicable Law;
- (7) Ensure the supply of portable water in the State, either pursuant to project agreements with private participants, or by raising necessary funds through the capital market.
- (8) Establish and implement proper accounting procedure for all of the assets and liabilities of the Corporation;
- (9) Encourage from time to time the conduct of research for the purpose of carrying out the functions of the Corporation;
- (10) Submit the result of such research to the Board, the Ministry responsible for water resources, and the Ministry for Environment for the utilization of same in the formulation of the State Policy relating to water supply and sewage, and water pollution control in the State;
- (11) Authorize or delegate any officer, employee, servant or contractor of the Corporation to act as agent of the Corporation for any functions, services or facilities which may be exercised, performed or provided by the Corporation;
- (12) Propose water and sewage management tariffs for the approval of the COMMISSION;
- (13) Specify the terms and conditions of supply of water to the consumers based on Standards issued by the COMMISSION;
- (14) Develop, maintain and beneficially exploit water resources, both natural and artificial for the purpose of carrying out her functions in accordance with this law;

- (15) Provide data on water supply, sanitation, and hygiene-related matters for formulation of Policy;
- (16) Recommend Regulations to the COMMISSION for the protection and preservation of the assets of the Corporation and water resources of the State;
- (17) Promote the rational use of water resources and portable water;
- (18) Conduct training and retraining of staff for skills development;
- (19) Propose and charge a flat fee for water supply where provision for water supply is available subject to the approval of the COMMISSION
- (20) Carry out any other activities that are expedient or necessary for the effective and efficient performance of its functions.

## **12. Powers of the Corporation**

- (1) The Corporation shall, subject to the provisions of this Law, have power for the purpose of carrying out its functions to:
  - (a) Own all government water services, assets, and construct new water services, assets within its areas of operation as described in Schedule 1 hereto;
  - (b) Own all government sewage networks, sewage management and waste water infrastructure, assets and construct all such assets within its areas of operation as described in schedule 1 thereto;
  - (c) Collect all rates and charges payable by customers for water and sewage management services supplied by the Corporation and determine all other fees, subject to the approval of the Commission.
  - (d) Acquire, purchase, lease, hold, construct, manufacture, maintain or insure any property forming part of the water and sewage management services infrastructure of the Corporation, whether moveable or immovable, required for or in connection with the performance of its functions and may sell, lease, concede, dispose of, or otherwise deal with such property or any part thereof subject to the approval of the Governor in instances of sale;
  - (e) Procure water abstraction rights from the relevant authorities and may assign such rights to private participants and communities;
  - (f) Lay any water pipe or sewers through, across, or under any street or any place laid out or intended as a street and after giving reasonable notice in writing to the owner or occupier thereof, and thereafter, make good any damage done;

- (g) Examine from time to time any surface or underground water forming part of the water resources of the State for the purpose of determining what pollution, if any arrangement with the appropriate authority under and in accordance with the provisions of any existing Law in that behalf.
- (h) Subject to the issuance of reasonable notice to the occupier thereof, at any time between the hours of six o'clock in the morning and six o'clock in the evening, or in case of urgency at any other time, to enter into premises or place upon which any service has been laid or into which any water supply services is supplied or upon which wastewater and sewage is generated so as to:
  - (i) Inspect and repair any service and to ascertain whether there is any wastage, leakage, obstruction, illegal connection or disposal of sewage, or damage to any service or meter therein and anything in connection therewith;
  - (ii) Ascertain the amount of water taken or used or;
  - (iii) Disconnect the supply of water or of any sewer to any premises;
- (i) Diminish, withhold, or suspend, stop, turn off or divert the supply of water through or by means of any service or public fountain either wholly or in part whenever the Corporation deems necessary subject to Regulations of the COMMISSION on connection and disconnection of Service.
- (j) Accept or acquire and hold any security of any kind in any form whatsoever;
- (k) Surrender, transfer or re-convey any security held by the Corporation whether upon exchange for other security or upon discharge;
- (l) Make, draw, accept, or endorse, negotiable instrument;
- (m) Invest money standing to its credit and not for the time being required for its immediate need, in accordance with the **provisions of this Law and the Rivers State Finance (Control and Management) Law, No. 7 of 2010.**
- (n) Write off bad debts with the approval of the Governor, and notify the Commission accordingly;
- (o) Raise financing or borrow money in accordance with the **provisions of Part IX of the Rivers State Fiscal Responsibility Law, No. 8 of 2010 or any other relevant law.**
- (p) Grant exemptions from any water rate or charge from the State Fire Service;

- (q) Collect from the Local Government Councils such fees as may be agreed in respect of services provided.
- (2) The Corporation shall have Power, for the purpose of carrying out its functions, to do all such acts as appear to it to be expedient, advantageous, or convenient and may carry on any activities in that behalf either alone or in association with any other person or body.

## **STAFF OF CORPORATION**

### **13. The Managing Director**

- (1) There shall be appointed by the Governor an officer of the Corporation to be known as the Managing Director who shall be subject to the general direction of the Board and shall;
  - (a) be the Chief Executive and Chief Accounting Officer of the Corporation (referred to in this Law as **“the MD”**)
  - (b) be responsible for the implementation of the decisions and policies of the Board of the Corporation as well as the general administration of the Corporation.
  - (c) perform such other duties as the Board of the Corporation may from time to time direct.
- (2) The Managing Director/Chief Executive Officer shall:
  - (a) be appointed by the Governor pursuant to advertisement and after competitive bidding and screening of the candidates for that position;
  - (b) be a person with a Professional qualification in either Engineering, Law, Accountancy, Business Administration, Physical and Environmental Sciences or other relevant discipline and registered with their Professional bodies where such bodies exist and shall have held a senior Management position for a minimum of ten (10) years in a public or private organization; and
  - (c) be appointed pursuant to a Performance-Based Contract for a term of 5 years which may be renewable upon considerations of the improved financial, managerial, operational, and other relevant indices of the Corporation.
- (3) A report shall be submitted by the Managing Director to the Board on a quarterly basis as an assessment of the performance of the Managing Director which shall also include

a proposed action plan. Such report shall be further submitted by the Board to the Governor.

**14. Administration of the Corporation**

The Managing Director shall be assisted in the performance of his duties by Heads of Department in charge of:

- (a) Administration;
- (b) Operation and Maintenance (water supply)
- (c) Operation and maintenance (Sewerage services)
- (d) Commercial;
- (e) Projects and Planning; and
- (f) Finance and Accounts; and
- (g) Such other departments as the Board may deem necessary

**15. The Secretary.**

- (1) There shall be a Secretary (referred to in this Law as “the Secretary”) to the Board who shall be responsible to the MD/CEO and shall assist the Board and the MD/CEO in the discharge of their functions under this Law.
- (2) The Secretary shall be any qualified Professional from within or outside the public service of the State with minimum of (15) years of his professional qualification.

**16. The Functions of the Secretary.**

The Secretary shall perform the following functions:

- (a) Organize and take minutes of the meetings of the Board;
- (b) Keep the seal and records of the Corporation and conduct correspondence of the Board;
- (c) Arrange for payment of fees and allowances of meetings and all other matters affecting members of the Board.
- (d) Communicate policy decisions at Board meetings to affected Departments;
- (e) Keep custody of copies of Asset Register, Financial Reports and Annual Reports of the Corporation; and
- (f) Perform all other duties as the Board or the MD/CEO may from time to time direct.

**17. Legal Adviser.**

- (1) There shall be a legal adviser to the Board who shall be head of the Legal department.
- (2) **The legal adviser shall** render necessary advice on compliance with Laws, rules and regulations as it affects the operations of the Corporation.

**18. Other Staff of the Corporation**

- (1) The Corporation may appoint such number of staff and other employees as it may from time to time require either directly from the private sector or by way of deployment from the State Public Service to assist in the discharge of its functions under this Law PROVIDED however that the board shall confirm the employment of Management staff.
- (2) The Corporation may determine generally the Terms and Conditions of Service of the staff and other employees which shall include:
  - (a) conditions for the appointment, promotion, termination and dismissal of staff and other employees; and
  - (b) procedures for Appeals by employees against dismissal or termination or other disciplinary measures:

PROVIDED that until such conditions of service are made, any instrument relating to the conditions of service in the Public Service of the State shall be applicable, with such modifications as may be necessary, to Staff and employees of the Corporation.

- (3) The Board may determine the salaries and emoluments of the staff and other employees of the Corporation which shall not be lower than that applicable to staff and other employees of the same cadre in the state civil service.
- (4) It is hereby declared that Service in the Corporation shall be approved Service under the provision of the relevant State Pensions Law and accordingly, staff and other employees of the Corporation shall be entitled to Pensions, gratuities and other retirement Benefits as prescribed under such Law.
- (5) Without prejudice to the provisions of subsection (4) of this section, nothing in this Law shall prevent the appointment of any person to any office on terms which preclude the grant of pension, gratuity or other retirement benefits with respect to that office.

**FINANCIAL PROVISIONS**

**19. Funds and Resources of the Corporation.**

- (1) The funds and resources of the Corporation shall consist of:

- (a) all sums, investments or other property vested in the Corporation by virtue of the provisions of this law;
- (b) such sums or other property as may from time to time be advanced by way of loans or grants to the Corporation by any Federal, State, or Local Government, any International Organization, and Private foundation or any person whatsoever,
- (c) any investments or other property whatsoever acquired by the Corporation;
- (d) all other sums such as water rates, sewage management charges, water services charges, or other property whatsoever which may accrue to the Corporation in the course of performing its functions in accordance with this Law;
- (e) any money allocated to the Corporation under the State Government budgetary allocation or such other money as may from time to time accrue to the Corporation.

**20. Bank Account**

The Corporation shall operate Bank Accounts with reputable Banks approved by the Board for its funds and the signatories to the accounts shall be the MD and the Head of Accounts, or in their absence any other persons authorized by the Board.

**21. Application of the Corporation's Funds**

The following charges shall be defrayed out of the funds of the Corporation for any financial year:

- (a) The remuneration and allowances of the members of the Board of the Corporation;
- (b) The salaries, remuneration, fees, allowances, pensions and gratuities of the staff, employees, agents, technical and other advisers or Consultants of the Corporation;
- (c) All expenses of the operation and management of the Corporation, its waterworks, sewage treatment and disposal facilities, and other properties including provision for depreciation, wear and tear or renewal of assets;
- (d) Such minor works of a capital nature as the Corporation may deem necessary from time to time;
- (e) Such sums including compensation that may be payable by the Corporation to any person or authority by virtue of the provisions of this Law or any other law;
- (f) Taxes, rates and other levies payable by the Corporation under any Law;
- (g) interest on loans raised by and on behalf of the Corporation;
- (h) sums required to be transferred to any special fund or otherwise set aside for the



purpose of making provision for the capital investments, redemption of investments in the Corporation or other securities or the repayment of other loans; and

- (i) such other sums as the Board may approve for payment out of the funds of the Corporation in respect of any Financial year.

## **22. Special Reserve Fund.**

- (1) Without prejudice to the provisions of **Section 21 (1) of the Rivers State Fiscal Responsibility Law No. 8 of 2010**, the Corporation shall with the approval of the Governor establish and maintain a Special Reserve Fund in a separate Account into which shall be paid the following.
  - (a) not more than 1% of the revenue of the Corporation as may be determined by the Board for any financial year;
  - (b) such money as the Governor may from time to time direct from any sources;
- (2) The Special Reserve Fund shall be used for emergency and urgent needs of the Corporation relating to the rendering of urgent and essential services as the Board may from time to time authorize subject to the approval of the Governor.;

Provided that where the fund is used to meet State or National water related emergencies, the Government shall make arrangements to replace such amount upon application by the Corporation.

## **23. Loans and Grants by the State Government.**

- (1) The State Government may make to the Corporation the following:
  - (a) grants of any sums of money or property deemed necessary; and
  - (b) loans upon such terms as to repayment of interest or otherwise as the Government may determine.
- (2) The Government may waive in favour of the Corporation any right or liability to the Government arising from any transaction made pursuant to subsection (1) of this section.

## **24. Annual Budgets, Accounts and Audit.**

The provisions contained in **Part IV of the Rivers State Fiscal Responsibility Law No. 8 of 2010** as regards Budgetary Planning of Corporations and other Related Statutory Bodies shall have effect in relation to the Corporation as regards annual budgets, accounts and audits.

**25. Annual Reports.**

The Corporation shall prepare and submit to the Governor not later than six months after the end of each year, a report on the activities of the Corporation during the immediate preceding year, and shall include in such report a copy of the audited accounts of the Corporation for that year and the auditors' report on the accounts.

**26. Power to Accept Gifts.**

- (1) The Corporation may accept gifts of land money or other property on such terms and conditions, if any, as may be specified by the person or organization making the gift.
- (2) The Corporation shall not accept gifts if the conditions attached by the person or organization offering the gifts are inconsistent with the functions of the Corporation or against the interests of the State.

**27. Power to Borrow Money.**

- (1) The Corporation may from time to time, with the approval of the Governor and subject to the provisions of **Part IX of the Rivers State Fiscal Responsibility Law, No.8 of 2010** or any other relevant law borrow from any person, Government or multilateral financial institution, or by overdraft from Banks, or in any other manner, money for and in connection with the exercise of its functions under this Law as the Corporation may deem necessary.
- (2) An approval given for the purposes of this section may be either general or limited to a particular borrowing and any specified conditions.

**28. Investments.**

The Corporation may, subject to the provisions of this Law and **Part III of the Rivers State Finance, Control and Management Law NO. 7 of 2010** and the conditions of any trust created in respect of any property, invest some of its funds in any security as may from time to time be approved by the Governor.

**29. Power to Raise Capital on the Stock Exchange.**

The Corporation may with the approval of the Governor and subject to any relevant law raise capital for the implementation of its developmental plans and programs through the capital market or by issuing Bonds or other instruments, subject to satisfying the requirements of the Stock Exchange.

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

- (1) Subject to the provisions of any relevant Law, the Government may guarantee by an undertaking, the payment of the principal and interest of any sum or sums borrowed or Bonds issued by the Corporation
- (2) Any sum required by the Commissioner for Finance for the purpose of making good the obligations of the Government under the guarantee shall be charged on the Consolidated Revenue Fund of the State Government subject to the provisions of **Section 42 of the Rivers State Fiscal Responsibility Law No. 8 of 2010.**

**31. Proof of Monies Due.**

In any action for the recovery of any rate or other moneys (other than fines and penalties) payable or recoverable under this Law, a certificate under the hand of the Corporation that any sum of money is due, and that the defendant is the person liable to pay the same shall, be evidence of such debt and of non-payment thereof.

**WATER SUPPLY, DISTRIBUTION AND CONSUMPTION**

**32. Corporation's Responsibility to Consumers for Continuous Supply of Water**

- (1) The Corporation shall ensure efficient, affordable, economical and sustainable access to portable water and sewage management services to all consumers within its area of operation subject to the:
  - (a) availability of resources;
  - (b) need for an equitable allocation of resources to all consumers within the Corporation's area of operation;
  - (c) need to monitor and ensure access to water services in an equitable manner;
  - (d) duty to conserve water resources;
  - (e) nature, topography, zoning and situation of the area in question;
  - (f) right of the Corporation to limit or discontinue the provision of water services if there is a failure to comply with reasonable conditions set for the provision of such services.
  - (g) need to carry out inspections, tests, or repairs and for the making of new connections; and
  - (h) need to effect alterations and modifications to its pipelines and other facilities or general maintenance of the water works subject to notice as may be determined by Regulations of the Commission.

- (2) The Corporation shall not be under any obligation to pay compensation for loss, damages or inconveniences caused to any consumer through any suspension, failure, discontinuance or a total or partial interruption of the supply of water howsoever caused in furtherance of (1) of this section except in the case of negligence on the part any employee or agent of the Corporation.
- (3) The Corporation shall take reasonable steps to notify the public ahead of time of any proposed interruption in the provision of water services subject to any regulations by the Commission with respect to same.

### **33. Rates and Scales of Charges**

- (1) The Corporation shall from time to time fix rates and scales of charges payable for water supply, sewage management, and other Services within its areas of operation in accordance with a methodology for tariff setting approved by the Commission.
- (2) The water rates and charges may be fixed at different rates for different locations and different users as shall be approved by the Commission.
- (3) In fixing the rates and charges for water supply and other services, the Corporation shall consult with the consumers to whom such rates shall be applied as well as other stakeholders who may be affected by such rates and charges.

### **34. Application for Water Supply.**

- (1) The Corporation may supply services to premises upon application of the owner or occupier pursuant to any Rules and Regulations issued by the Commission.
- (2) The Corporation may refuse to supply water to any particular premises except by a meter installed and maintained by the Corporation,

PROVIDED that the Corporation shall not disconnect any user or fail to connect a potential consumer for failure of the Corporation to provide such meter.

### **35. Purchase, Resale and Distribution of Water by the Corporation**

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

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

As from the commencement of this Law, no person shall resell water supplied by the Corporation except pursuant to a License or other Agreement with the Corporation for that purpose:

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

**37. Payment of Water Rates and Charges.**

- (1) The owner or occupier of any premises to which water is supplied by the Corporation shall pay to the Corporation such rates and charges for water supply or other service as may from time to time be determined by the Corporation and approved by the Commission.
- (2) Where any person fails to pay water rates or charges within one month or any other period after service of a notice of default, the Corporation may recover such rates or charges in accordance with regulations issued by the Commission for that purpose or by an action brought before a court of competent jurisdiction.

**38. Corporation shall not be liable for damaged installation works.**

The Corporation shall not be liable for the malfunctioning or safety of any installation or appurtenances in a customer's premises, only by reason of the connection to supply water to the premises unless such damage is due to the negligence of the agent, servant or employee of the Corporation.

**39. Maps of Waterworks.**

- (1) The Corporation shall keep, modify and update annually printed and electronic records of the location of:
  - (a) all resource mains, water mains or discharge pipes vested in the Corporation ;  
and
  - (b) any other underground pipes, other than a service pipe, which are vested in the Corporation.
- (2) Any modification of the records by the Corporation pursuant to subsection (1) of this section, shall be made as soon as practicable and the date of such modification and completion of the work resulting in the modification shall be incorporated into the records

- (3) The Corporation shall ensure that the contents of any records kept by it under this section are available, at all reasonable times, for inspection by the public free of charge at any office of the Corporation upon application in writing to the Corporation.

PROVIDED that where copies of such information are required, the Corporation may charge a reasonable fee for the provision of such copies thereof.

- (4) Any information which is required under this section for inspection by the public shall be made available in the form of a map.

#### **CUSTOMER CARE CENTRE**

#### **40. Establishment of the Care Centre.**

There is hereby established for the Corporation, a Customer Care Centre (referred to in this Law as “the Centre”) which shall be within the Corporation’s Headquarters and in every area office.

#### **41. Functions of the Centre.**

The functions of the Centre shall be to:

- (1) receive and ensure the resolution of complaints from customers and the general public regarding:
  - (a) quality of water;
  - (b) unsatisfactory sewage management services
  - (c) Environmental hazards resulting from the corporation’s sewage management activities
  - (d) water leakages;
  - (e) damage to properties of the Corporation;
  - (f) tariff for water supply and sewage services;
  - (g) contravention of Standards of service issued by the Commission;
  - (h) activities of staff and Agents of the Corporation and
  - (i) other related matters.
- (2) settle disputes and protect the interests of all customers and the public.
- (3) monitor all matters appearing to the Centre to affect the interests of customers or the public.
- (4) monitor and consult with private operators on customer/operator relationship.

- (5) make representations in appropriate cases on behalf of a customer or complainant to any Private Sector Operator.
- (6) receive and resolve complaints from Environmental Agencies and Government bodies on water pollution matters.
- (7) forward complaints to the relevant authorities where applicable.

**42. Limitation of suits against the Corporation, Pre-action Notice, etc**

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

**43. Service of Documents.**

The notice referred to in subsection (2) of Section 42 of this Law, and any summons, notice or other document required or authorized to be served upon the Corporation under the provisions of this Law may be served by delivering the same to the MD or by sending it by registered post and addressed to the MD at the principal office of the Corporation.

**44. Restriction on execution against the Corporation.**

In any action or suit against the Corporation, no execution or attachment of process in the nature thereof shall be issued against the Corporation.

**45. Indemnity of officers of the Corporation.**

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

**46. Certain Provisions Relating to Defaulters, etc**

- (1) where any person contravenes any of the provisions of this Law, the Corporation may, without prejudice to the rights of the Corporation commence proceedings against any defaulter by:
  - (a) serving a notice in writing on the defaulting occupier or consumer; and
  - (b) authorizing or causing an officer or employee of the Corporation to enter and alter, disconnect, stop or remove any water fittings, sewers, appurtenance, belonging to or used by such defaulting occupier or consumer.
- (2) where an occupier or consumer fails to remedy the default or contravention referred to in subsection (1) of this section, the Corporation may cause repairs, replacement and re-connection of the water or sewerage fittings and the Corporation shall recover the cost or expenses reasonably incurred to effect the repairs or replacement or re-connection as the case may be from such defaulter.

**47. Provisions Relating to Acquisition of Land.**

- (1) Wherever it appears to the Corporation that any land in the urban areas of the State is required for the purpose of any waterworks, the Corporation shall, subject to the **Land Use Act, Cap. L5, LFN, 2004** apply to the Governor for allocation of such land including an application for approval for its officers or agents to enter upon the land and -
  - (a) Survey and take levels of the land
  - (b) dig or bore hole under the subsoil; and
  - (c) do such other things as are necessary to ascertain whether the land is adapted for such purposes including the conducting of Environmental Impact Assessments.

PROVIDED that no such officer, agent, servant or employee of the Corporation shall enter any building or any enclosed court or garden attached to a dwelling house (except



with the consent of the occupier) except at least seven days notice of intention to enter shall have been given to such occupier.

- (2) where any entry made under subsection (1) of this section occasions any damage requiring the payment of compensation, the Corporation shall pay reasonable compensation in the circumstances.

#### **48. Abstraction by Fire Authorities**

- (1) Any fire authority may abstract water free of charge from any public fountain, service or waterworks of the Corporation for the purpose of prevention or control of fire subject to prescribed conditions by the Corporation:

Provided that water shall not be abstracted by any fire authority for the purpose of testing any firefighting appliance except with the consent of the Corporation and such consent should not be unreasonably withheld.

- (2) Any main, pipe, valve, hydrant, service or other waterworks required within the area of operation of the Corporation by any fire authority in the discharge of its functions to prevent and control fire shall be provided by the Corporation upon payment by the fire authority of the requisite costs as the Corporation may determine provided that such main, pipe, valve, hydrant, service or other waterworks shall vest in the Corporation and shall be maintained by the Corporation.

### **PART III**

#### **RIVERS STATE SMALL TOWNS WATER SUPPLY AND SANITATION AGENCY**

#### **ESTABLISHMENT, COMPOSITION, FUNCTIONS, POWERS, ETC OF THE SMALL TOWNS WATER SUPPLY AND SANITATION AGENCY**

#### **49. Establishment of the Rivers State Small Towns Water Supply and Sanitation Agency.**

- (1) There is hereby established the **Rivers State Small Towns Water Supply and Sanitation Agency** (referred to in this Law as "**RSSTOWA** ")

- (2) The *RSSTOWA* shall:
- (a) be a body corporate with perpetual succession and a common seal;
  - (b) have power to sue and be sued in its corporate name; and
  - (c) be capable of holding, purchasing, acquiring and disposing of property, movable and immovable.
- (3) All existing and new State owned water and sewage management infrastructures in the small towns in Rivers State other than towns within the area of operation of the Corporation are hereby vested in *RSSTOWA* in furtherance of Section 2.(2) (r) of this Law.

#### **50. Objectives of the *RSSTOWA***

The objectives of the *RSSTOWA* shall be to:

- (1) provide safe, adequate and affordable water supply services to the residents of all small towns in Rivers State as further described in Schedule II hereto in accordance with this Law;
- (2) provide water related sanitation facilities and other services and promote Community - led total sanitation in small towns in accordance with this Law;
- (3) collaborate with the Ministry responsible for water resources to secure efficient use, conservation and protection of water resources including the preparation of development plans for input into the State Water, Sanitation and Hygiene (WASH) Sector Development Plans;
- (4) implement cost recovery and commercial orientation in service provision and maintain customer focus for service sustainability and efficiency; and
- (5) implement capital investment plans for the purpose of expanding access to water and sanitation services for the citizens in the areas served within the shortest possible time.

#### **51. Composition of the Governing Board**

- (1) The Governing Board of the *RSSTOWA* (hereafter called the “Board”) shall consist of:
  - (a). a chairman;
  - (b). five members who shall be professionals in the field of finance, Law, water engineering, sanitary engineering or public health engineering, and shall include;

- i) the Commissioner responsible for water resources
- ii) a representative of the Civil Society Organization (CSO) active in the water sector
- iii) a representative of the Local Government Council
- iv) a representative of the Water Consumers Association
- v) the General Manager of the Agency (The GM)

Provided that at least one of the members shall be a woman.

- (2) The names of the Chairman and other members of the RSSTOWA shall be published in the State Gazette.
- (3) The Chairman and other members of the Board shall be appointed by the Governor.
- (4) The Board shall meet to conduct the business of the Board once every quarter and at such other times as the Chairman may determine.
- (5) The provisions contained in Schedule IV to this Law shall have effect with respect to the proceedings of the Board and other matters mentioned therein.

**52. Remuneration of Members of the Board.**

There shall be paid to the members of the Board such allowance as the Governor shall determine subject to State policy on same.

**53. Tenure of Office of Members of the Board**

- (1) The Chairman and other members shall hold office for a term of four years and shall be eligible for re- appointment for one more term and no more.
- (2) The appointment shall be upon such terms and conditions as maybe stipulated in their letters of appointment.
- (3) All members of the board of the RSSTOWA except the GM shall be appointed to serve as part-time members.
- (4) A Board member shall continue in office after the expiration of his term of Office until a successor has been appointed provided that he shall not continue in office pursuant to this section for longer than six months.

**54. The Specific Duties of the Board**

The specific duties of the Board shall include but not be limited tp the following:

- (1) Making strategic decisions on the activities and mandate of the RSSTOWA;
- (2) Reviewing and approving RSSTOWA's business plans, budget and performance;
- (3) Approving plans and procedures for the engagement of PSP Operators by the WCAs;
- (4) Ensuring that the activities of RSSTOWA meet with standards set by the Commission;
- (5) Approving and monitoring the implementation of RSSTOWA's water services and sanitation development plan;
- (6) Propose a tariff methodology in furtherance of the State's water and Sanitation Principles in chapter 1 for the approval of the Commission ; and
- (7) Any other business which may be considered necessary by the Board in pursuance of RSSTOWA's function as provided in this Law.

**55. Quorum**

- (1) The quorum for a meeting of the Board of RSSTOWA shall be four members, including the Chairman.
- (2). The Chairman shall preside at meetings of the Board and in his absence, the members present at the meeting shall elect one of their members present to preside.
- (3). The provisions contained in Schedule IV to this Law shall have effect with respect to the proceedings of the Board and other matters mentioned therein.

**56. Vacation of Office**

- (1) Notwithstanding the provisions of Section 54 of this Law, a member shall vacate his office and his office shall become vacant;
  - (a) one month after the date upon which he gives notice in writing to the Governor of his intention to resign; or
  - (b) on the date he begins to serve a sentence of imprisonment imposed without the option of a fine:
    - i). in Nigeria, in respect of a crime involving dishonesty or fraud; or
    - ii). outside Nigeria, in respect of an offence involving financial impropriety or any conduct which, if committed in Nigeria, would constitute an offence;

- (c) if he attends fewer than 75% of RSSTOWA 's meetings in any one year period without sufficient reasons; or
  - (d) in the case of members who have professional qualifications, if the member is barred or suspended from his professional body; or
  - (e) If he becomes bankrupt; or
  - (f) if he becomes of unsound mind or incapable of carrying out his duties; or
  - (g) if he is guilty of serious misconduct with relation to his duties as a member of RSSTOWA.
- (2) A member of RSSTOWA may only be removed on the dissolution of the Board

## **FUNCTIONS AND POWERS OF THE RSSTOWA**

### **57. Functions of the RSSTOWA.**

The functions of RSSTOWA shall be to;

- (1) control, operate and maintain all water facilities vested in the RSSTOWA;
- (2) undertake planning, design, construction and maintenance of all Small Towns Water Supply facilities including motorized and solar powered borehole based schemes;
- (3) establish, control, manage, extend and develop water facilities as the RSSTOWA may consider necessary for the purpose of providing wholesome potable water for the consumption of the public and for domestic, trade, commercial, industrial, scientific and other uses;
- (4) Undertaking public enlightenment, training and mobilization for Community participation in all its programmes;
- (5) ensure that adequate and wholesome water is supplied to consumers regularly and at such charges as the Commission may, from time to time, approve.
- (6) conduct or organize the conduct of research in respect of water supply, sanitation and matters connected therewith and submit the results of such research to the Commissioner for the formulation of policy;
- (7) Coordination of activities in its administration and finance, as well as making intergovernmental and non-governmental linkages subject to the overriding coordination responsibility of the Ministry;

- (8) The undertaking of RSSTOWA's programme planning, monitoring of on-going and completed projects as well as the collection and storage for easy retrieval of all data, records and statistics on its operations;
- (9) To assist the Communities within the small towns to form Water Consumer Associations and provide technical and other advisory services for same.
- (10) Where deemed appropriate, to transfer ownership of any water schemes to benefitting Communities through appropriate Water Consumer Associations by means of a Transfer Agreement stating the conditions of such transfer.
- (11) Determine its water rates and present it to the Commission for approval after consultation with the WCA.
- (12) Collaborate closely with all Local government WASH Departments on all activities
- (13) To plan, design, construct, and operate all state owed small town sanitation infrastructure
- (14) Promote sanitation and hygiene practices and monitor and prevent activities that may pollute the water resources of the State

**58. General Powers of the RSSTOWA**

- (1) The Board shall, subject to the provisions of this Law, have power for the purpose of carrying out its functions to:
  - a. own all state-owned small Water Town Supply and Sanitation infrastructure and assets and construct new ones as deemed necessary;
  - b. Fix rates and charges payable by consumers for water supply and other services provided by the RSSTOWA subject to the approval of the Commission;
  - c. prepare water and sanitation development plans for the Small Towns water sector;
  - d. acquire, purchase, lease, hold, construct, manufacture, maintain or insure any property forming part of the assets required for or in connection with the performance of its functions and sell, lease, concede, dispose of, or otherwise deal with such property or any part thereof subject to the approval of the Governor in instances of sale;
  - e. undertake any land acquisition procedure necessary for the performance of its functions, in accordance with all valid legislation;
  - f. enter into agreement with any person for the performance of any of its statutory functions under this Law;
  - g. protect, maintain and improve all existing natural water courses in consultation with relevant authorities;

- h. carry any water pipe through across, or under any street or any place laid out or intended as a Street and after giving reasonable notice in writing to the owner or occupier thereof, and making good any damage done;
  - i. abstract water from any lake, river, stream or other natural source forming part of the water resources of the State, and to do likewise in respect of other water by arrangement with the appropriate authority under and in accordance with the provisions of any existing law in that behalf and may assign such rights to private operators pursuant to a PSP Agreement;
  - j. examine from time to time any surface or underground water forming part of the water Resources of the State for the purpose of determining what pollution, if any, exists and its causes and to do likewise in respect of other water by arrangement with the appropriate authority under and in accordance with the provisions of any existing Law in that behalf;
  - r. provisions of any existing Law in that behalf;
  - k. construct stand pipes or public fountains in any street or other public place;
  - l. enter into agreement with any person for the supply, construction, manufacture, maintenance or repair of any property which is necessary or appropriate for the purpose of the RSSTOWA;
  - m. do anything for the purpose of advancing the skills of persons employed by the RSSTOWA or the efficiency of the equipment of the RSSTOWA or the manner in which the equipment is operated including the provision of facilities for training, education and research;
- (2) RSSTOWA shall have power for the purpose of carrying out its functions to do all such acts as appear to it to be requisite, advantageous, or convenient and may carry on any activities in that behalf either alone or in association with any other person or body.
- (3) The Governor may by order confer on RSSTOWA such other additional functions as he may think fit either:
- a) functions of a kind similar to the functions specified in subsection 1 of this section; or
  - b) functions which in the opinion of the Governor can be conveniently exercised by RSSTOWA in association with the functions already specified above.

**STAFF OF RSSTOWA**

**59. The General Manager.**

- (1) There shall be appointed by the Governor an officer of RSSTOWA to be known as the General Manager who shall, subject to the general direction of the Board;
- (a) be the Chief Executive and Chief Accounting Officer of the RSSTOWA (referred to in this Law as “the GM”);

- (b) be responsible for the implementation of the decisions and policies of the Board of the RSSTOWA as well as the general administration of RSSTOWA;
- (c) perform such other duties as the Board of the RSSTOWA may from time to time direct;

(2) The GM shall;

- (a). be a person with a professional qualification in water, civil or sanitary engineering or public health, or other profession relevant to the functions of the RSSTOWA engineering with sound relevant experience;
- (b) be appointed by the Governor via a renewable Performance based contract for a term of 5 years.

#### **60. The Secretary/Legal Adviser**

- (1) There shall be a Secretary and Legal Adviser (referred to in this Law as “the Secretary”) to RSSTOWA who shall be responsible to the Board and shall assist it in the discharge of its functions under this Law.
- (2). The Secretary shall be a Legal Practitioner with a minimum of ten [10] years post-call experience and shall be the head of the Legal department.

#### **61. The Functions of the Secretary**

The Secretary shall perform the following functions:

- a). organize and take minutes of the meetings of RSSTOWA and at Senior Management meetings;
- b). be the custodian of the records of RSSTOWA and conduct correspondence on behalf of RSSTOWA;
- c). arrange for payment of fees and allowances of meetings and all other matters affecting members of the Board of RSSTOWA.
- d). perform all duties as RSSTOWA Board or GM may from time to time direct.
- e). communicate policy decisions of the Board to affected Departments;
- f). render necessary advice on compliance with Laws, rules and regulations affecting the Agency;
- g). establish and maintain the Register and minutes book of the Board of RSSTOWA;
- h). keep custody of copies of asset register and financial and annual reports of RSSTOWA;
- i). prepare, vet and review all contracts; and
- j). represent RSSTOWA in court in matters to which it is a party.

#### **62. Other Staff of RSSTOWA**



- (1) RSSTOWA shall have power to appoint directly from the private sector, or from any Public service of the State, Local government, Federation, or otherwise, any number of staff and other employees as it may from time to time deem necessary to assist RSSTOWA in the discharge of its functions under this Law.
- (2) The terms and conditions of Service shall be as may be determined by RSSTOWA.
- (3) It is hereby declared;
  - (a) that Service in RSSTOWA shall be approved Service under the provision of the Pensions Law and accordingly, staff and employees of RSSTOWA shall be entitled to Pensions, gratuities and other retirement Benefits as prescribed under the Pensions Law.
  - (b) Without prejudice to the provisions of subsection (a) of this section, nothing in this Law shall prevent the appointment of any person to any office on terms which preclude the grant of pension, gratuity or other retirement benefits with respect to that office.

**63.** RSSTOWA may, subject to the provisions of this Law, determine generally the conditions of service of the staff of RSSTOWA and without prejudice to the generality of the foregoing; RSSTOWA may determine;

- a). The conditions for the appointment, promotion, termination and dismissal of staff and employees of RSSTOWA.
- b). Procedure for Appeals by such employees against dismissal or termination or other disciplinary measures,

and until such conditions of service are made, any instrument relating to the conditions of service in the Public Service of the State shall be applicable, with such modifications as may be necessary, to Staff and employees of RSSTOWA.

**64. Remuneration of Officers**

RSSTOWA shall determine the remuneration to be paid to its staff and may require any officer to give such security as is deemed proper for the due execution of his office.

**GENERAL ADMINISTRATION AND FINANCIAL PROVISIONS**

**65. Financial Provisions**

The Provisions relating to the general administration and financial matters as applicable to the Port Harcourt Water Corporation shall apply to the RSSTOWA including but not limited to matters pertaining to;

- (a) Funds and resources
- (b) Bank Accounts
- (c) Application of the RSSTOWA'S Funds
- (d) Loans and grants by the State Government
- (e) Annual Budgets and Accounts
- (f) Annual Reports
- (g) Borrowing
- (h) Investments
- (I) Exemption from Taxation
- (j) Power to raise capital on the stock exchange
- (k) Power to accept gifts
- (I) Guarantee on loans or other instruments of RSSTOWA by the State Government; and
- (m) Other financial matters

**66. Responsibility of RSSTOWA which the Governor May Perform or Delegate.**

In the absence of a Board of RSSTOWA and until such time such Board is constituted pursuant to this Law, the Governor or any person to whom he has delegated the responsibility of RSSTOWA shall execute any document, exercise or perform any of RSSTOWA's Powers or functions excluding the power to make regulations, provided that such period shall exceed one year.

**Water Supply, Distribution and Consumption**

**67. RSSTOWA's Responsibility to Consumers for Continuous Supply of Water.**

- (1) **RSSTOWA** shall as far as possible maintain a continuity of supply of water to residents within its areas of operation;

provided that RSSTOWA shall have the right to

- a). suspend the supply of water for such periods as may be necessary for carrying out inspections, tests, or repairs and for the making of new connections;
- b). suspend or turn off supply for the purpose of effecting alterations and modifications to its pipelines and other facilities or general maintenance of the waterworks subject to notice as may be determined by the Commission

- c). suspend or discontinue any supply where the payment of any rate, dues or charges is in arrears:
- (2) RSSTOWA shall in no case be under any obligation to pay damages or compensation for loss, damages or inconveniences caused to any consumer through any suspension, failure, discontinuance or a total or partial interruption of the supply of water howsoever caused.

**68. Rates and Scales of Charges.**

- (1). RSSTOWA, shall from time to time fix rates and scales of charges payable for water supply and other services in small towns in accordance with a methodology for tariff setting earlier approved by the Commission which allows for the fixing of economic rates for water supply and other services in order to meet its financial objectives in accordance with the provisions of this Law.
- (2). The water rates and charges may be fixed at different rates for different locations and different users as may be approved by the Commission.

**69. Application for Water Supply.**

- (1) RSSTOWA may supply water to a tenement upon application of the owner/occupier thereof which service shall be by contract between the parties pursuant to Rules and Regulations issued by the Commission.
- (2) RSSTOWA may refuse to supply water to any particular premises otherwise than by a meter installed and kept in repair by RSSTOWA.  
Provided that RSSTOWA may not disconnect any user or fail to connect a potential consumer for the failure of RSSTOWA to provide the said meter.

**70. Prohibition of Sale of Water Supplied by RSSTOWA**

As from the commencement of this Law, it shall be unlawful for any person to resell water supplied by RSSTOWA except pursuant to an Agreement with RSSTOWA for that purpose; provided that no authority shall be required for the sale of any manufactured goods or other commodities in which water supplied by RSSTOWA is included.

**71. Payment for Water Rates and Charges**

- (1). The owner or occupier of any tenement to which water is supplied by RSSTOWA shall pay to RSSTOWA such rates and charges for water supply or other service as may from time to time be determined by RSSTOWA in consultation with the water consumer association and approved by the Commission.
- (2). Upon failure by a consumer to pay any outstanding water rates and charges pursuant to a notice by RSSTOWA in accordance with regulations issued by the Commission, the RSSTOWA may recover such rates or charges by application brought before the High court of Rivers State or any other special court created for that purpose.

**72. Supply to Local Government Councils and its Institutions.**

- (1). Where standpipes or other supply services are provided for communal use, upon application by the relevant Local Government Council, RSSTOWA shall have power to charge for such service in accordance with rates approved by the Commission and the Local Government Councils shall pay such rates from its resources.
- (2). RSSTOWA shall have powers to collect from the Local Government Councils fees in respect of services provided to institutions within the local government including those for primary schools, markets and water fountains in each of the respective Local Governments.

**73. Entitlement to Supply of Water without Preferential Treatment.**

Except in so far as is otherwise provided by this Law, where a supply of water is provided by RSSTOWA in any part of an area for private purposes, every person within that part of the area shall, upon application to RSSTOWA , be entitled to a supply on terms and conditions as RSSTOWA may deem fit;

Provided that in the case of a first time connection adequate water can be made available without detriment to existing supplies to persons or institutions in the area.

**74. Maps of Waterworks and Sanitation Infrastructure.**

- (1) Subject to the provisions of this section, it shall be the duty of RSSTOWA to keep records of the location of:
  - a). every resource main, water main or discharge pipe which is for the time being vested in RSSTOWA; and
  - b). any other underground works, other than a service pipe, which are for the time being vested in RSSTOWA.
- (2) It shall be the duty of RSSTOWA to ensure that the contents of any records for the time being kept by it under this section are available, at all reasonable times, for inspection by the public free of charge at an office of RSSTOWA upon prior application in writing to RSSTOWA.
- (3). Any information which is required under this section to be made available by RSSTOWA for inspection by the public shall be so made available in the form of a map.
- (4) For the purpose of determining whether any failure to make a modification of any records kept under this section constitutes a breach of the duty imposed by subsection

(1) that duty shall be taken to require any modification of the records to be made as soon as reasonably practicable after the completion of the works which make the modification necessary; and, where records kept under this section are modified, the date of the modification and of the completion of the works making the modification necessary shall be incorporated in the records.

- (5) RSSTOWA shall put in place a mechanism to receive and address consumer complaints in an efficient and effective manner and as may be prescribed by the Ministry.
- (6) The duty of RSSTOWA under this section shall be enforceable under this Law by the Commission.

#### **PART IV**

#### **ESTABLISHMENT, COMPOSITION, FUNCTIONS, POWERS ETC OF THE RURAL WATER SUPPLY AND SANITATION AGENCY**

**75. Establishment of the Rivers State Rural Water Supply and Sanitation Agency (“RUWASSA”)**

- (1) There is hereby established for the State, a body known as the Rivers State Rural Water Supply and Sanitation Agency (hereinafter referred to as “RUWASSA”) which shall:
  - (a) be a body corporate with perpetual succession
  - (b) have a Common Seal;
  - (c) sue and be sued in its corporate name; and
  - (d) own and dispose movable or immovable property:
- (2) The Objectives of the RUWASSA shall be to provide technical assistance to communities and the LGAs in the rural areas in the establishment, construction, management and maintenance of water supply and sanitation infrastructure, and hygiene promotion in the communities.

**76. Establishment and composition of the Board of RUWASSA.**

- (1) There is established for RUWASSA, a part4ime Board which shall comprise:
  - a) A Chairman who shall be the Commissioner responsible for Water Resources;
  - b) Commissioner, Ministry responsible for Education;
  - c) Commissioner, Ministry responsible for Women Affairs;
  - d) Commissioner, Ministry responsible for Local government affairs;

- e) Commissioner, Ministry responsible for Health;
  - f) Commissioner, Ministry responsible for Environment; and
  - g) The General Manager of RUWASSA.
- (2) Any of the Board members may be represented by an officer of the Ministry not below the rank a Director.

**77. Allowances.**

The Chairman and other members shall be paid such allowances as may be applicable in the State Public Service.

**78. Functions of the Board of RUWASSA**

The functions of the Board shall be to;

- a) provide guidelines for the performance of its functions and the exercise of the powers of RUWASSA under this Law;
- b) give guidelines on the management and development of RUWASSA; and
- c) do such other things and acts that the Board may require for carrying into effect the provisions of this Law.

**79. Proceedings of the Board**

The provisions contained in Schedule IV to this Law shall have effect with respect to the proceedings of the Board and other matters mentioned therein.

**80. Functions of RUWASSA**

RUWASSA shall:

- (1) in consultation with the WASH Departments of the relevant LGAs and the WASHCOMS in the communities, agree and design appropriate technology for water supply to each community and coordinate the construction, rehabilitation and supervision of same;
- (2) issue certificate of compliance with standards set by the COMMISSION for the construction of water schemes and hand over such schemes to the community for management and operation, subject to the technical supervision by RUWASSA and the LGA WASH Departments;
- (3) support the State Rural Water Supply Programme;
- (4) design and supervise the construction of all new sanitation facilities in the rural areas, rehabilitate monitor and improve all existing sanitation facilities and support the State Rural Sanitation Programme;

- (5) liaise with the Federal and State Government MDAs and external support Agencies in the design and implementation of programmes and projects in the area of rural water supply, and Water-related Sanitation and Hygiene activities;
- (6) commission and support studies and research projects that will facilitate the execution of the functions of RUWASSA;
- (7) undertake WASH education and create awareness of WASH principles in the communities, particularly in schools and amongst women and children;
- (8) organize technical training of staff of LGA WASH department key officers on the WASHCOMs and local artisans for the operation and maintenance of the water supply schemes and sanitation facilities;
- (9) promote improvement of traditional sources of community water supply (protected springs, orifices, protected hand dug wells, rain water harvest etc);
- (10) promote construction and maintenance of public toilet facilities and household toilet facilities;
- (11) promote Community - Led Total Sanitation (CLTS) and issue certificate of open-defecation free status to compliant communities;
- (12) promote appropriate technology for the construction of toilet facilities in coastal areas;
- (13) ensure compliance with the Nigerian Drinking Water Quality Standards (NDWQS);
- (14) monitor and protect the quality of raw water sources in collaboration with the Ministry responsible for water resources;
- (15) monitor and undertake preventive and remedial action, in collaboration with the Ministry of Health, any outbreak of any water-related disease or any other real or potential health threats associated with the delivery or provision of water supply and sanitation services in the rural areas;
- (16) promote private sector participation in the water supply and sanitation industry in the rural areas to attract resources for sustainable development of the rural water sector;
- (17) develop mechanisms and procedures for stakeholder's participation in the development of WASH Plans for the rural areas;
- (18) coordinate the activities of all WASH Departments of LGAs in all the rural areas in the implementation of State WASH Programmes for rural areas;
- (19) conduct raw and treated water quality investigations to ensure compliance by all operators in the rural water supply and sanitation sector with the Nigerian Drinking Water Quality Standards; and
- (20) perform such other activities as may be necessary in furtherance of its functions under this Law.

#### **81. Powers of RUWASSA**

- (1) Subject to the provisions of this Law, RUWASSA shall, for the purpose of carrying out its functions under this Law, have power to carry on all activities which are necessary, advantageous or convenient in the rural areas.
- (2) without prejudice to the generality of the foregoing, RUWASSA shall have Power to;



- (a) prepare such Master Plans as may be necessary for the development and maintenance of rural water and sanitation infrastructure;
- (b) create awareness of the WASH Policy and sector reform principles, and undertake necessary activities to carry same into effect;
- (c) organize Communities to form community improvement or development unions or associations (to be known as WASHCOMS) under elected leadership to act as the apex organization for the implementation of rural programmes initiated by RUWASSA, the LGA, or the communities themselves;
- (d) to do anything for the purpose of advancing the skills of persons employed by RUWASSA, including facilities for training, education and research for the efficient running of the services of RUWASSA;
- (e) construct and maintain buildings and other works necessary for the discharge of its functions under this Law;
- (f) acquire, purchase, lease, hold, construct, manufacture, maintain or insure any property whether movable or immovable, required for or in connection with the performance of its functions and to sell, lease, dispose of, or otherwise deal with such property or any part thereof subject to the approval of the Governor in instances of sale; and
- (g) enter into PPP arrangements with the private sector for the purpose of carrying out any of the functions of RUWASSA under this Law.

**82. Administrative Organization of RUWASSA**

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

**83. Departments and Responsibilities**

RUWASSA may establish Departments for the effective performance of its functions including but not limited to the following –

- a) Community Mobilization, Health and Hygiene Education Department;
- b) Sanitation Department;
- c) Water Supply Department;
- d) Planning, Monitoring and Evaluation Department; and
- e) Administration and Finance Department.

**84. Establishment of Local Government Council (LGC) WASH Departments**

- (1) There shall be established in each Local Government Council in the State a Rural Water Supply, Sanitation and Hygiene Department (hereinafter called the **WASH Department**).
- (2) The Officers of the WASH Department shall include but may not be limited to:
  - (a) The Head of Department, and the officers responsible for;
    - i) Water Supply;
    - ii) Sanitation;
    - iii) Community Mobilization, Health and Hygiene Education; and
    - iv) Planning, Monitoring and Evaluation.
- (3) The functions of the WASH Department shall be to:-
  - a) liaise between RUWASSA and all the communities in the area;
  - b) develop annual water sector developmental plans and budget for the Local Government in consultation with relevant WASHCOMS and submit same to RUWASSA as part of the State rural water sector development plan;
  - c) encourage and support communities to mobilize, organize and establish Water supply Sanitation and Hygiene Committees with a minimum of 35% women representation;
  - d) compile inventory, monitor operations, and provide technical assistance on maintenance of water supply and sanitation facilities in the communities;
  - e) identify and train hand pump mechanics, caretakers, latrine artisans and hygiene facilitators;
  - f) maintain records of plans and requests concerning Water Supply and Sanitation, Hygiene Education and other sanitary activities in all communities;
  - g) mobilize and support Community linkages with relevant developmental Agencies and Organizations;
  - h) encourage and support teachers in primary and Post Primary Schools to teach and promote hygiene education to pupils and members of the community;
  - i) contribute to the eradication of Water and Sanitation related diseases in the Communities;
  - j) liaise with other Agencies for progress reports, policy guidelines and standards;

- k) collaborate with Non-Governmental Organizations, Community Based Organizations, and communities to promote the rehabilitation or construction of Water and Sanitation facilities in schools;
- l) train the WASHCOM members to plan and implement water and sanitation services in their communities;
- m) promote awareness of environmentally friendly activities in communities;
- n) promote good hygiene practices in the utilization and maintenance of water and sanitation facilities; and
- o) provide, coordinate and supervise the construction of low cost latrines such as Ventilated Improved Pit (VIP) latrines, SANPLAT, Pour Flush, Pier Latrines in the Local Government Areas,

**85. Establishment of WASHCOMS**

- (1) There shall be established for each community in the Local Government Area, a Water Supply, Sanitation and Hygiene Committee (in this Law referred to as **“WASHCOM”**).
- (2) The WASHCOM shall be registered by the LGC and a certificate issued shall serve as evidence of such registration.
- (3) The WASHCOM shall comprise –
  - a) Chairman;
  - b) Secretary;
  - c) Treasurer;
  - d) Financial Secretary; and
  - e) Two Ex-officio members
 Provided that two of the members shall be women.
- (4) WASHCOM shall:
  - (a) be formed in the rural areas as the village level water sanitation and hygiene committees for the management of water supply and sanitation facilities on behalf of the Community;
  - (b) enhance community ownership of WASH facilities and be responsible for determining the cost of operation and maintenance of water points in their areas;
  - (c) be responsible for fixing and collection of water point tariffs for the operation and maintenance of the water points;

- (d) be responsible for basic hygiene education, sensitization activities, and community advocacy;
- (e) collaborate with the WASH Departments and RUWASSA on water supply sanitation and hygiene Programmes of the Federal, State or Local governments on behalf of the Community;
- (g) encourage development of skills of members to promote community participation with the active involvement of women;
- (h) participate in planning, design, construction, and operation of Community WASH facilities;
- (i) promote household food and water security in the Community by encouraging prudent use of water and preventing wastage;
- (j) support the immunization and the provision of nutritional supplements for children in the community;
- (k) contribute to the eradication of Water Supply and sanitation related diseases in the community;
- (l) mobilize the community to take active part in the construction of water supply and Sanitation facilities;
- (m) collaborate with the WASH Departments in the preparation of the WASH development Plans for the community;
- (n) support and promote Community Led Total Sanitation (CLTS) in the community;
- (o) ensure that the community contributes to part financing of small scale water supply facilities or extension schemes as appropriate;
- (p) participate in project design and implementation;
- (q) be responsible for policing of water infrastructure to report leakages and protect it against vandalism.

**General Manager (GM), Secretary and other Staff of RUWASSA.**

**86. The General Manager**

- (1) The Governor shall appoint a General Manager for RUWASSA who shall be:
  - (a) the Chief Executive Officer and Chief Accounting Officer;
  - (b) responsible for the implementation of the decisions and policies of the Board and the general administration;
  - (c) perform such other duties as the Board may from time to time direct;
  - (d) be responsible for the execution of the State WASH policies; and

- (2) The General Manager shall –
  - (a) be a qualified professional in a discipline relevant to water supply and sanitation service delivery or water resources management with not less than ten years cognate experience in the sector;
  - (b) hold office for a period of five years which term may be renewed for a further term of five years and no more;
  - (c) The GM shall be paid such remuneration not less than that paid to a Permanent Secretary in the Civil Service of the State.

**87. Other Staff of RUWASSA**

- (1) RUWASSA may appoint such number of staff and other employees as it may require either directly from the private sector or by way of deployment from the State Public Service to assist in the discharge of its functions under this Law.
- (2) RUWASSA may determine generally the terms and conditions of service which shall include;
  - (a) conditions for the appointment, promotion, termination and dismissal of staff and employees; and
  - (b) procedure for appeals by staff and employees against dismissal, termination or other disciplinary measures.

PROVIDED that until such conditions of service are made, any instrument relating to the condition of service in the Public Service of the State shall be applicable, with such modifications as may be necessary to staff and employees of RUWASSA

- (3) RUWASSA shall determine the remuneration of its staff and employees after consultation with the Department of Establishment and Service Matters of the State or any other Agency of government responsible for such matters.
- (4) Service in RUWASSA shall be approved service under the relevant Pensions Law and accordingly, staff and employees of RUWASSA shall be entitled to pensions, gratuities and other retirement benefits as prescribed under such Law.
- (5) Without prejudice to the provisions of sub-section (4) of this section, nothing in this Law shall prevent the appointment of any person to any office on terms which preclude the grant of pensions, gratuity or other retirement benefits with respect to that office.

## **FINANCIAL PROVISIONS AND ASSETS OF RUWASSA**

### **88. Funds of RUWASSA**

- (1) The funds and resources of RUWASSA shall consist of –
  - (a) all fees, charges and other revenue accruing to RUWASSA by virtue of its operations;
  - (b) all sums, investments, or other property whatsoever vested in RUWASSA under this Law;
  - (c) such sums or other property whatsoever as may from time to time be advanced by way of Loans or grants to RUWASSA, by the Federal Government, State Government, Local Government, any international organization, private foundation or any person whatsoever;
  - (d) all budgetary allocations approved for RUWASSA by the State House of Assembly; and
  - (e) all other sums or other properties whatsoever which may in any manner become vested in RUWASSA under this law or any other Law.
- (2) **Funds for Capital Projects**
  - (a) The funds of RUWASSA for capital projects for the provision of water supply, sanitation facilities and hygiene promotion shall include contributions from the State and the Local Governments as well as from the community in cash or kind as a token of commitment to the Project in ratios as may be agreed during Project design.
  - (b) The Community, through RUWASSA may apply for contributions and support from the Federal, State and Local Governments and donor agencies for necessary funds for their capital projects.

### **89. Bank Accounts**

- (1) RUWASSA shall operate Bank accounts for its capital Projects with reputable Banks and the signatories to the accounts shall be the GM and the Head of Accounts, or in their absence any other two persons authorized by the Board.
- (2) RUWASSA shall also operate Bank accounts with similar mandate to subsection 1 above for its recurrent expenditure which account shall be operated separately from the Capital Projects account.

**90. Annual Estimates, Accounts and Audit**

- (1) The provisions contained in Part IV of the **Fiscal Responsibility Law No. 8 of 2010** as regards Budgetary Planning of Corporations and other Related Statutory Bodies shall have effect in relation to RUWASSA as regards annual budgets, accounts and audits;
- (2) RUWASSA shall cause to be kept proper accounts and receipts, payments credits and liabilities in satisfactory financial standards and shall submit the same from to time with vouchers to be audited by the Auditor-General of the State;
- (3) At the end of every financial year, the Auditor-General shall submit the report of his audit of the accounts of RUWASSA to the Governor;
- (4) The provisions of this section shall be subject to the provisions of Part IV of the Rivers State Fiscal Responsibility Law, No. 8 of 2010.

**91. Borrowing Powers**

Subject to the approval of the Governor and the provisions of any relevant Law, RUWASSA may borrow any sum of money as it may require in the exercise of its functions under this Law.

**92. Handover of completed facilities.**

- (1) All projects initiated by the Community and constructed under the supervision of RUWASSA with contributions from the community shall, when completed, be handed over to be operated and maintained by the WASHCOM of the beneficiary Community pursuant to a Transfer Agreement.
- (2) Every benefiting Community shall provide security on project sites during construction and after due handover by RUWASSA.
- (3) completed project shall be certified by RUWASSA and the WASH department as meeting standards for the construction of such works issued by the COMMISSION and industry practice.

**93. Payment for RUWASSA's Services**

RUWASSA may prescribe fees and charges for any of its services as may be U approved by the COMMISSION and such fees shall be published in the **Official Gazette** of the State Government.

**94. Gifts, Grants, etc.**

RUWASSA shall not accept any gift, grant, bequest or devise, if the conditions attached by the person or organization making it are inconsistent with the functions of RUWASSA and the interest of the State.

**95. Authentication of Documents**

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

**96. Service of Notices**

All notices, summons, orders or any other document to be sent on RUWASSA shall be addressed to the General Manager and delivered to its head office.

**97. Directives by Governor**

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

**98. Power of Entry of RUWASSA Officer**

An officer of RUWASSA may enter any water scheme, sanitation facilities or other premises in the rural areas between the hours of six o' clock in the morning and six O' clock in the evening or in an emergency at any time for the purposes of inspecting such facility or premises or any part thereof, to take samples of the water, inspect the sanitation facilities, or investigate any outbreak of water-related diseases or other occurrence in the exercise of its functions under this Law..



**99. Assets of RUWASSA**

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

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

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

- (7) Nothing in this section shall be construed as purporting to derogate from the provision of any Act of the National Assembly relating to the transfer or vesting of any class of property, Rights or liability and such measures as are necessary in accordance with these provisions shall be taken to ensure the vesting of such property, right and liability in RUWASSA either on the commencement date or so soon as may be thereafter, and upon such vesting, the preceding provisions of this section relating to the consequence of the vesting of properties, rights and liabilities shall have effect accordingly.
- (8) Assets in communities where WASHCOMS have been formed shall be transferred to such WASHCOMS to be owned, operated and managed by WASHCOMS subject to terms and conditions of a Transfer Agreement between the relevant WASHCOM and RUWASSA.
- (9) RUWASSA and the WASH Department of the LGC shall continue to provide technical advisory services to the WASHCOM in the operation of the facilities while the Community will bear the cost of operating and maintaining such Schemes.

**100. Preliminary Investigation in Respect of Land for Rural Infrastructures**

- (1) Whenever it appears to RUWASSA that any land in the rural areas of the State is likely to be needed for the purpose of any rural infrastructures, RUWASSA may, by its servants and Agents, together with necessary workers enter upon any such land and
  - (i) survey and take levels of the land;
  - (ii) dig or bore under the subsoil;
  - (iii) do all other acts necessary to ascertain whether the land is suitable for such purposes; and
  - (iv) clear set out and make the boundaries of the land in respect of which it is proposed to make an application.

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

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

## PART V

### ROLE OF GOVERNMENT

**101.** The Rivers State Government shall be responsible for facilitating and coordinating the roles of the Ministries, Departments and Agencies as well as other stakeholders in the State Water Supply and Sanitation Services Sector by the activities of the MDAs identified in this Part.

**102. Ministry Responsible for Water Resources:**

The Ministry shall be responsible for:

- (a) short, medium and long term integrated water resources planning and management;
- (b) coordinating intervention in the Sector by Ministries, Departments, and Agencies of the Federal Government, non-governmental Agencies and Bodies and approving location of such intervention and infrastructure in accordance with the Water Sector Development Plan (“WSDP”)
- (c) coordinating all activities in the water sector including the set up of the ad hoc Water Sector Coordination Committee, chaired by the commissioner for water resources and comprising all stakeholders in the sector which shall review annually the WSDP and the allocation of resources;
- (d) providing technical support to the sector;
- (e) facilitating financing from the Government and international sources for projects across the State;
- (f) adopt Sector-Wide-Approach to planning (SWAP) for water service provision in the State Water Supply Sector (WSS);
- (g) promoting NGO support and coordinating their activities;
- (h) developing and maintaining the gathering and compilation of data in the Water Supply Sector (WSS) in the Rivers State Water and Sanitation Information System;
- (i) providing information and approval for non-Governmental intervention in the sector as well as information to Federal Government of Nigeria and its Ministries, Department and Agencies (MDAs) on sector intervention;
- (j) promoting measures to ensure adequate autonomy for the service providers as well as the independence of the Regulator;
- (k) promoting the access of the communities in the State to potable water supply through capital investments in the sector; -
- (l) promoting access of the communities in the State to safe water sanitation through investment, planning and education; -
- (m) research into and development of low cost, affordable, practical and appropriate technologies for water and sanitation services delivery;
- (n) training and certifying artisans, and developing manuals for their operations;
- (o) sector coordination for the development of the water supply and sanitation sector towards ensuring Integrated Water resources management in the State;

- (p) monitoring the encroachment of new physical structures on water supply pipelines and sewage mains;
- (q) planning for the WASH Sector development by developing a state wide-sector plan, with input from the State -owned water Agencies, the WCAs7 WASHCOMs, Consumers, Communities and other stakeholders;
- (r) the monitoring and evaluation of Policy implementation and Policy review;
- (s) the institutionalization of a training programme for sector technicians and professionals
- (t) establishment of Policy for the control of effluent and waste discharges, management of raw water quality, including enforcement of State and National standards, providing for incentives for compliance and deterrents in collaboration with relevant State and Federal MDAs;
- (u) establishment of measures on pollution control, prevention and abatement such as the precautionary “polluter pays principle”
- (v) monitoring the abstraction of water for industrial use and the discharge of industrial effluents into water bodies in accordance with National standards and in collaboration with the State Ministry of Environment;
- (w) the formulation of Policy on watershed management, in collaboration with any relevant Agency for the control of erosion, forestry matters, sedimentation and pollution control;
- (x) prescribing and enforcing standards for the quality of water taken from or discharged into any water body or natural water resource system in accordance with National standards.

### **103. Establishment of Water Consumers Associations (WCAs) in Small Towns**

- (1) Local Governments shall with the support of the RSSTOWA facilitate the establishment of WCAs by communities in small towns to own, operate and manage water schemes serving their immediate community on behalf of Water consumers in each small town.
- (2) The objective of the WCA shall be to undertake the operation, maintenance and management of the water supply schemes within its own area either by itself or by engaging a private water operator.
- (3) The WCAs shall be registered as cooperative societies with the relevant State department.
- (4) Subject to any Regulations by the Commission with respect to such matters, the Agency upon an application by a WCA for the transfer of Water Scheme within their community shall transfer such scheme if it is satisfied that the WCA possesses sufficient capacity to successfully operate the Scheme.
- (5) Any transfer made pursuant to sub section (4) of this section shall be by a formal agreement specifying the terms and conditions of such transfer.

- (6) The WCA shall obtain an operating License from the COMMISSION pursuant to such Agreement.

**104. Establishment of State Water and Sanitation Information System**

- (1) The Ministry shall establish a State Water and Sanitation Information System which shall comprise data and information on water supply water sanitation facilities and water resources of the State and shall report regularly to the National Information System on Water supply and sanitation services and water resources generally.
- (2) All information provided shall be in a format accessible to all stake-holders.
- (3) For the purpose of subsection (1) of this section, the Ministry may require any Service Provider and Consumers to furnish information to be included in the State Water and Sanitation Information System.
- (4) The Ministry shall submit the data for input into the State Water and Sanitation information system for verification of stakeholders at an annual stakeholder's conference stating the source of the data and confirming the accuracy thereof and such data will be made available to the public at a reasonable fee.
- (5) The Ministry shall establish Water Sector Coordination Committee  
The Committee shall be composed of the following members under the chairmanship of the Commissioner of the Ministry of Water Resources;
- i Commissioner in charge of Health
  - ii Commissioner in charge of Environment
  - iii Commissioner in charge of Education
  - iv Commissioner in charge of Women Affairs
  - v Commissioner in charge of Local Government and Community Affairs
  - vi Commissioner in charge of Urban Development
  - vii Permanent Secretary, Ministry in charge of Water Resources
  - viii Chairman of Association of Local Government of Nigeria (ALGON)
  - ix Director-General of the Rivers State Water Sector Regulatory Commission
  - x MD, Port-Harcourt Water Corporation
  - xi GM, Small Towns Water Supply and Sanitation Agency
  - xii GM, Rural Water Supply and Sanitation Agency
  - xiii Managing Director, Niger Delta Basin Development Authority
  - xiv Representative of the Niger Delta Development Commission
  - xv Administrator, Greater Port-Harcourt City Development Authority
  - xvi Representatives of Non-Governmental Organizations related to Water Supply and Sanitation active in the State
  - xvii Representative of each Oil Exploration and Production operating in the State
  - xviii Representatives of all External Support Agencies active in the State

- xl Representative of Water Consumer Association in the State
- xx Director Water Supply and Quality Control of the Federal Ministry of Water Resources.

#### **105. Functions of the Committee**

- (1) The committee shall meet annually to:
  - (a) assess the Water Sector Development Plans (WSDP) presented by the Ministry of Water Resources and highlight prospective intervention proposed for the Sector by Government and Non-Governmental Agencies.
  - (b) Consider and approve Capital Infrastructure Projects of the Sector.
- (2) A sub-committee of this committee shall meet quarterly to monitor and evaluate the implementation of the WSDP.
- (3) The secretariat for the Committee shall be in the Ministry in charge of Water Resources.

#### **106. Preparation of Water Sector Development Plans**

- (1) Every water supply and sanitation services operator and institution, whether public, private, or community based, must, within one year after the commencement of this Law, as part of the process of preparing an integrated water supply and sanitation development plan for the State in terms of this Law, and in consultation with the consumers served, the WASH Department, the community, and other stakeholders, prepare:
  - (a) A Water Supply and Sanitation Sector Development Plan for its area of operation; and
  - (b) A summary of that plan and submit same to the Ministry.
- (2) The Ministry responsible for water resources may extend the one-year period in respect of a water services operator.
- (3) The Plan shall be approved at a meeting of all stakeholders with the Water Sector Coordination Committee and the Commission.

#### **107. Contents of the Water Sector Development Plan**

Every Water Sector Development Plan must contain details of –

- (a) the physical attributes of the area to which it applies;
- (b) the size and population distribution within that area;
- (c) a time frame for the plan, including the implementation programme for the following five years;

- (d) existing water services;
- (e) existing water sanitation facilities and plans;
- (f) existing industrial water use within the area of operation of the relevant water services -operator or Agency;
- (g) existing industrial effluent disposed of within the area;
- (h) an estimate of the number and location of persons within the area who are not being provided with a basic water supply and basic sanitation;
- (i) the future provision of water services and water for industrial use and the future disposal of industrial effluents required, including:
  - (i) the water services providers;
  - (ii) the contracts and proposed contracts with those water services providers;
  - (iii) the proposed infrastructure necessary;
  - (iv) the water sources to be used and the quantity of water to be obtained from and discharged into each source;
  - (v) the estimated capital and operating costs of those water services and the financial arrangements for funding those water services, including the existing tariff structures and recommendations for future tariff structures;
  - (vi) any water services institution that will assist the water services operator;
  - (vii) the operation, maintenance, repair and replacement of existing and future infrastructure;
- (i) the number and location of persons to whom water services cannot be provided within the next five years setting out:
  - (a) the reasons;
  - (b) the time frame within which it may reasonably be expected that a basic water supply and basic sanitation will be provided to those persons; and
  - (c) existing and proposed water conservation, recycling and environmental protection measures.

#### **108. Publication of the Water Sector Development Plan**

- (1) The Ministry shall:-
  - (a) take reasonable steps to bring the Water Sector Development Plan to the notice of all stakeholders, consumers, potential consumers, industrial users, and water services institutions in the State, and
  - (b) invite public comments thereon to be submitted within a reasonable time.

- (2) A copy of the Water Sector Development Plan, a copy of its summary, all written comments, and a report on all comments other than written comments, must be:
  - (a) available for inspection at the offices of the Ministry, and
  - (b) obtainable on payment of a nominal fee.

**109. Adoption of Water Sector Development Plan.**

- (1) the Ministry shall consider all comments received by it before adopting the Water Sector Development Plan.
- (2) the Ministry shall, or request, report on the extent to which a specific comment has been taken into account or, if a comment was not taken into account, provide reasons thereof.

**110. Review of the State Water Sector Development Plan.**

The Ministry shall prepare, for the approval of the State Executive Council, every five years or any other period as it may determine a new development plan in accordance with the procedure set out in Sections 104 to 107 of this Law.

**111. Deviation from Development Plan.**

No substantial deviation from an approved Water Sector Development Plan is valid unless it is embodied in a new plan adopted in accordance with the procedure set out in sections 105 to 108 of this Law.

**112. Reporting on Implementation of the Water Sector Development Plan**

- (1) Every water services operator, institution or community based organization shall report on the implementation of its development plan during each financial year as well as at the time of submitting the new development plans for the succeeding year,
- (2) The report shall be:
  - (a) made within four months after the end of each financial year: and
  - (b) submitted to the Ministry and the Commission.
- (3) The water services operators and institutions shall publicise a summary of the report.



- (4) A copy of the report and of its summary shall be:
- (a) available for inspection at the offices of the water services Operator and institution; and
  - (b) obtainable on payment of a nominal fee.

**Collaboration of the Ministry Responsible for Water Resources with Other MDAs in the Sector:**

**113. Collaboration with Ministry of Environment**

The Ministry responsible for water resources shall collaborate with the Ministry of Environment;

- (1) in the development and enforcement of standards for effluent discharge and receiving water bodies composition;
- (2) in the implementation of measures to control erosion, flooding, ecological degradation, pollution, and sanitation matters; and
- (3) in conducting Environmental Impact Assessment of new and existing water projects as they impact water resources and water services in the State, and making recommendations to the Ministry for effective measures.

**114. The Role of the State Ministry of Health**

Ministry of Health shall undertake water quality surveillance and monitoring in accordance with the Nigerian Standard for Drinking Water Quality (NSDWQ), and report infringements to the Commission for enforcement.

**115. Prevention of Water Pollution**

- (1). It shall be a duty of every person or institution established under this Law to promote and observe the State Policy on point and non-point sources of pollution of the water resources of the State.
- (2) Any such person or institution shall promptly notify both the relevant Federal and State environmental standards enforcement Agency in charge of pollution control, the Commission, the State Ministry responsible for Water Resources, Ministry of Environment and any other Agency responsible for standards enforcement in the area where the water source is situated, of any actual or threatened infringement whereupon such Agency, Ministry or institution shall take appropriate steps pursuant to this Law and or the Law establishing it.

- (3) All WCAs, WSPs, relevant MDAs, and the Commission shall take all appropriate measures to control non-point source pollution including monitoring the industrial effluents discharged into water sources.
- (4). In cases of emergency or threat of imminent serious pollution, the Ministry responsible for Water Resources, in collaboration with other relevant State Ministries and the Commission, will take appropriate steps to rectify the problem as soon as practicable and thereafter inform the relevant enforcement Agency.
- (5) In spite of a notification of a point or non-point source of pollution to the enforcement Agency by any person, the Ministry responsible for Water Resources in collaboration with other relevant State Ministries and the Commission shall continue to monitor and ensure actual abatement of such pollution occurring within the State.
- (6) In the event that such pollution continues after notification to the enforcement Agency, the Ministry responsible for Water Resources, where it considers it expedient to protect lives, property and the water resources of the State and in collaboration with other relevant State Ministries may take appropriate steps to abate such pollution including prosecution of such polluters and suspension of a license for wastewater discharge or related water supply.
- (7) Where the Ministry takes such steps as are contemplated in this section, such costs as are incurred shall be recovered from the party(s) directly or indirectly responsible for the pollution.

## **PART VI**

### **ESTABLISHMENT OF THE RIVERS STATE WATER SERVICES REGULATORY COMMISSION**

#### **116. Establishment of the Commission**

- (1) There is hereby established the Rivers State Water Services Regulatory COMMISSION (in this Law referred to as “the COMMISSION”).
- (2) The COMMISSION shall be a body corporate with perpetual succession and a common seal and shall have power to sue and be sued in its corporate name and to hold and dispose of property whether movable or immovable.
- (3) The head office of the COMMISSION shall be in Port Harcourt.

## **117. Objectives**

- (1) The principal objectives of the COMMISSION shall be to:
  - (a) promote all State and Federal Water Laws and Policies;
  - (b) create, promote, and preserve efficient industry and market structures, and to ensure optimal utilization of resources for the provision of Water Services;
  - (c) maximize access to Water Services, by promoting and facilitating consumer connections to distribution systems in urban areas and small towns, and provision of water in rural areas;
  - (d) ensure adequate supply of water to consumers and that consumers (including low-income or vulnerable consumers) benefit from any gains from increased competition and efficiency;
  - (e) ensure that the rates and fees charged by Water Services Providers are sufficient to finance their activities and allow for reasonable earnings for efficient operation;
  - (f) control wastewater management and discharge;
  - (g) ensure the safety, security, reliability, and quality of service in the production and delivery of water to consumers;
  - (h) make Regulations for protection of the integrity of the investments of the Water Services Providers in the sector by ensuring that the providers are able to recoup their investments without undue prejudice to the interest of the consumers;
  - (i) make Regulations to ensure the availability of the water resources of the State to the generality of the residents of the State by controlling the sinking of boreholes;
  - (j) ensure that Regulation is fair and balanced for Water Services Providers, consumers, investors, and other stakeholders;
  - (k) receive complaints and resolve disputes between consumers and Water Services providers;
  - l) ensure that regulatory decision-making has regard to all relevant health, safety, environmental and social legislations applying to the water sector; and
  - (m) promote consistency in Regulation between States on a National basis.
- (2) Without derogating from subsection (1) the Commission shall perform its functions and exercise its powers in such a manner as it considers best in achieving any of its objectives under this Law.

## **118. Scope of the Authority of the COMMISSION**

The Authority of the COMMISSION shall apply to the State Water Agencies created

under this Law, all Water Services providers, consumers, and Government Ministries, Departments and Agencies, relevant donor/aid Agencies, etc.

### **119. Establishment and Composition of the Board of the Commission**

- (1) There is hereby established for the COMMISSION, a part-time Board appointed by the Governor which shall consist of the following members;
  - (a) Chairman;
  - (b) One nominee each of the following-
    - (i) a Legal practitioner who must be a member of the Nigerian Bar Association, Port Harcourt Branch or any of the Branches of the Bar in Rivers State who shall be with a minimum of fifteen (15) years cognate post-call experience;
    - (ii) an NGO, who is a professional with a minimum of ten years cognate experience in advocacy in the water sanitation sector of the State;
    - (iii) Port Harcourt Chamber of Commerce, Industry Mines and Agriculture; and
    - (iv) State Chapter of the Nigerian Society of Engineers with a minimum of 15 years cognate experience who shall be registered with COREN.
    - (v) State chapter of the Council of Mining Engineers and Geoscientist (COMEG)
    - (vi) a representative of the Ministry of Water Resources and Rural Development;
    - (vii) a representative of the Ministry of Environment.
  - (c) a chartered accountant or an Economist with a minimum of 15 years cognate experience appointed by the Governor.
  - (d) The Director General of the Commission.
- (2) A Person shall not be appointed as Chairman unless he is a holder of a degree in a related discipline and shall have held a senior management position in a public or private establishment for a minimum of ten years.

### **120. Tenure of Office**

- (1) Subject to the provisions of this Law, a member shall hold office for a period of four years.
- (2) A member shall hold office on such reasonable terms and conditions as

the Governor may fix in relation to members generally and in accordance with the terms hereof.

- (3) A member shall be eligible for re-appointment for another four year term and thereafter shall not be eligible to serve on the Board.
- (4) The terms, remuneration and conditions of service of members shall not be varied or altered to their detriment during their tenure of office.

#### **121. Disqualifications**

A Person shall not be appointed as a member of the Board if he:

- (a) is not an indigene of Rivers State or permanently resident in Nigeria; or
- (b) has a pecuniary interest in any Water Services Provider regulated under this Law or any entity which is in competition with or provides similar services to those supplied by a Water Services Provider regulated under this Law within the State unless the Governor is satisfied that the interest or activity is indirect and passive and will not interfere with the Person's impartial discharge of his duties as a member, or unless the pecuniary interest is terminated prior to the appointment taking effect; or
- (c) has:
  - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
  - (ii) made an assignment to, or arrangement or compromise with, his creditors which has not been rescinded or set aside; or
  - (ii) has been certified by a competent Authority to be of unsound mind; or
  - (iv) been banned from practicing his profession.

#### **122. Vacation of Office**

- (1) A member shall vacate his office if he:
  - (a) gives notice in writing to the Governor of his intention to resign, upon expiration of such notice; or
  - (b) has been convicted by a court of competent jurisdiction of any offence involving dishonesty, fraud, or financial impropriety; or
  - (c) attends fewer than 75% of the member's meetings in any one year period;
  - (d) is incapable of discharging the functions of his office by reason of mental and/or physical ill-health.

- (2) The Governor may in accordance with sections 122 and sub-section (1) of this section suspend or remove any member of the Board.

### **123. Proceedings of the Board**

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

### **124. Disclosure**

- (1) If a member:
  - (a) acquires or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board;
  - (b) owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of Persons which results in the member's private interests coming or appearing to come into conflict with his functions as a member; or
  - (c) Knows or has reason to believe that a relative of the member has acquired or hold a direct or indirect pecuniary interest in any matter that is under consideration by the Board, or owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member's private interests coming or appearing to come into conflict with his functions as a member, or if for any reason the private

interests of a member come into conflict with his functions as a member, the member shall forthwith disclose the fact to the Board

- (2) A member referred to in subsection (1) shall take no part in the consideration or discussion of, or vote on, any question before the Board which relates to any contract, right, immovable property or interest referred to in that subsection.
- (3) Any member who contravenes subsections (1) & (2) of this section commits an offence and is liable to a fine of N100,000 or to (2) two years imprisonment or both.
- (4) If a member referred to in this section takes part in the consideration of a matter in which his private interests are in conflict with his function as a member, the other members may subsequently ratify any such decision or action.

#### **125. Director General and Secretariat**

- (1) There shall be appointed by the Governor, a Director General, for the COMMISSION who shall be the Chief Executive Officer and Chief Accounting Officer of the COMMISSION and shall hold office on such terms and conditions as may be specified in his letter of appointment.
- (2) He shall be responsible for the day to day administration of the affairs of the COMMISSION and perform such other functions as the Board may from time to time direct.
- (3) The remuneration of the Director General shall be as contained in his letter of appointment provided that such remuneration shall not be less than that paid to a Permanent Secretary in the public service of the State.
- (4) He shall be a professional in Engineering, Law, Accountancy, Business Administration, the Physical Sciences, or other relevant discipline who is registered with his professional body and shall have held a senior management position for a minimum of ten years in a public or private organization.

#### **126. Appointment and Remuneration of Staff**

- (1) The COMMISSION shall appoint such number of Staff as may be required to carry out its functions under this law.
- (2) The Staff of the COMMISSION shall be paid such remuneration and allowances as the Board may determine based on the following principles;
  - (a) the specialized nature of work to be performed by the Staff;

- (b) the salaries paid in the private sector to individuals with equivalent responsibilities, expertise and skills; and
- (c) the nature of the expenses incurred by the COMMISSION Staff and employees, including National and international travel expenses.

**127. Departments**

- (1) The Commission shall establish such Departments as it deems necessary which Departments shall include Legal Services Department.
- (2) The Legal Services Department shall be headed by a Legal Practitioners not below the rank of an Assistant Director who has been in the Public Service for a minimum of ten years and shall be nominated by the Attorney General.

**128. Budgets**

The COMMISSION shall prepare and submit an estimate of its budget to the Commissioner for Finance in accordance with the Rivers State Fiscal responsibility Law No. 8 of 2010.

**129. Funds of the COMMISSION**

- (1) There is established for the COMMISSION a fund into which all monies accruable to the COMMISSION shall be paid and from which shall be defrayed all expenditure incurred by the COMMISSION.
- (2) The funds of the COMMISSION shall consist of:
  - (a) fees, charges and other income accruing to the COMMISSION from Water Services Providers, or any other monies, as may accrue to the COMMISSION, whether in the course of its operations or otherwise, excluding any fines or penalties recovered pursuant to this Law;
  - (b) a surcharge on Tariffs payable by consumers of Water Services as the COMMISSION may by Regulation decide;
  - (c) funds allocated to the Commission by the House of Assembly, pursuant to a request by the Commission for additional funds required to meet its reasonable expenditure.
  - (d) all Water Service Provider shall pay not more than **2%** of all incomes from the sale of water delivered to consumers to the Commission.

**130. Accounts and Audit**

- (1) The Chairman shall ensure that proper account and other records relating to such



account are kept in respect of all Commission activities funds and property including such particular accounts and records as the Commission may require.

- (2) The accounts shall be audited in accordance with **Section 22** of the **Rivers State Fiscal Responsibility Law No. 8 of 2010** or any other relevant law
- (3) Any staff or employee or agent of the COMMISSION who fails without just cause to comply with a requirement of an auditor in terms of subsection (2) commits an offence and is liable on conviction to a fine of N100,000 or 2 years imprisonment or both.

### **131. Annual Reports**

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

### **132. Other Reports**

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

**133. Immunity of members and Staff of the COMMISSION**

- (1) The Chairman and members, Staff of the COMMISSION shall not be liable for any loss or damage sustained by any person as a result of the bona fide performance of any function which, by or in terms of this Law, is conferred or imposed upon such person.
- (2) No execution or attachment of process shall be issued against any property vested in the COMMISSION except with the prior consent of the Attorney-General.

**134. Benchmarking of the Commission**

In order to facilitate the comparison of activities and performance of the Commission U against any other or other Water Regulatory Commissions, the Commission if required, either by any Water Sector Development Programme Commitments or by the Governor, shall submit to the Governor or the Development Commitments or any such person or body, such reports as may be necessary or required in order to facilitate the comparison.

**135. Delegation of powers**

- (1) Subject to subsection (2) of this section, the COMMISSION may in writing delegate any power vested in it under this Law, and may impose separate or concurrent duties with respect to enforcement of any Regulations or Orders made by it in a particular area on any Water Services Provider or a Local Government Authority.
- (2) Notwithstanding anything contained in subsection (1) of this section, the COMMISSION shall not delegate the power:
  - (a) to make Regulations; or
  - (b) to issue and cancel water service provider's licenses and permits.

**136. Advisory support and outsourcing**

- (1) The COMMISSION may appoint Advisory Committees to advise it on the exercise of the Water Services Regulatory Functions contained in this Law.
- (2) The COMMISSION may enter into arrangements with private sector experts to advise on or to undertake the performance of any Water Sector Regulatory Functions.
- (3) Any private sector expert appointed under this section shall be appointed by an open and competitive bidding, in accordance with the PPP and Procurement Laws in the State.

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

### **137. Water Services Regulatory Functions**

1. The COMMISSION, in addition to any other functions imposed on it by this Law shall perform the following regulatory functions for the provision of water services in the State
  - (a) advise the State Government on water supply, wastewater and sewage matters;
  - (b) regulate wastewater and sewage activities in the State and enforce compliance with its regulations in respect thereof and any other provisions under this Law or any other Law;
  - (c) license water services providers;
  - (d) develop sector guidelines on the technical and financial management of water services by water services providers.
  - (e) make Regulations prescribing all matters which by .this Law are required or permitted to be prescribed or which, in the opinion of the COMMISSION, are necessary or convenient to be prescribed for carrying out or giving effect to this Law, including:
    - (i) the administration of the affairs of the COMMISSION, including, inter alia, the holding of meetings, Hearings and Proceedings, arbitration and mediation Proceedings, the conduct of inquiries and investigations, becoming a party, the handling of information, and generally the conduct of its business;
    - (ii) the procedure for issuing licenses;
    - (iii) the determination of the standards for the provision of water services including water quality standards in accordance with the NDWQS and the construction of boreholes;
    - (iv) the method and manner by which the tariffs that may be charged by water service providers for their services will be determined including a metering scheme for certain large volume consumers, to the extent practicable and cost-effective;

- (v) the duties, powers, rights, and obligations of a water services provider;
  - (vi) the resources, procurement policies of, and entry into Private Sector Participation Agreement by, the Water Services Providers, including, as may be applicable, the review and approval of same subject to State Laws and Regulations on same;
  - (vii) procedures for monitoring compliance with this Law and any other applicable Laws and policies on water;
  - (viii) guidelines to eliminate illegal connections, unregulated or illegal use of Water Services;
  - (ix) guidelines for monitoring the sinking of boreholes and issuing of permits for same, and other activities impacting access to water including prescribing fees for such monitoring as well as for penalties for contravention; and
  - (x) practices, procedures and reporting requirements for monitoring and enforcing this Law including establishment of fines and penalties.
  - (xi) Regulations for connection and disconnection of consumers from water services
- (f) under the provision of this law no Agency (MDAs, ESAs, NGOs, Multinational Organization, private individuals) shall engage in the execution of any Water! Sanitation Project in any part of the State without the written approval of the Commission.

2. It shall be lawful for the Commission to charge annual levies on privately-owned bore hole or other water facilities of such amount as the Commission may determine from time to time PROVIDED that this power shall not be exercised in an area where the Commission has not provided function water facilities and potable water.

**138. Discharge of Functions**

- (1) In the discharge of its Regulatory Functions under this Law, including the making of Regulations and of any decision or determination, the COMMISSION shall:
- (a) consult in good faith with persons who are or are likely to be affected by the decision including water services providers, consumers and any consumer associations;

- (b) give to such persons an opportunity to make submissions to and to be heard by the COMMISSION;
  - (c) have regard to the evidence or facts adduced at any hearing and to matters contained in any submissions;
  - (d) give reasons in writing for every decision;
  - (e) ensure that notice is given of each Regulation, decision or determination in the Government Gazette, and in a National Daily News Paper circulating in the State and on her website;
  - (f) ensure that decisions are accessible to the public at reasonable times and places; and
  - (g) ensure that decisions are consistent with all applicable Federal and State Water Laws and policies, and Water Sector Development Programme commitments of the State.
  - (h) In carrying out its Sewerage function under this Law, the Commission shall actively collaborate with Local Government Councils and it shall be lawful for the Commission to enter into any Agreement or Understanding with such Councils to discharge the functions of its sewerage functions under this Law.
- (2) The COMMISSION may make interim Orders pending the final disposition of a matter before it.

**139. Other Powers of the COMMISSION**

- (1) The COMMISSION may exercise such other powers including the power to make determinations and to act as an arbitrator in disputes under a Private Sector Participation Agreement where such is provided, and in accordance with the Arbitration and Conciliation Act Cap 18A LFN 2004.
- (2) In making a determination under this section the COMMISSION shall have regard to any factors specified in the Private Sector Participation Agreement in relation to economic regulatory matters.

**LICENSE**

**140. License to Operate as Water Services Provider**

- (1) No person shall operate as a service provider unless such person:

- (a) holds a license issued by the COMMISSION; or
  - (b) is exempted from the requirement to obtain a license in respect of the provision of the relevant water services.
- (2) Notwithstanding the provisions of subsection (1) of this section, any person, who at the commencement of this Law, was acting as a Water Services Provider without a license, may continue to do so until the expiry of reasonable time or period, which time or period shall not exceed six months, given by the COMMISSION that the continuation will be subject to the issuance of license.
- (3) The COMMISSION shall have the power to determine whether a person who engages, or is about to engage in business for which a license is required under this Law, may be exempted from the requirement to obtain a license:
- PROVIDED that the COMMISSION shall, by an Order publish the exemption in the Gazette, specifying whether such exemption is of general or specific application.
- (4) An exemption shall be granted subject to the terms, conditions and limitations specified in the Order but without prejudices to the powers and functions of the COMMISSION in relation to the regulation of the provision of Water Services which may be rendered by such service providers.
- (5) The COMMISSION may issue an interim license to any person as specified under this Law for a period not exceeding eighteen months, or such shorter period as it may considered appropriate.
- (6) Any person who contravenes any of the provisions of this Law in obtaining the required license commits an offence and is liable on conviction to a term of imprisonment not exceeding **2 years** or a fine of **N100,000.00 or both**, and thereafter **N5,000.00** per day until the default is abated.
- (7) The COMMISSION shall have the power to order any person who contravenes any of the provisions of subsection (2) of this section, to cease operations, and to make such other orders, including an order to another water service provider to disconnect facilities as may be necessary to prevent the continuation or reoccurrence of the contravention.

#### **141. Limitations on Transfer of License**

A water services provider shall not, except as provided under this Law, transfer its license by whatever means or nature of transaction, without the written consent of the COMMISSION first sought and obtained:

PROVIDED that, where the circumstances requires, the COMMISSION may approve the transfer subject to terms and conditions including the extent of the consent.

**142. Application for License**

- (1) An application for a license shall be made to the COMMISSION in the form and manner prescribed by the COMMISSION, and shall be accompanied by the prescribed fee and such information or documents as may be required by the COMMISSION.
- (2) Within thirty days of applying for a license under this section, the applicant shall cause a notice of such application to be published in newspapers in circulation in the area in which the applicant intends to provide its services.
- (3) The notice shall state the period within which objections or representation in connection with the application may be made to the COMMISSION by any member of the public, and the COMMISSION shall not issue any license until the period has lapsed or any objections or representations received by the COMMISSION have been considered.
- (4) Subject to subsection (5) of this section, if on consideration of an application that satisfies the requirements of subsection (1), the COMMISSION is also satisfied that:
  - (a) the applicant is likely to comply with such provisions of this Law, including, without limitation, all codes of conduct, Standards, Regulations and terms and conditions of license, applicable to the service or system it intends to provide or operate; and
  - (b) the grant of the license is in the public interest, after consideration of all relevant factors, including but not limited to the following:
    - (i) existing lawful services; and
    - (ii) efficient and beneficial use of Water Services in the relevant geographic areas, the COMMISSION shall issue the appropriate license to the applicant.
- (5) If on consideration of an application that satisfies the requirements of subsection (1), the COMMISSION is not satisfied as to the additional matters referred to in subsection (4) of this section, it shall refuse to issue a license to the applicant, subject to affording the applicant an adequate opportunity to make representations in the matter.
- (6) The period between the COMMISSION's receipt of an application under subsection (1) and all documents and information submitted in support of it, and the date on which it

notifies the applicant of the adequacy of the documents and information, shall not exceed thirty days.

- (7) The period between the COMMISSION's receipt of an application that satisfies the requirements of subsection (1), and the date on which the COMMISSION notifies the applicant of its decision or proposed decision in accordance with subsection (2) or subsection (5) of this section, as the case may be, shall not exceed six months, unless the applicant consents to an extension of the period.
- (8) Notwithstanding subsections (1) to (7) of this section, the COMMISSION may establish simplified procedures for different water services providers such as Water Services Intermediaries so as to expedite the application and licensing process.

**143. Terms and Conditions of License**

- (1) A license shall be issued subject to such terms and conditions as are required by this Law or as the COMMISSION may by Regulation prescribe.
- (2) Unless expressly indicated in the license, the grant of a license shall not hinder or restrict the grant of other similar licenses to other persons for like purpose and, in the absence of such an express indication, the water services provider shall not claim any exclusivity:

PROVIDED that the COMMISSION may allow a license to be exclusive for all or part of the period of the license, for a specific purpose, within a geographic area, or for some combination of the foregoing.

- (3) A license may contain terms and conditions for the license to cease to have effect or to be modified or amended by the COMMISSION in such circumstances as may be specified in the license.
- (4) A license shall be valid for 5 years in the first instance and subject to satisfactory performance and conditions set by the COMMISSION be renewable for a further period of 5 years.

**144. Determination of Fees and Charges.**

The COMMISSION shall specify a fee chargeable in relation to respective licenses issued under this Law, which fee shall represent reasonable estimate of the costs which will be incurred by the Commission in relation to the Regulation of the Water Services to which the license relates, and at such intervals as determined by the COMMISSION.



#### **145. Renewal of License**

At the expiry of his license, subject to payment of the appropriate fee, a service provider shall apply to the COMMISSION in the form and manner and within the period prescribed for a renewal of its license.

#### **146. Amendment of License**

- (1) Subject to this section, the contents of a license may be amended –
  - (a) in accordance with the procedures specified in the license; or
  - (b) by agreement between the COMMISSION and the water services provider;
- (2) The water services provider shall cause a notice of the proposed alteration or amendments to its license to be published in accordance with such directions as may be issued by the COMMISSION, which may include stating the period prescribed by the COMMISSION, within which objections or representations in connection with the amendments may be made to the COMMISSION.
- (3) The COMMISSION shall not amend any license until all objections or representations received by the COMMISSION have been considered.

### **STANDARDS AND TARIFFS**

#### **147. Standards**

- (1) The COMMISSION shall in consultation with applicable Federal and State MDAs, water service providers, consumers and other stakeholders, develop the following performance standards and codes –
  - (a) standards for overall performance in connection with the provision of Water Services and in connection with the promotion of the efficient use of water by consumers;
  - (b) water quality standards;
  - (c) such technical codes and manuals as may be required for the safe, reliable, and efficient operation of the system; and
  - (d) such other standards, codes, manuals as the COMMISSION may require.
- (2) Standards, codes and manuals approved by the COMMISSION pursuant to Subsection (1) of this section shall be binding on the relevant Water Service providers and shall be

published by the relevant Water Services Providers in such manner as the COMMISSION may direct.

- (3) The COMMISSION may, depending on the nature of the service provided, set different standards for different Water Services Providers under this Law.
- (4) In carrying out its functions under this Law, including setting and monitoring standards under this section, the COMMISSION shall consult and cooperate with relevant Federal and State MDAs responsible for Environmental and Water Resource Management Regulation.

#### **148. Tariffs**

- (1) The COMMISSION shall adopt and issue to the service providers methodologies for tariffs that may be charged for its services.
- (2) No service provider shall fix any tariff to be charged for water services unless the tariff is in accordance with the applicable tariff methodology adopted for regulating water tariffs and has been approved by the COMMISSION.
- (3) In determining Tariff methodologies the COMMISSION shall have regard to the –
  - (a) particular circumstances of the Water Services for which the determination is being made;
  - (b) costs of producing and supplying the water services;
  - (c) interests of the service provider including assurance of the financial integrity of the service provider;
  - (d) cost of complying with relevant health, safety, environmental and social legislation;
  - (e) the need to provide incentives for continued improvement in technical and economic efficiency and quality of water services; and
  - (f) the interests of consumers, including the need to avoid undue discrimination between consumers and consumer categories.
- (4) The COMMISSION may establish simplified tariff methodologies for different service providers such as water services intermediaries.
- (5) Notwithstanding the provisions of paragraph (f) of subsection (3) of this section, in establishing tariff methodologies, the COMMISSION shall differentiate among consumers on the basis of differences in total water consumption, the time or periods on which water is consumed, and other such criteria as may affect the cost of providing a service and may allow a lifeline tariff for some consumers.

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

## **WATER SERVICES PROVIDERS AND CONSUMERS**

### **149. Terms and Conditions For The Provision of Water Services**

- (1) The COMMISSION shall in accordance with this Law and any Regulation made pursuant to this Law set terms and conditions for the provision of Water Services by service provider.
- (2) These conditions shall -
  - (a) be in writing, accessible to the public and available free of charge to any consumer;
  - (b) be consistent with applicable Federal and State Laws and policies on water;
  - (c) be consistent with every applicable Water Services Development Plan adopted pursuant to this Law; and
  - (d) provide for
    - (i) the technical conditions of existing or proposed extensions of supply;

- (ii) the determination and structure of tariffs;
  - (iii) the conditions for payment;
  - (iv) the circumstances under which Water Services may be limited or discontinued;
  - (v) procedures for limiting or discontinuing Water Services; and
  - (vi) measures to promote water conservation and demand management.
- (3) The procedures for the limitation or discontinuation of Water Services shall –
- (a) be fair and equitable; and
  - (b) provide for the required notice of intention to limit or discontinue the services and for an opportunity to make representations, unless; other consumers would be prejudiced or there is an emergency situation or the consumer has interfered with a limited or discontinued service;
- (4) Any person who uses water services provided by a service provider shall be subject to any applicable condition set or presented by that service provider subject to Regulations with respect to such conditions issued by the COMMISSION.
- (5) Where one Water Services Provider supplies water services to another Water Services Provider, it shall not limit or discontinue those services for reasons of non-payment, unless it has given at least 30 days' notice (or any other period of notice as may be deemed sufficient by the COMMISSION) in writing of its intention to discontinue the Services and has forwarded a copy of the notice to the COMMISSION for information.

**150. Duty to provide access to Water Services**

- (1) Any Water Services Provider shall ensure efficient, affordable, economical and sustainable access to Water Services to all consumers or potential consumers in its area of operation, in accordance with the terms of its license.
- (2) The duty prescribed in subsection (1) of this section shall be subject to the –
- (a) terms of the license and any applicable Private Sector Participation Agreement;
  - (b) availability of resources;
  - (c) need to regulate access to Water Services in an equitable way;
  - (d) duty of consumers to pay reasonable charges, based on the standards for tariffs for Water Services;
  - (e) duty to conserve water resources;
  - (f) duty to manage waste water and sewerage in a manner prescribed by the Commission and all applicable Laws and best practices.
  - (g) duty to provide quality and safe water.

- (h) nature, topography, zoning and situation of the land in question; and
  - (i) the right of the relevant Water Services Provider to limit or discontinue with provision of Water Services if there is failure to comply with reasonable conditions set for the provision of such services.
- (3) A service provider shall not unreasonably and without verifiable cause refuse or fail to give access to prescribe water services to a consumer or potential consumer in its area of operation.
- (4) In an emergency situation, a Service Provider shall take reasonable steps to provide basic water supply to any person within its area of operation and may do so at cost to the State Government in accordance with standards prescribed by the COMMISSION.
- (5) No provisions of this section shall be interpreted to expand the obligations of a services provider under a Private Sector Participation Agreement awarded and approved in accordance with the provisions of this Law, and the State PPP and Procurement Laws.

#### **151. Rights of Water Services Providers**

The Water Services Provider may –

- (a) construct, operate, alter or repair any water services facility in accordance with the terms of its license and, where applicable, any applicable Private Sector Participation Agreement and with the permission of the relevant State and Federal Government authorities;
- (b) levy Tariffs for water services provided by it in accordance with this Law and the tariff methodology prescribed by the COMMISSION; and
- (c) apply for, enter into agreements for, and perform all obligations related to grants or loans under a Water Sector Programme Commitment as it relates to such service provider.

#### **152. Obligations of Water Services Provider**

- (1) A Water Services Provider shall -
- (a) comply with the provisions of its license, and Regulations, general codes, and other requirements issued by the COMMISSION from time to time unless restrained by a court of competent jurisdiction and notwithstanding that the water services provider has or may intend to take legal action challenging any such Order or notice;
  - (b) provide the Water Services in accordance with all applicable State and Federal Water Laws and any other laws applicable to it.

- (c) unless expressly exempted by the COMMISSION, prepare and submit to the COMMISSION each year such accounting information as the COMMISSION may require;
  - (d) present to the COMMISSION, complete and regular information, in the form and in substance prescribed, as may be required by the COMMISSION in relation to its services and so as to prove compliance with the approved tariff, tariff methodology and with any other obligation of the Service Provider under this Law or its license and for the purposes of monitoring the implementation of the Water Sector Development Plan by the COMMISSION;
- (2) A Service Provider shall establish procedures for dealing with complaints by its consumers or potential consumers in accordance with Regulations developed by the COMMISSION.

**153. Consumers**

- (1) In addition to any other right contained in the contract between the consumer and the Water Service Provider, a consumer shall be informed by the water services provider of the rights and obligations of the Water Services Provider under the license.
- (2) The COMMISSION shall make Regulations containing the Consumer's Bill of Rights and Obligations and make same available to all consumers.
- (3) A consumer shall in addition to any other obligation contained in any contract between the consumer and the Water Services Provider —
- (a) pay for the services provided or made available in accordance with the applicable tariff;
  - (b) pay the surcharge on tariff imposed under this Law;
  - (c) comply with the technical Regulations issued by the Water Services Provider licensee relating to consumer installations including their maintenance;
  - (d) allow the Water Services Provider to install a meter on the property where appropriate, and keep the meter in the same condition as existed when installed fair wear and tear excepted;
  - (e) permit the service provider or its agents and employees to read the meter in accordance with the terms and conditions established in the license.
- (4) Where the consumer fails, after the due notice, to comply with the provisions of subsection (3) of this section, the service licensee may suspend the service to that consumer except where the consumer is an essential service provider.

## **COMPLAINTS, INVESTIGATION AND ORDERS**

### **154. Right of Complaint to the COMMISSION**

- (1) Any consumer or service provider may submit a complaint to the COMMISSION in respect of any matter arising under this Law.
- (2) A dispute between a consumer and a service provider relating to the provision of water services or the tariff chargeable for the service provided by a service provider shall in the first instance be referred to the COMMISSION for investigation and settlement.

### **155. Investigations**

- (1) The COMMISSION may on its own initiative, or upon the receipt of a complaint from any consumer or services provider inquire into the conduct or performance of any services provider in carrying out its obligations under this Law or Regulations, codes of conduct, or the terms and conditions of the license.
- (2) The COMMISSION shall investigate complaints received by it unless it is of the opinion that;
  - (a) the complaint is trivial, frivolous, vexatious or not made in good faith; or
  - (b) the complaint is on the same subject already under investigation.

### **156. Abatement Orders**

- (1) Where the Commission is satisfied that a service provider is contravening, has contravened or is likely to contravene any of the conditions of the water service provider license, the Commission may serve upon the service provider an abatement order;
  - (a) requiring the services provider to do, or avoid the doing of any act, as may be specified in the Order for the purpose of rectifying or avoiding any contravention or threatened contravention of any condition of the license; and
  - (b) stipulating the period within which any directive referred to in paragraph (a) of subsection (1) of this section shall be commenced and completed;
- (2) An Order for abatement shall be published by the COMMISSION in the Official Gazette and in the public media or in such manner as the COMMISSION considers appropriate to draw the attention of other persons affected or likely to be affected by the acts of the water service provider.

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

#### **157. Suspension or Revocation of License**

- (1) After an inquiry, including an opportunity for the Water Services Provider to show cause as to why its license should not be revoked, the COMMISSION may revoke or suspend any license if, in its opinion:
  - (a) the license was issued through fraud or the misrepresentation or non disclosure of a material fact by the Water Services Provider;
  - (b) the services provider has failed, without reasonable cause, to comply with an enforcement Order issued by the COMMISSION;
  - (c) the service provider has failed, after appropriate notice in accordance with the terms and conditions of the license, to comply with any terms and condition of its license, the breach of which is expressly declared by such license to render it liable to revocation; or
  - (d) the financial position of the service provider is such that he is unable to fully and efficiently discharge the duties and obligations imposed by the license.
- (2) Before revoking a license, the COMMISSION shall notify the service provider in writing of its intention to revoke the license and the reasons for doing so, and shall allow the Water Services Provider an opportunity to demonstrate within 60 days, following the



delivery of such a notification that circumstances have changed such that revocation may not longer be warranted.

- (3) Notwithstanding subsections (1) and (2) of this section, the COMMISSION may allow a license to remain in force, subject to such further terms and conditions as it may deem necessary to impose, and such terms and conditions shall form part of the license.

#### **158. Power in relation to Statutory Managers**

- (1) Without prejudice to the powers of the COMMISSION to revoke a license, where a license has been suspended or revoked, the Governor may, acting on the recommendation of the COMMISSION and in the public interest, direct that the utility or service be operated under the management and control of a competent person (in this section referred to as the **“Statutory Manager”**).
- (2) The Statutory Manager shall exercise all relevant powers and perform all relevant duties on behalf of the Service Provider, and shall use the infrastructure of the original Service Provider to perform all necessary functions.
- (3) When a Service Provider resumes its functions, the powers exercised and duties performed by the Statutory Manager shall cease.
- (4) The Statutory Manager may recover from the original Water Services Provider all outstanding expenses which it incurred and losses which it suffered, in the cause of any act performed under this section.
- (5) The suspension or revocation of a license and the appointment of a Statutory Manager under this section shall not prejudice or adversely affect the interest of any holder of any security in the business of the Water Services Provider or any mortgage or the right of enforcing the security.

#### **159. Review of Decisions by the COMMISSION**

- (1) Any Person who is aggrieved by –
  - (a) the decision of the COMMISSION not to issue a license;
  - (b) any term or condition of a license issued to him, or a refusal by the COMMISSION to specify a term and condition in the license;
  - (c) a refusal by the COMMISSION to renew a license;
  - (d) any amendment of a license or a refusal by the COMMISSION to amend a license;
  - (e) the revocation of a license;

- (f) the grant or refusal by the COMMISSION to grant any approval or Authority in accordance with this Law;
  - (g) the outcome of any arbitration or mediation by the COMMISSION of a dispute between service providers or between a service provider and consumer;
  - (h) a decision of the COMMISSION with respect to tariff; or
  - (i) any other decision of the COMMISSION, may within fourteen days of the delivery of the decision, apply to the Commission for re-consideration of the matter or review of the decision of the Commission.
- (2) An application for review of decision of the COMMISSION may also be sought under L this section if the applicant relies on new facts or changed circumstances that could not, with due diligence, have become known to the applicant while the matter was being considered by the COMMISSION.
- (3) Any disputes or differences arising between licensees or users in respect of activities carried out under this Law may at first instance be referred to the COMMISSION for mediation and where necessary Arbitration.
- (4) For the purpose of subsection (4) of this section, the COMMISSION may act as Mediator and where necessary, Arbitrator or nominate an Arbitrator to adjudicate and settle the dispute.

#### **160. Right of Action**

- (1) Notwithstanding anything contained in section 155 of this Law, a person who has made an application for a license may challenge any failure by the COMMISSION to take a decision on the application within a reasonable time.
- (2) The provision of section 155 shall not operate to prejudice the right of any person who is aggrieved by any decision of the Commission to challenge the decision before the High Court.

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

### **PRIVATE SECTOR PARTICIPATION AGREEMENTS**

#### **161. Private Sector Participation (PSP) Agreements**

- (1) All PSP Agreements to perform any functions or services or to provide facilities in the Water Supply and Sanitation Services Sector shall be subject to this Law, the Rivers State Public-Private Participation in Infrastructure Development Law 2009 (PPPID LAW), the Rivers State Procurement Law of 2008, the Regulations of the COMMISSION and any other relevant Law in the State.

- (2) The procurement of a Private Sector Participation Agreement shall be carried out in accordance with all applicable laws and policies, including the following provisions:
  - (a) except as otherwise authorized by the COMMISSION, Private Sector Participation Agreements shall be procured by open and competitive bidding, subject to bidding and award guidelines, including adequate technical requirements.
  - (b) The scope of the project or activities the subject of the Private Sector Participation Agreements, including the design, construction, maintenance or operation of new water services facilities or the modernization, rehabilitation, expansion, management or operation of existing water services facilities, shall conform with the State Water Sector Development Plans as approved by the State Executive Council;
  - (c) Any award of contract pursuant to this section shall be consistent with the bidding and award guidelines contained in the PPPID Law, the Procurement Law of the State and any other relevant Laws, circulars, Regulations and guidelines relating to the tendering of public contracts and private sector investment on infrastructure;
  - (d) The COMMISSION shall approve Private Sector Participation Agreement only if the Agreement complies with this Law, the Water Services Development Plan and the State-Wide Development Plan and any prescribed procedures for award of the Private Sector Participation Agreement.
- (3) The COMMISSION may develop further provisions for the procedure for award of Private Sector Participation Agreements which may include compulsory provisions to be included in a Private Sector Participation Agreement.
- (4) Upon the conclusion of a Private Sector Participation Agreement or Joint Venture Agreement, the service provider shall within fourteen days of the signing of the Agreement supply a copy thereof to the COMMISSION.

## **GENERAL PROVISIONS WITH RESPECT TO THE COMMISSION**

### **162. Compliance With Other Laws**

No approval given under this Law and nothing in this Law shall relieve any water service provider or any other person from complying with any other Law relating to the management or Regulation of the environment or water resources or with any other applicable State or Federal water Laws or policies including, where required, any obligation on a water services provider to obtain a license or permit to abstract water to be used in providing the Water Services.

**163. Entry and Inspection of Property**

- (1) Any Person authorized in writing by the COMMISSION may –
  - (a) subject to the provisions of subsection (3) of this section, at any reasonable time and without prior notice, enter any property and inspect any water services facilities in order to ascertain whether the activities undertaken therein is carried out in compliance with this Law or any Regulation made pursuant to this Law;
  - (b) after reasonable notice to the owner or occupier of any property, enter the property with the necessary vehicles, equipment and material for its work –
    - (i) to, remove or demolish any water service facility belonging to or operated by the water services provider concerned;
    - (ii) to establish the suitability of any water source or site for the construction of a water services work;
    - (iii) search, excavate, bore or carry on *any* activity necessary for the recovery of measurement of water; and
  - (c) after reasonable notice to the owner or occupier of any property, enter the property in order to have access to another property lawfully.
- (2) Any Person entering any property shall identify himself and present his authorization.
- (3) Where it is necessary to do so for the enforcement of this Law, a private residence or business premises may only be entered upon reasonable notice and at a reasonable time.
- (4) The service areas, and existing rights and obligations of any Water Services Provider operating under a PSP Agreement pre-existing this Law remain as set out in the PSP Agreement.

**PART VII**

**OFFENCES AND PENALTIES**

**164. Illegal Construction of Water Works**

- (1) No person shall construct any waterworks in the State without obtaining a license or other authorization from the COMMISSION.
- (2) No person shall construct any illegal structure within the waterworks premises
- (3) Any person who contravenes the provisions of this section commits an offence

and shall be liable on conviction to a fine of N 200,000 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

- (4) The provisions of subsections (1) and (2) of this section shall not apply to a person who constructs a well having a depth not exceeding 6 meters within his premises for his domestic use.

#### **165. Offences relating to water diversion, pollution, etc**

Any person who -

- (a) willfully damages any water works, public fountain or service; or
- (b) unlawfully draws, diverts or takes water from any source or from any stream by which any waterworks is supplied, or
- (c) makes an unauthorized opening or closes any valve, sluice or manhole of any waterworks; or
- (d) pollutes any water or water source; or
- (e) allows or causes any foul liquid or gas or other noxious or toxic or injurious substance or matter to be discharged into any water source or any facility of any State owned or private water facilities commits an offence and shall be liable on conviction to a fine not less than -the sum of N150,000.00 or to imprisonment for a term not exceeding [12] months or to both such fine and imprisonment and to a further penalty of N10,000.00 for each day that the act or omission that constitutes the offence continues.

#### **166. Offences relating to wastage**

Any person who alters, causes or permits to be altered any pipeline, fittings or fountains of any waterworks leading to wastage of treated water without the consent of any treated water supply utility, commits an offence and shall be liable on conviction to a fine of N500,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.

#### **167. Offences Relating to Fraudulent Measurements**

Any person who alters, causes or permits to be altered, any pipeline, fittings, meters of any waterworks with the intent to

- (a) avoid the accurate measurement or register of water by means of any meter
- (b) obtain a greater supply of water than he is entitled, or to avoid payment for such supply; or

- (c) willfully or negligently damage, alter, cause or permit to be damaged or altered any meter, commits an offence and shall be liable on conviction to a fine of N200,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.

**168. Offences relating to nuisance**

- (1) Any person who puts, allows to be put or to remain, or to accumulate on any tenement owned or occupied by him or his servant or agent, any foul material or substance in such manner or place that it causes nuisance or may fall or be washed or be carried into or obstructs any water works of any water supply utility commits an offence and shall be liable on conviction to a fine of N200,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment to a further penalty of N10,000.00 for each day that the act or omission that constitutes the offence continues.
- (2) Any person who allows any material or substance or any nuisance to remain after notice for the clean up or removal or remediation has been served on him by the COMMISSION, the Ministry responsible for water resources or any other relevant State Agency shall, in addition to the penalty specified in subsection (1) of this section, be liable to a further penalty of N5000 for each day that the act or omission that constitutes the offence continues.
- (3) Any person who disposes or procures the disposal of human waste by use of a bucket or a container or such receptacle in the toilet, or wheresoever or howsoever through which night soil men come regularly to dispose of it whether by day or by night, commits an offence and shall be liable on conviction to the sum of N200'000 or to imprisonment of three years.

**169. Obstruction of the Staff of relevant Government bodies**

Any person who obstructs or assaults any Staff, officer or employee of the Government bodies established pursuant to this Law or any other person authorized by such Government bodies in the course of carrying into effect any of the provisions of this Law commits an offence and shall be liable on conviction to a fine of **N300, 000** or imprisonment for a term not exceeding 3 years or to both such fine or imprisonment.

**170. Offences of impersonation**

Any person, including Staff of any Government bodies established under this law, who, not being lawfully authorized to carry out any function under this Law and who under any guise or cover holds out himself as having been authorized to enforce any part of this Law commits an

offence and shall be liable on conviction to a fine N200, 000.00 or to imprisonment for a term not exceeding 12 months or both such fine and imprisonment.

**171. Conspiracy**

Any person who conspires with, procures, instigates, aids, or facilitates another person to do anything or act prohibited under any of the provision of this Law, commits an offence and shall be liable under the relevant provisions of this Law relating to such offence and shall be punished as if he committed the offence himself.

**172. Unauthorized activities in relation to water supply facilities.**

- (1) No person shall:
  - (a) Bathe in any part of any reservoir; or
  - (b) Wash or throw clothes, materials or things into any reservoir; or
  - (c) Wash or cause any horse, dog, goat, pig or any other animal to enter any reservoir; or
  - (d) Wrongfully open or close any lock, valve sluice or manhole belonging to or installed by the water supply utility.
- (2) A person who contravenes any of the provisions of subsection(1) of this section commits an offence and is liable on conviction to a fine of N200,000.00 or to imprisonment for 12 months or to both the fine and imprisonment.

**PART VIII**

**MISCELLANEOUS AND TRANSITIONALPROVISIONS**

**173. Repeals, Savings etc.**

- (1) **Repeal of Laws and savings**

The Rivers State Water Board Law Cap. 138, Laws of Rivers State of Nigeria, 1999 is hereby repealed and accordingly, the Rivers State Water Board existing immediately before the commencement of this Law is hereby dissolved.
- (2) The statutory functions, rights, obligations and liabilities of the Water Board as they relate to the supply of water in the State existing before the commencement of this Law, under any contract or instrument, whether in Law or in equity, shall by virtue of this Law and without further assurance, is hereby vested in the relevant Bodies and Agencies established under this Law.
- (3) Any such contract or instrument mentioned in subsection (2) of this section, shall be of the same force and effect against or in favour of the CORPORATION or any of the Agencies established by this Law as the case may be and shall be enforceable instead of

the Water Board existing before the commencement of this Law, the CORPORATION or the Agencies established by this Law had been named therein or had been a party thereto.

- (4) The CORPORATION and the Agencies established by this Law shall be subject to all obligations and liabilities to which the Water Board existing before the commencement of this Law was subject, and all persons shall have the same rights, powers and remedies against the CORPORATION and the Agencies established by this Law as they had against the previous Water Board.
- (5) Any proceedings or cause of action pending or existing immediately before the commencement of this Law, by or against the water Board before the commencement of this Law in respect of any right, interest, obligation or liability may be continued or as the case may be, commenced by or against the CORPORATION or the relevant and any determination of a court, tribunal or other Authority or person may be enforced by or against the CORPORATION or the Agencies established by this Law to the same extent that such proceedings or cause of action or determination might have been continued, commenced or enforced against the water Board.
- (5) Any person:
  - (a) who immediately before the coming into force of this Law was the holder of any office in the Water Board or was a Staff in the water Board before the commencement of this Law shall, on the commencement of this Law and without further assurance, continue in office and be deemed to have been appointed to his office by the CORPORATION established under this Law;
  - (e) whose services are not required by the CORPORATION upon the conduct of a staff needs assessment for the effective performance of its functions in accordance with this Law shall be redeployed to the State Civil Service.
- (6) Section 11(2) (C) (x) and Section 11(2) (C) (ix) of Rivers State Sanitation Authority Law CAP 52 is hereby repeated.

#### **174. INTERPRETATION**

In this Law, unless the context otherwise requires —

**“Abstraction”** in relation to water contained in any source of supply, means the doing of anything whereby any of that water is removed from that source of supply, whether temporarily or permanently, including anything whereby the water is so removed for the purpose of being transferred to another source of supply and “abstract” shall be construed accordingly;



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

**“Authorized officer”** means any member of Staff of any institution established pursuant to this Law duly authorized in writing by such institution, and shall include an officer of the WCA or WASHCOM;

**“Basic Water Supply”** means the prescribed minimum standard of water supply services necessary for the reliable supply of a sufficient quantity and equality of water to households, including informal households, to support life and hygiene, as specified from time to time by the Commission;

**“Board”** means the Board of any of the institutions created under this Law;

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

**“Commission”** means the Rivers State Water Services Regulatory Commission

**“Consumer”** means any person who is supplied with water and includes any person who applied to be supplied with water from any waterworks or any person who otherwise uses water and is liable for the payment of water rates, rents or charges but does not deliver or resell the service to others including an end user in an informal settlement;

**“Contravention”** includes a failure to comply;

**“Distribution System”** means any operator’s networks or mains, pipes, pumping stations and service reservoirs through which water is conveyed to customers;

**“Domestic Sewage”** means the spent water supply of the community from residential, commercial and institutional users and may be generated from kitchen, bathroom, lavatory and toilets.

**“Domestic supply”** means water from any waterworks used in any household for drinking, washing, cooking, or for baths or any other purpose of domestic life;

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

**“Essential service”** includes Hospitals, fire services, orphanages, public schools and other consumers as may be prescribed by the Commission;

**“Emergency Situation”** means any situation declared as such by the Governor or as may be

declared by the head of the bodies or institutions created under this Law in the exercise of the functions and duties of such bodies or institution;’

**“Federal Ministry”** means the relevant Ministry established by the Federal Government.

**“Financial year”** means the period prescribed as such in the financial Regulations and Laws of the State.

**“Fire Authority”** means any Authority or body of firemen duly constituted, organized or established under any enactment or Law by the Federal, State or local Government.

**“Functions”** includes objectives and duties;

**“Federal Government”** means the Government of the Federal Republic of Nigeria.

**“Gazette”** means the official gazette of the Rivers State Government.

**“Ground water”** means water from underground sources;

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

**“Leakage”** means the loss of water from the water service Provider distribution system or from parts of service pipes for which customers are responsible;

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

**“Meter”** includes any appliance used for measuring or ascertaining the volume of water taken, used, or discharged from any waterworks by means of any service;

**“Metered supply”** means the supply of water by means of a service where the water supply is measured by meter;

**“Member”** means a member of any of the Boards created under this Law and shall include the Chairman.

**“National Water Laws and Policies”** means all applicable Federal Water Laws and Regulations, the National Water Policy and guidelines prescribed by Federal Ministries;

**“National Water Policy”** means The Policy of the Federal Government on water supply, Sanitation and Hygiene and water resources as may be formulated approved and adopted from time to time;

**“Occupier”** in relation to a premise means the person in occupation of the whole or of any part of such premises, but does not include a lodger or squatter;

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

**“Permit”** shall mean the certificate to be issued by the Commission stating the information that may be required as the Commission shall determine,

**“Person”** means an individual, corporate entity, limited liability company, partnership duly registered under the Companies and Allied Matters Act, or a natural person as defined under the Interpretation Act.

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

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

**“Prescribed”** means prescribed by Regulation;

**“Private Sector Participant”** means a corporate entity, limited liability company, partnership or individual that provides any service or undertakes any activity in the water and sanitation services sector either by agreement or license from Government who has not been prohibited from undertaking such activity by Regulations prescribed by the Commission. **“Private Sector Participation Agreement”** means an agreement between a public Sector Agency or body created in this Law and a private Sector participant to undertake any activity for the delivery of water or sanitation services on behalf of such Public Agency or body in accordance with the provisions of this Law or any other relevant Law.

**“Records”** include computer records and other records kept otherwise than in a document;

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

**“Relevant State Ministry”** means the relevant Ministry of the State including the Water U Resources Ministry, Ministry of Health, or the Ministry of Environment, or other ministry as applicable;

**“Sanitation”** means the prescribed minimum standard of services necessary for the safe, hygienic and adequate collection, removal, disposal or purification of human excreta, domestic waste-water and sewage from household.

**“Sewerage”** means a system of piped network of sewers constructed to evacuate waste water and sewage from source and may include disposal and treatment of sewage.

**“State”** means the Rivers State of Nigeria

**“State Government”** means the Government of Rivers State of Nigeria

**“State Information System”** means the system for the collection of information pertaining to Water Services to be created and maintained in accordance with this Law.

**“State Water Agencies”** mean the Port Harcourt Water Corporation, the Rural Water supply and Sanitation Agency, wastewater and sewerage management Authority.

**“State Ministry or Ministry”** means the ministry established by the Rivers State Government of Nigeria.

**“State Water Laws and Policies”** means this Law, all other relevant Laws, all Regulations including Orders and Guidelines issued by the Commission pursuant to this Law, and all WSS Policies in the State.

**“State-Wide Water Services Development Plan”** means the State-wide Water Sector Development Plan including the aggregate investment plan and created by the Ministry and approved by the State Executive Council in accordance with of this Law;  
**“Substance”** includes microorganisms and any natural or artificial substance or other matter, whether it is in solid or liquid form of a gas or vapor;

**“Tariffs”** means the charges for Water Services and/or water-related services set in accordance with this Law.

**“Treated water”** means water treated for domestic purposes.

**“Water Services”** means the abstraction, conveyance, treatment and distribution of potable water; water intended to be converted to potable water or water for commercial use, where such water is provided. jo Consumers or other Water Services Providers, wastewater collection, treatment and disposal, and sanitation services.

**“Water Service Intermediary”** means a Private Sector Participant who is obliged to provide Water Services to consumers under terms of a contract where the obligation to provide such Water Services is incidental to the main object of that contract, including, without limitation under a contract relating to a housing estate or under an employment contract with a farm, mine or other industry.

**“Water Services Provider”** means the State Water Agencies acting in that capacity and any other Person who provides water Services to Consumers or other Water Services Providers with

or without the responsibility to collect any Tariffs that may be due *and* includes a Water Services Intermediary.

**“Water Service Regulatory Functions”** means the prescribing of Rules, Orders and Regulations for the provision of Water Services, granting of Water Service Provider Licences and other functions of the State Water Regulatory Commission in accordance with this Law.

**“Water Quality Standards”** means the health, environment, and sanitation standards relating to the quality of drinking water consistent with the National Drinking water Quality Standards developed by the Federal Ministry of Health and the Standards organization of Nigeria as may be amended from time to time.

**“Water Works”** means a reservoir, dam, well, pump house, borehole, pumping installation, purification work, sewage treatment plant, sewers, access road, dedicated electric power supply pipeline, meter, fitting or apparatus built, installed or used by a Water services Provider to provide Water Services.

**“Water Services Provider Licenses”** means the license issued pursuant to this Law granting a Person rights to provide Water Services within a jurisdiction i.e., the geographic areas specified therein and shall include a permit in accordance with Regulations or Guidelines issued by the Commission.

**175.** This Law may be cited as the Rivers State Water Sector Development Law, 2012.

## SCHEDULE 1

Description of Port Harcourt, Obio/Akpor and Greater Port Harcourt

Port Harcourt/Obio-Akpor Water Supply areas of coverage are as follows

1. Greater Port Harcourt City in accordance with the Greater Port Harcourt City Development Authority Law,
2. Port Harcourt and Obio/Akpor are as follows:

Northern Axis: Eneka and Rukpokwu

Eastern Axis: Iriebe and Akpajo

Western Axis Choba and Rumuolumeni

Southern Axis: Borokiri

Subject to all the other powers and functions and duties of the COMMISSION, **the provisions of section 3(3) of this Law shall not apply to the Greater Port Harcourt New City.**

## **SCHEDULE II**

### DESCRIPTION OF SMALL TOWNS (SEMI-URBAN)

Water supply represent settlements with population of between 5,000 — 20,000 with a fair measure of social infrastructure and some level of economic activity with minimum supply standard of 60 litres per capita per day with reticulation and limited or full house connections as determined by the beneficiaries/Government.

### SCHEDULE III

#### **DESCRIPTION OF RURAL AREAS**

Guarantee minimum level of service 30 litres per capita per day within 250 metres of the Community of 5,000 people, serving 250-500 persons per water point.



## SCHEDULE IV

### Proceedings of the Boards

1. The following shall have effect with respect to the Proceedings of the Boards of the Institutions created pursuant to this Law.
  - (a) The Board shall meet for the dispatch of its business at least once a quarter, or as often as is deemed expedient, and subject to this section, may adjourn, close and otherwise regulate its meetings and procedure as it deems fit.
  - (b) The Chairman or, in his absence, any member chosen by the members present from among themselves shall preside at the meeting of the Board.
  - (c) All decisions of the Board shall be on the basis of simple majority of the members present and voting.
  - (d) No act or proceeding of the Board shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Board, except where actions are not supported by a quorum.
  - (e) The quorum for the meeting of the Board shall be 6 and each member present shall have one vote on each question before the Board and, in the event of an equality of votes, the Chairman shall have a casting vote in addition to a deliberative vote.
  - (f) For a meeting of the Board to review any previous decision taken by the Board, the quorum shall not be less than the Board members present when the decision was taken.

### **2. Disclosure**

- (1) If a member:
  - (a) acquires or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board;
  - (b) owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of Persons which results in the member's private interests coming or appearing to come into conflict with his functions as a member; or
  - (c) Knows or has reason to believe that a relative of the member has acquired or hold a direct or indirect pecuniary interest in any matter that is under consideration by the Board, or owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member's private interests coming or appearing to come

into conflict with his functions as a member, or if for any reason the private interests of a member come into conflict with his functions as a member, the member shall forthwith disclose the fact to the Board.

- (2) A member referred to in subsection (1) shall take no part in the consideration or discussion of, or vote on, any question before the Board which relates to any contract, right, immovable property or interest referred to in that subsection.
- (3) Any member who contravenes subsection (1), & (2) of this section commits an offence and is liable to fine of N100,000 or two years imprisonment or both
- (4) If a member referred to in this section takes part in the consideration of a matter in which his private interests are in conflict with his function as a member, the other members may subsequently ratify any such decision or action.

**SCHEDULE V**

**SUPPLEMENTARY PROVISIONS RELATING TO THE WCA**

**Model Constitution for WCAS**

FEDERAL REPUBLIC OF NIGERIA

**Model Constitution for Water Consumer Associations**

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FEDERAL REPUBLIC OF NIGERIA

**MODEL CONSTITUTION FOR SMALL TOWNS WATER  
CONSUMER ASSOCIATION (WCA)**

We, the Trustees and Members of this Association, in order to provide a clean, safe, improved and reliable supply of potable water to our members and to our immediate community at affordable cost within the framework of the Small Towns Water Supply and Sanitation Programme, do enact and establish this Constitution for the Association.

**Section 1: NAME**

The Association shall be known and addressed as .....  
.....and shall hereinafter be referred to as 'The Association.'

**Section 2: OBJECTS**

- 2.1: To provide adequate, affordable and safe water in a sustainable manner.
- 2.2 To identify the appropriate technology option(s) for Water Supply.
- 2.3 To own and operate water supply facilities for the Community.
- 2.4 To charge members and non-members whatever it (WCA) considers to be appropriate fees to cover is administration, operation and maintenance costs.

- 2.5: To improve environmental health conditions in the small town and thereby improve the health and hygiene of the members.
- 2.6: To build consensus, initiative and leadership among members.
- 2.7: To co-operate with governments, NGOs and other agencies for the construction, operation and maintenance of water schemes as may be considered necessary.

**Section 3: FUNCTIONS OF THE ASSOCIATION**

- 3.1: To collect and manage funds for constructing and operating water supply scheme(s).
- 3.2: To maintain completed Water Scheme(s) and ensure their proper use.
- 3.3: To construct household sanitation facilities.

**Section 4: AREA OF OPERATION**

The area of operation of the Association shall be .....

**Section 5: MEMBERSHIP**

There shall be only one registered member per stakeholder household at any time.

Each household will be represented by an individual in the household:

- 5.1: Members shall be citizens or household residents in Community or shall own property in the Community;
- 5.2: Shall be of good standing and willing to pay for improved water supply;
- 5.3 Intending members shall pay an appropriate membership registration fee as may be fixed by the Association;
- 5.4: Shall have paid the commitment fees;
- 5.5: Shall be adults, not younger than 18 years of age;
- 5.6: There shall be a register showing as a minimum for each household, the names, addresses, amount(s) contributed with date(s), balance(s) due, date of joining. Other relevant particulars will be recorded at the discretion of the Association;
- 5.7: There shall be an attendance register for the purpose of recording attendance of members at meetings;

**Section 6: TERMINATION OF MEMBERSHIP**

Membership of the Association shall be terminated in the following circumstances:

- 6.1: Death of the Member where the remaining household moves away from the WCA area;
- 6.2: Permanent insanity of Member, if the remaining household moves away from the WCA area;
- 6.3: Banishment or expulsion from the community;
- 6.4: If the whole household voluntarily move away from the WCA area;
- 6.5: Refusal by the household to pay the required financial contribution to the Association;
- 6.6: Conviction on any criminal charge or if the household representative is declared Bankrupt;
- 6.7: Misconduct or other acts contrary to the stated Objects of the Association.

**Section 7: EXECUTIVE COMMITTEE**

7.1 The management of the Association shall be vested in the Executive Committee, hereinafter known as the Committee which should be elected or re-elected two years.

7.2 The Committee shall have, as a minimum, five (5) members drawn from the WCA membership list to fulfil the roles of:

- Chairperson
- Secretary
- Treasurer
- Scheme Supervisor (for Operations and Public Relations)
- Women’s Representative (who shall be female).

These posts should be held for a period not more than 2 years and should be subject to election or re-election after each term.

7.3 The Committee shall appoint Alternates for Committee roles where the need arises.

7.4 The Committee shall appoint a Member to represent the interests of the WCA on, for example, the Water Development Committee in the small town and the Government’s Project Management & Co-ordination unit(s).

7.5 Inter alia, the Chairperson shall have the following duties:

- i. To convene and preside over all meetings of the Committee, general and extra-ordinary.
- ii. To be a joint-signatory to all cash withdrawals from the Association’s bank account(s).

iii. To perform such other functions, that would enhance the collective efforts of Members.

7.6 Inter alia, the Secretary to the WCA shall have the following duties:

- i. To keep and maintain correctly, an up-to-date register of members together with a record of paid-up membership dues.
- ii. To be a joint-signatory to all cash withdrawals and payments from the Association's bank account(s).
- iii. To sign on behalf of the Association and conduct all its correspondence.
- iv. To summon and attend all meetings, recording the proceedings of such meetings and ensure that accurate minutes are duly signed by the Members of the Committee.

7.7 Inter alia, the Treasurer shall have the following duties:

- i. To keep a true and accurate account of the Association's finds.
- ii. To pay out all orders supported by proper vouchers and receipts signed by the Chairperson.
- iii. To be custodian of the Association's bank passbook and/or cheque books.
- iv. To take charge of all money received and make disbursements in accordance with the directives of the Executive Committee.
- vi. To deposit all receipts and other funds over the limits fixed by the General Meeting in any bank approved for this purpose.
- vii. To ensure that the Association's accounts are audited annually.
- viii. To prepare, submit and read the Association's Financial report at the Annual General Meeting.
- ix. To issue proper receipts for all money paid into the Association by Members and other parties.

7.8 Inter alia, the Scheme Supervisor will have the following duties:

- i. To supervise the production and distribution of water.
- ii. To disseminate information to the Executive Committee and the other WCA Members about progress and developments in the water scheme.
- iii. To advise and assist the Executive Committee in matters relating to equipment and facilities, operation and maintenance of the scheme.

7.9 Amongst other things, the Women's Representative will have the following duties:

- i. To maintain an accurate register of WCA female Members for consultations
- ii. To visit each WCA female Member at least once every quarter to elicit their views and comments on the water supply scheme, communicate these to the Executive Committee for consideration and provide feedback on requests to the WCA Executive Committee.
- iii. To disseminate project information to all female Members of the WCA.
- iv. To convene periodical meetings of female WCA Members.
- v. To liaise with appropriate agencies in Health & Hygiene matters and convene H&H education meetings for the female Members of the WCA.
- vi. To educate female WCA Members, peer group educators and influential women on their roles in STWSP.
- vii. To mobilise and encourage WCA female Members to organise opening ceremonies and fund-raising events for the WCA.
- viii. To be a joint-signatory to all cash withdrawals and payments from the Association's bank account(s).

## **Section 8: POWERS AND DUTIES OF THE EXECUTIVE COMMITTEE**

The Committee shall exercise all the powers of the Association except those reserved for the General Meeting, subject to any regulations duly laid down by the Association.

The duties of the Executive Committee shall be:

- i. To observe in all their transactions, the constitution, regulations and resolutions of the Association.
- ii. To ensure the maintenance of true and accurate accounts of all money received and expended and all the assets and liabilities of the Association
- iii. To keep an accurate register of members and their contributions correct and up-to-date.
- iv. To present before the Annual General Meeting an income and expenditure account and an audited balance sheet for the WCA.
- v. To consider the inspection notes of the Government Public Utility or Water Resources Staff and take necessary action.
- vi. To admit new members subject to the confirmation of a General meeting.
- vii. To summon General Meetings.
- viii. To institute, conduct, defend, refer to arbitration or abandon legal proceedings by or against the Association, its officers or employees in matters concerning the affairs of the Association.
- ix. To appoint, confirm and fix the salary and conditions of appointment of any employee.
- x. To put in place an internal administrative support system which will foster the Association's collective strength.

#### **Section 9: LIABILITY OF THE EXECUTIVE COMMITTEE**

In their conduct of the affairs of the Association, the Committee shall exercise prudence and diligence and shall be responsible for any loss sustained through acts or omissions contrary to the resolutions, regulations and constitution of the Association.

#### **Section 10: DISQUALIFICATION OF MEMBERS OF THE COMMITTEE**

A member of the Executive Committee shall cease to hold office if he or she:

- i. Ceases to be a Member of the Association.
- ii. Becomes of unsound mind.
- iii. Acts in a manner prejudicial to the interest or stated Objects of the Association
- iv. Bankruptcy
- v. Permanent disability

#### **Section 11: QUORUM**

The presence of at least one third of the fully paid-up Members shall be necessary for the disposal of any business at a General Meeting as well as at the Annual General Meeting.

#### **Section 12: TENURE OF OFFICE**

All elected officers shall hold office for a period not exceeding 2 years and may be re-elected for only one additional term.

#### **Section 13 MEETINGS**

##### **13.1 General Meetings**

The ultimate authority of this Association shall be in the general body of Members who shall meet monthly at a place and time fixed by the Association.

##### **13.2 Executive Committee Meeting**

The Executive Committee shall meet at least once a month and shall be convened by the Secretary on the advice of the Chairperson.

##### **13.3 Annual General Meeting**

The Annual General Meeting shall take place within two (2) months after the annual Statement of Account has been prepared.

##### **13.4 Purpose of the Annual General meeting**

- i. To formulate policy in accordance with the stated Objects of the Association
- ii. To ratify any appointments.
- iii. To consider and approve the Association's budget.
- iv. To elect the Chairperson, Vice-Chairperson, Secretary and Treasurer.
- v. To appoint the Trustees and the Executive Committee.
- vi. To confirm the admission and expulsion of Members.
- vii. To amend or repeal the Constitution.
- viii. To dispose of any other business duly brought before it.

#### **Section 14: VOTING**

All questions shall be determined by majority of votes of the Members present at the meeting provided that the number attending matches or exceeds the required Quorum. Each Member shall have one vote only.

A household may nominate a Proxy from amongst the members of the household provided that the Proxy fulfils the Membership conditions in Section 5 of this Constitution.

In addition to his/her ordinary vote, the Chairperson shall have a casting vote.

#### **Section 15: COMMON SEAL**

The common seal of the Association shall be of a pattern approved by the Corporate Affairs Commission; and any instrument to which the Common Seal has been affixed shall be binding on the Association. The common seal shall be in the safe custody of the Secretary.

## **Section 16: DISCIPLINE**

Discipline shall be maintained by the imposition of penalties or sanctions for breach of rules and regulations by a Member. Such sanction shall be proportionate to the gravity of the offence committed and shall be determined by an ad hoc Disciplinary Committee which shall be set up to try an offender or group of offenders.

### **16.1 Offences**

Any of the following shall constitute an offence which could attract appropriate sanctions or penalties:

- i. Absence from meetings of the Association without reasonable cause.
- ii. Rowdiness or disruptive behaviour at meetings.
- iii. Insubordination to, obstruction of, or assault of Association officials in the course of performing their lawful assignments on behalf of the Association.
- iv. Proven cases of scandalous acts against Members.
- v. Divulging matters confidential to the Association or withholding essential information from the Association.
- vi. Fighting during meetings of the Association.
- vii. Refusal or wilful neglect to pay the required dues or contributions to the Association.
- viii. Engaging in conduct prejudicial to the interests of Association.

### **16.2 Disciplinary Committee**

The Executive Committee shall have powers to empanel a Disciplinary Committee of five members who shall be persons of proven integrity, varied background and experience to investigate and adjudicate upon any reported offence(s). The Disciplinary Committee shall be empowered to apportion sanctions and penalties according to the gravity or seriousness of the offence. Such sanctions and penalties could range from fines to expulsion from the Association.

16.3 A Member who is not satisfied with the decision of the Disciplinary Committee may make a formal written appeal against the decision to the Executive Committee within four (4) weeks of the decision. The Executive Committee will consider the appeal and rule on the matter at its next meeting. The ruling of the Committee at that time shall be final.

## **Section 17 FINANCE**

### **17.1 Banking and Revenue Collection**

The Association shall keep its funds in the nearest suitable bank on resolution passed at the Executive Committee meeting.

#### **17.2: Sources of Funds;**

The sources of funds shall be:

- i. Commitment fees of Members
- ii. Contribution of Federal, State and Local Governments
- iii. Proceeds from sale of water to consumers
- iv. Donations from Members and non-members.
- v. Loans from Members and non-members
- vi. Launching of appeals or development funds.
- vii. Miscellaneous sources approved by the FMWRRD and the General Meeting.

### **17.3 Signatories to Bank Account:**

There shall be four (4) signatories approved for the operation of the Association's bank account(s). These shall comprise the Chairperson, the Secretary, the Treasurer, and the Women's Representative.

All payments by the Association and withdrawals from the Association's accounts shall require any two (s) signatures.

### **17.4 Revenue Collection**

The Association shall collect revenue in the period and place prescribed by a General Meeting and in the manner determined by a meeting of the Executive Committee.

### **17.5 Accounting and Reporting**

- i. The Association shall submit quarterly accounts and financial reports to the Funding Agency, which shall remain The Federal Ministry of Water Resources and Rural Development, throughout the construction and the defect liability period.

ii. The Annual General Meeting shall determine the regularity of subsequent reports after the construction and the defect liability period.

**17.6 Tariffs and Revenue**

- i. The Association shall set tariffs and revenue within the limits prescribed by the State Government.
- ii. The tariffs and revenue to be collected shall be approved by the Annual General Meeting.

**Section 18 TRUSTEES**

- i. The Chairman, the Secretary and if the General meeting so approves, one other Member of the Executive Committee shall be the Trustees of the Association.
- ii. It shall be the duty of the Trustees to sign on behalf of the Association all cheques and legal documents including those concerned with the transfer of funds, acquisition and disposal of the Association's property.

**Section 19 OPERATION AND MAINTENANCE**

- i. The Association shall have the responsibility to manage, operate and maintain the water point, including all the assets, headworks, spares, pumps and other appurtenances so as to ensure regular supply of water to consumers.
- ii. The Association shall contract qualified and skilled maintenance artisans for the purpose of operating and maintaining the water point.

**Section 21 LINK TO SMALL TOWNS WATER SUPPLY AND SANITATION DEVELOPMENT COMMITTEE**

The Chairmen of the association should sit in the Small Town Water Supply and Sanitation Development Committee (STWSSDC). The STWSSDC is tasked with the coordination of all the different WCAs and to provide a coordination forum for the WAC to share experiences and knowledge and information.

**Section 22 Health, hygiene and sanitation issues**

The association must link up with the STWSSDC on all health and sanitation issues. The WCA is obliged to organise the construction of a demonstration sanitation facility within its area. It should also see that all its members are participating in an annual health and hygiene education training session.

**Section 23 AMENDMENTS**

This Constitution shall be subject to amendment or repeal by a two-third majority vote of Members present at an Annual General Meeting.

**Section 24 DATE**

This constitution shall become effective from the..... day of 19.....



This printed impression has been carefully compared by me with the Rivers State Water Sector Bill (HA8) of 2012 which has been passed by the Rivers State House of Assembly and found by me to be a true and correct printed copy of the said Bill.

.....  
RT. HON. OTELEMABA DANIEL AMACHREE

**S P E A K E R**

**RIVERS STATE HOUSE OF ASSEMBLY**

.....  
SIR. EMMANUEL AMAEWHULE OGELE (JP)

**C L E R K**

**RIVERS STATE HOUSE OF ASSEMBLY**