



**KWARA STATE
FISCAL
RESPONSIBILITY
LAW, 2008**



ARRANGEMENT OF SECTIONS

SECTIONS

PART I - ESTABLISHMENT, POWERS, FUNCTIONS AND COMPOSITION OF THE FISCAL RESPONSIBILITY COMMISSION

1. Establishment of the Commission
2. Incorporation of the Commission
3. Responsibility and Powers of the Commission
4. Functions of the Commission
5. Establishment of a Fund for the Commission
6. Composition of the Commission
7. Tenure of office
8. Powers of the Commission
9. Cessation of membership
10. Emoluments, etc of Commission Members
11. Submission of annual report of the Commission

PART II - THE MEDIUM-TERM FISCAL FRAMEWORK

12. Medium-Term Fiscal Framework
13. Aggregate expenditure ceiling
14. Preparation of the Medium-Term Fiscal Framework
15. Time limit for presentation of Medium-Term Fiscal Framework to State Executive Council
16. Publication of Medium-Term Fiscal Framework in the Gazette
17. Adjustments to the Medium-Term Fiscal Framework

PART III - THE ANNUAL BUDGET

18. Annual Budget to be derived from Medium-Term Fiscal Framework
19. Annual Budget to be accompanied by certain documents

PART IV - BUDGETARY PLANNING OF CORPORATIONS AND OTHER RELATED AGENCIES

20. Preparation of estimates of revenue and expenditure by corporations, etc.



21. Operating Surplus and General Reserve Fund
22. Classification of Corporation Operating Surplus
23. Cessation of Application of Part IV

**PART V - BUDGETARY EXECUTION AND ACHIEVEMENT
OF TARGETS**

24. Annual Cash Plan
25. Disbursement Schedule
26. Power of Commissioner to recommend virement
27. Power to restrict further commitments
28. Responsibility of the Budget office to monitor and report on implementation
29. Revenue forecast
30. Executive to breakdown estimated revenue

PART VII - PUBLIC EXPENDITURES

31. Conditions for increasing Government expenditure
32. Conditions for increasing personnel expenditure
33. All contracts to comply with rules and guidelines
34. Effect of violation of Public Expenditure Rules

PART VIII DEBT AND INDEBTEDNESS

35. Framework for debt management

PART IX - BORROWING

36. Conditions of borrowing and verification of compliance with limits
37. Power of the Commissioner to grant guarantees

PART X - TRANSPARENCY AND ACCOUNTABILITY

38. Fiscal transparency
39. Publication of Audited Accounts
40. Publication of summarized report on budget execution

PART XI - STATE RESERVE ACCOUNT

41. Establishment of State Reserve Account
42. Savings in the State Reserve Account



43. Permitted uses of sums in the State Reserve Account
44. Further limitation on use of sums in State Reserve Account

PART XII - ENFORCEMENT

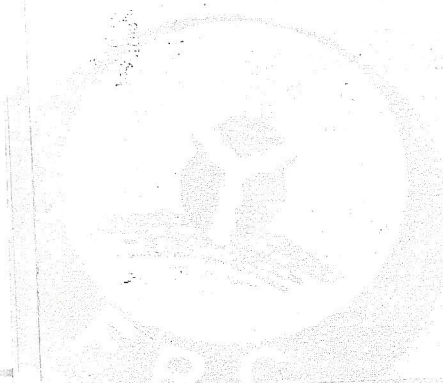
45. Enforcement

PART XIII - MISCELLANEOUS PROVISIONS

46. Government securities as collateral to guarantee loans
47. Restriction on utilization of proceeds of sale of public assets, etc.
48. Power of the Governor to make Regulations

PART XIV - INTERPRETATION AND CITATION

49. Interpretation
50. Citation





A LAW TO PROVIDE FOR THE PRUDENT MANAGEMENT OF THE STATE'S RESOURCES, ENSURE LONG TERM MACRO-ECONOMIC STABILITY, SECURE GREATER ACCOUNTABILITY AND TRANSPARENCY IN FISCAL OPERATIONS WITHIN A MEDIUM-TERM FISCAL POLICY FRAMEWORK AND THE ESTABLISHMENT OF THE FISCAL RESPONSIBILITY COMMISSION TO ENSURE THE PROMOTION AND ENFORCEMENT OF THE STATES ECONOMIC OBJECTIVES AND FOR OTHER CONNECTED PURPOSES

() *Date of Commencement*

BE IT ENACTED by the House of Assembly of Kwara State of Nigeria and by the authority of same as follows

PART I- ESTABLISHMENT, POWERS, FUNCTIONS AND COMPOSITION OF THE FISCAL RESPONSIBILITY COMMISSION

1. There is established a body to be known as the Kwara State Fiscal Responsibility Commission (in this Law, referred to as "the Commission"). *Establishment of a Commission*
2. The Commission shall *Incorporation of a Commission*
 - (a) be a body corporate with perpetual succession having 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 properties movable and immovable for the purpose of carrying out its functions under this Law.
3. (1) For the purpose of performing its functions under this Law, the Commission shall have power to *Responsibility and Powers of the Commission*
 - (a) ensure that any person or government institution discloses information relating to public revenues and expenditures; and
 - (b) cause an investigation into whether any person has violated any provision of this Law.

(2) If the Commission is satisfied that a person has committed any punishable offence under this Law or violated any provision of this Law, the Commission shall forward a



report of the investigation to the State Attorney-General for possible prosecution.

Function of the Commission

4. (1) The Commission shall
- (a) monitor and enforce the provisions of this Law and promote the economic objectives contained in section 16 of the Constitution;
- (b) disseminate such standard practices including inter-state and international good practice that will result in greater efficiency in the allocation and management of public expenditure, public funds, revenue collection, debt control and transparency in fiscal matters;
- (c) undertake fiscal and financial studies, analysis and diagnosis, and disseminate the result to the general public;
- (d) make rules for carrying out its functions under this Law; and
- (e) perform any other function consistent with the promotion of the objectives of this Law.
- (2) The Commission shall be independent in the performance of its functions.
- (3) The provisions of the Public Officers Protection Law shall apply to the members of the Commission in the discharge of their functions under this Law.

Establishment of a Fund for the Commission

5. (1) The Commission shall establish and maintain a Fund from which shall be defrayed all expenditures incurred by the Commission.
- (2) There shall be credited to the Fund established pursuant to subsection (1) of this section, the budgetary allocation from the State Government and grants from any other source.

Composition of the Commission

6. (1) The Commission shall consist of
- (a) a Chairman, who shall be the Chief Executive and Accounting Officer;
- (b) one member representing the organized private sector;
- (c) one member representing Civil Society engaged in causes relating to probity, transparency and good governance;
- (d) one member representing organized labour;
- (e) one representative of the Ministry of Finance of a level not below the rank of a Director;



- (f) one member to represent each of the senatorial districts, at least one of whom shall be a woman;
 - (g) one representative of the Ministry of Justice; and
 - (h) a Secretary who shall be an experienced Administrator with Accounting and financial Management background.
- (2) All members of the Commission shall be persons of proven integrity and must possess appropriate qualifications with not less than 10 years cognate post qualification experience.
- (3) The Chairman and other members of the Commission other than ex-officio members shall be appointed by the Governor subject to confirmation of the State House of Assembly.
- (4) The Chairman and members representing the senatorial districts shall be full time members.
7. The Chairman and members of the Commission shall hold office for a single term of 5 years. *Tenure of office*
8. The Commission shall have power to *Powers of the Commission,*
- (a) formulate and provide general policy guidelines for the discharge of the functions of the Commission;
 - (b) superintend the implementation of the policies of the Commission;
 - (c) appoint for the Commission, such number of employees as may in the opinion of the Commission be expedient and necessary for the proper and efficient performance of the functions of the Commission;
 - (d) determine the terms and conditions of service in the Commission, including disciplinary measures for the employees of the Commission;
 - (e) fix the remunerations, allowances and benefits of the employees of the Commission as approved by the State Government;
 - (f) regulate its proceedings and make standing orders with respect to the holding of its meetings, notices to be given, the keeping of minutes of its proceedings and such other matters as the Commission may from time to time determine; and
 - (g) do other things, which in its opinion are necessary to ensure the efficient performance of the functions of the Commission.



*Cessation of
Membership*

9. (1) Notwithstanding the provisions of section 7 of this Law, a member of the Commission shall cease to hold office if
- (a) he becomes bankrupt or makes a compromise with his creditors;
 - (b) he is convicted of a felony or any offence involving dishonesty, corruption or fraud;
 - (c) he becomes incapable of carrying out the functions of his office either by reason of an infirmity of mind or body;
 - (d) the Governor is satisfied that it is not in the interest of the Commission or the interest of the public that the member should continue in office and the Governor removes him from office.
 - (e) he has been found guilty of the violation of the code of conduct or misconduct in relation to his duties;
 - (f) he resigns his appointment by a notice under his hand, addressed to the Governor; and
 - (g) in the case of a person who becomes a member by virtue of the office he occupies, he ceases to hold such office for whatever reason.
- (2) Where a vacancy occurs in the membership of the Commission, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor, provided that the successor shall represent the same interest as his predecessor.

*Emoluments, etc of
Commission Member*

10. There shall be paid to the Chairman and other members who are not ex-officio Members such salaries, allowances and benefits as may be approved by the Revenue Mobilisation Allocation and Fiscal Commission.

*Submission of annual
report of the
Commission*

11. The Commission shall prepare and submit to the State House of Assembly not later than 30th June in each financial year, a report of its activities including all cases of contravention investigated during the preceding financial year, and shall include in the report a copy of its audited accounts for the preceding financial year.

*Medium-Term
Fiscal Framework*

PART II - THE MEDIUM-TERM FISCAL FRAMEWORK

12. (1) The State Government after consultation with the Local Governments shall—
- (a) not later than six months from the commencement of this Law cause to be prepared and laid before the State House



- of Assembly for its consideration, a Medium-Term Fiscal Framework for the next three financial years; and
- (b) thereafter, not later than the last business day of September in each financial year the Governor shall cause to be prepared and laid before the State House of Assembly a Medium-Term Fiscal Framework for the next three financial years.
 - (2) The Medium-Term Fiscal Framework so laid shall be considered for approval with such modifications, if any, as the State House of Assembly finds appropriate by a resolution.
 - (3) The Medium-Term Fiscal Framework shall contain—
 - (a) a Macro-economic Framework setting out the macro-economic projections, for the next three financial years, the underlying assumptions for those projections and an evaluation and analysis of the macro-economic projections for the preceding three financial years;
 - (b) a Fiscal Strategy Paper setting out—
 - (i) the State Government's medium-term financial objectives,
 - (ii) the policies of the State Government for the medium-term relating to taxation, recurrent (non-debt) expenditure, debt expenditure, capital expenditure, expenditure, borrowings and other liabilities, lending and investment,
 - (iii) the strategic, economic, social and developmental priorities of the State Government for the next three financial years,
 - (iv) an explanation of how the financial objectives, strategic, economic, social and developmental priorities and fiscal measures set out pursuant to subparagraphs (i), (ii) and (iii) of this paragraph relate to the Economic Objectives set out in section 16 of the Constitution;
 - (c) An Expenditure and Revenue Framework setting out—
 - (i) estimates of aggregate revenues for the State for each financial year in the next three financial years based on the predetermined Commodity Reference Price adopted and tax revenue projections,
 - (ii) aggregate expenditure projection for the State for each financial year in the next three financial years,



- (iii) aggregate tax expenditure projection for the State for each financial year in the next three financial years, and
- (iv) minimum capital expenditure flow for the State for each financial year in the next three financial years.

Provided that, the estimates and expenditures provided pursuant to this paragraph shall be –

- (i) based on reliable and consistent data certified in accordance with section 14(2) (b) of this Law;
- (ii) targeted at achieving the macro-economic projections set out in paragraph (a) of subsection (3) of this section, and
- (iii) consistent with and derived from the underlying assumptions contained in the Macro-economic Framework, the objectives, policies, strategic priorities and explanations in the Fiscal Strategy Paper;
- (d) a Consolidated Debt Statement setting out and describing the fiscal significance of the debt liability of the State Government and measures to reduce any such liability; and
- (e) a statement describing the nature and fiscal significance of contingent liabilities and quasi-fiscal activities and measures to offset the crystallisation of such liabilities.

*Aggregate
expenditure
ceiling*

13. (1) The estimates of aggregate expenditure and the aggregate amount appropriated by the State House of Assembly for each financial year shall not be more than the estimated aggregate revenue plus a deficit, not exceeding three percent of the Estimated Net Revenue or any sustainable percentage as may be determined by the State House of Assembly for each financial year.
- (2) The aggregate expenditure for a financial year may exceed the ceiling imposed by the provisions of subsection (1) of this section, if in the opinion of the Governor there is a clear and present threat to State Security.

*Preparation of the
Medium-Term
Fiscal Framework*

14. (1) The Commissioner shall be responsible for the preparation of the Medium-Term Fiscal Framework.
- (2) In preparing the draft Medium-Term Fiscal Framework, the Commissioner



- (a) may hold public consultation on the Macro-economic Framework, the Fiscal Strategy Paper, the Revenue and Expenditure Framework, the strategic, economic, social and development priorities of Government, and such other matters as the Commissioner deems necessary: provided that, such consultations shall be open to the public, the press and any citizen or authorized representatives of any organisation, group of citizens who may attend and be heard on any subject matter properly in view;
- (b) shall seek inputs from the -
- (i) State Planning Commission,
 - (ii) State House of Assembly,
 - (iii) Central Bank of Nigeria,
 - (iv) State Directorate of Statistics,
 - (v) Revenue Mobilisation Allocation and Fiscal Commission;
 - (vi) any other relevant statutory body as the Commissioner may determine; and
- (c) shall consider and reflect as may be deemed appropriate the input of the bodies and persons referred to in paragraphs (a) and (b) of this subsection.
15. (1) The Commissioner shall before the end of the second quarter of each financial year, present the Medium-Term Fiscal Framework to the State Executive Council for consideration and endorsements.
- Time limit for presentation of Medium-Term Fiscal Framework to State Executive Council*
- (2) The Medium-Term Fiscal Framework as endorsed by the State Executive Council shall take effect upon approval by a resolution of the State House of Assembly.
16. The Medium-Term Fiscal Framework as approved by the State House of Assembly shall be published in the State Gazette.
- Publication of Medium-Term Fiscal Framework in the Gazette*
17. (1) Subject to subsection (2) of this section the Governor may cause adjustments to be made to a Medium-Term Fiscal Framework.
- Adjustments to the Medium-Term Fiscal Framework*
- (2) Any adjustment to a Medium-Term Fiscal Framework shall be limited to -
- (a) the correction of manifest error; and
 - (b) changes in the fiscal indicators, which in the opinion of the Governor are significant.



PART III - THE ANNUAL BUDGET

Annual Budget to
be derived from
Medium-Term
Fiscal Framework

18. (1) Notwithstanding anything to the contrary contained in this Law or any other Law, the Medium-Term Fiscal Framework shall be the basis for the preparation of the estimates of revenue and expenditure required to be prepared and laid before the State House of Assembly under section 121(1) of the Constitution.
- (2) The sectoral and compositional distribution of the estimates of expenditure referred to in subsection (1) of this section shall be consistent with the medium-term developmental priorities set out in the Medium-Term Fiscal Framework.

Annual Budget to be
accompanied by
Certain document

19. The estimates of revenue and expenditure (in this Law referred to as "the Annual Budget") shall be accompanied by—
- (a) a copy of the underlying revenue and expenditure profile for the next two years;
 - (b) a report setting out actual and budgeted revenue and expenditure and detailed analysis of the performance of the budget for the 18 months up to June of the preceding financial year;
 - (c) a Revenue Framework broken down into monthly collection targets prepared on the basis of the predetermined Reference Commodity Price as contained in the Medium-Term Fiscal Framework;
 - (d) measures on cost, cost control and evaluation of results of programmes financed with budgetary resources;
 - (e) a Fiscal Target Appendix derived from the underlying Medium-Term Fiscal Framework setting out the following targets for that financial year
 - (i) target inflation rate,
 - (ii) target fiscal account balances,
 - (iii) any other development target deemed appropriate; and
 - (f) a Fiscal Risk Appendix evaluating the fiscal and other related risks to the Annual Budget and specifying measures to be taken to offset the occurrence of such risks.



**PART IV - BUDGETARY PLANNING OF CORPORATIONS
AND OTHER RELATED AGENCIES**

20. (1) All Government corporations, agencies and Government owned companies (in this Law referred to as "the Corporations") shall, not later than 6 months from the commencement of this Law and for every three financial years thereafter, not later than the end of the second quarter of every year, cause to be prepared and submitted to the Commissioner, their estimates of revenue and expenditure for the next three financial years. *Preparation estimates of revenue and expenditure corporation*
- (2) Each of the bodies referred to in subsection (1) of this section shall submit to the Commissioner not later than the end of August in each financial year
- (a) an annual budget derived from the estimates submitted in pursuance of subsection (1) of this section; and
- (b) projected operating surplus which shall be prepared in line with acceptable accounting practices.
- (3) The Commissioner shall cause the estimates submitted in pursuance of subsection (2) of this section, to be attached as part of the draft Appropriation Bill to be submitted to the State House of Assembly.
21. (1) Notwithstanding the provisions of any Law governing each of the corporation, each corporation shall establish a General Reserve Fund and shall allocate thereto at the end of each financial year, one-fifth of its operating surplus for the year. *Operating Surplus and General Reserve Fund*
- (2) The balance of the operating surplus shall be paid to the Consolidated Revenue Fund of the State Government not later than one month following the statutory deadline for publishing each Corporation's accounts.
22. (1) The corporations surpluses shall be classified as a State Treasury Revenue. *Classification of Corporation Operating Surplus*
- (2) Where a corporation's result is a deficit, the deficit shall be classified as the corporation's loss for the fiscal year.
- (3) Each corporation shall, not later than three months after the end of its financial year, cause to be prepared and published its audited financial reports in accordance with such rules as may be prescribed from time to time.
23. The provisions of sections 20, 21 and 22 shall cease to apply to any of the Corporations from the date of its privatization. *Cessation of Application of Part IV*



PART V - BUDGETARY EXECUTION AND ACHIEVEMENT OF TARGETS

- Annual Cash Plan* 24. (1) The State Government shall cause to be drawn up in each financial year, an Annual Cash Plan which shall be prepared by the Office of the Accountant-General of the State.
- (2) The Annual Cash Plan shall be prepared in advance of the financial year setting out projected monthly cash flows and shall be revised periodically to reflect actual cash flows.
- Disbursement Schedule* 25. The Commissioner, shall within 30 days of the enactment of the Appropriation Law, prepare and publish a disbursement schedule derived from the Annual Cash Plan for the purposes of implementing the Appropriation Law.
- Power of commissioner recommend virement* 26. (1) The sums appropriated for specific purpose shall be used solely for the purpose specified in the Appropriation Law.
- (2) Without prejudice to subsection (1) of this section the Commissioner may in exceptional circumstances and in the overall public interest, recommend for the approval of the State House of Assembly virements from sub-heads under heads of account, without exceeding the amount appropriated to such heads of account.
- Power to restrict further commitments* 27. (1) Where by the end of three months after the enactment of the Appropriation Law, the Commissioner determines that the targeted revenues may be insufficient to fund the heads of expenditure in the Appropriation Law, the Commissioner shall within the next 30 days of such determination, take appropriate measures to restrict further commitments and financial operations according to the criteria set out in the Fiscal Risk Appendix.
- (2) Where the targeted revenues are re-established, either in part or in full, the appropriations for which further commitments were restricted shall be restored proportionately.
- (3) The provisions of subsections (1) and (2) of this section shall not apply to statutory or constitutional expenditure.
- Responsibility of the Budget office to monitor and respond on implementation* 28. (1) The Commissioner through the Budget Office of the State, shall monitor and evaluate the implementation of the Annual Budget, assess the attainment of fiscal targets



and report thereon on a quarterly basis to the Fiscal Responsibility Commission and the Finance Committee of the State House of Assembly.

- (2) The Commissioner shall cause the report prepared pursuant to subsection (1) of this section to be published in the mass and electronic media, state gazette and on the Ministry of Finance website not later than 30 days after the end of each quarter.

PART VI PUBLIC REVENUES

29. The Executive arm of the State Government shall at least 30 days before the deadline for the submission of its budget proposals, place at the disposal of the State House of Assembly, the revenue estimates for the following year, including the net current revenue and the respective memorandum items. *Revenue Forecast*
30. Estimated revenue shall be broken down by the Executive arm of Government into monthly collection targets, including, where applicable, a separate description of measures to combat tax fraud and evasion. *Executive to breakdown estimated revenue*

PART VII PUBLIC EXPENDITURES

31. The creation, expansion or improvement in Government action which result in an expenditure increase shall be accompanied by— *Conditions for increasing Government expenditure*
 - (a) an estimate of the budgetary or financial impact in the year it becomes effective and in the two subsequent years;
 - (b) a statement by the person requesting for the expenditure, stating that the increase is consistent with the Appropriation Law and the Medium-Term Fiscal Framework.
32. (1) The granting of any advantage or increase of remuneration, the creation of posts or alteration of career structures and admission of personnel on any account by bodies and entities including foundations established and maintained by the State Government, shall only be effected if there is a prior budgetary allocation sufficient to cover the estimated expenditure. *Conditions for increasing personnel expenditure*
 - (2) Notwithstanding the provision of subsection (1) of this section and subject to the approval of the House of Assembly, the State Government may present before the



House of Assembly a supplementary budget to cover the estimated expenditure where it is not provided for by a prior budgetary allocation.

All contracts to comply with rules and guidelines

- 33. All contracts with regards to the execution of Annual Budget shall comply with the rules and guidelines on
 - (a) procurement and award of contracts; and
 - (b) due process and certification of contract.

Effect of violation of Public Expenditure Rules

- 34. Any violation of the requirements in sections 31, 32, and 33 of this Law shall be unlawful.

Framework for debt management

PART VIII - DEBT AND INDEBTEDNESS

- 35. (1) The framework for debt management during the financial year shall be based on the following rules—
 - (a) the State and Local Governments shall only obtain foreign loans for capital expenditure and human development, provided that, such borrowing shall be on concessional terms with low interest rate and with a reasonably long amortisation period subject to the approval of the appropriate legislative body; and
 - (b) the State Government shall ensure that the level of public debt as a proportion of State income is held at a sustainable level as prescribed by Investments and Securities Act from time to time on the advice of the Commissioner.
- (2) Notwithstanding the provisions of subsection (1) (a) of this section and subject to the approval of the State House of Assembly, the State Government may borrow from the capital market.
- (3) Non-compliance with the provisions of this section shall make the action taken unlawful.

Conditions of borrowing and verification

PART IX - BORROWING

- 36. (1) The State Government or its Agencies and Corporations and any Local Government desirous of borrowing for capital expenditure shall, specify the purpose for which the borrowing is intended and present a cost-benefit analysis, detailing the economic and social benefits of the purpose to which the intended borrowing is to be applied.
- (2) Without prejudice to subsection (1) of this section each borrowing shall comply with the following conditions



- (a) the existence of prior authorization in the Appropriation Law or other laws for the purpose for which the borrowing is to be utilised; and
 - (b) the proceeds of such borrowing shall solely be applied towards long-term capital expenditures.
37. (1) Subject to the provisions of this Part, the Commissioner may, with the approval of the State Executive Council, grant guarantees on behalf of any Local Government in the State. *Power of the Commissioner grant guarantees*
- (2) Any guarantee granted by the Commissioner shall be conditional upon the provision of a counter-guarantee in an amount equal to or higher than the guarantee obligation, provided that, there are no overdue obligations from the requesting Local Government in the State to the guarantor and its controlled corporations and such guarantee shall also be in compliance with the following
- (a) Counter-guarantee shall only be accepted from State or Local Governments; and
 - (b) The counter-guarantee required by the State Government from State, or Local Government, may consist in the appropriation of tax revenue directly collected and resulting from statutory transfers and the guarantor shall be authorized to retain such revenue and use the respective amount to repay overdue debts.
 - (3) Any guarantee provided in excess of the debts limits shall be unlawful.

PART X - TRANSPARENCY AND ACCOUNTABILITY

38. (1) The State Government shall ensure that its fiscal and financial affairs are conducted in a transparent manner and accordingly shall ensure full and timely disclosure and wide publication of all transactions and decisions involving public revenues and expenditures and their implications for its finances. *Fiscal transparency*
- (2) The State House of Assembly shall ensure transparency during the preparation and discussion of the Medium-Term Fiscal Framework, Annual Budget and Appropriation Bill.
39. (1) The State Government shall publish its audited accounts not later than six months following the end of the financial year. *Publication of Audited Accounts*

- (2) The State Government shall, not later than two years following the commencement of this Law, and thereafter, not later than 7 months following the end of each financial year, consolidate and publish in the mass media and the State Gazette, its audited accounts for the previous year.
- (3) The publication of general standards for the consolidation of public accounts shall be the responsibility of the Office of the Accountant-General of the State.

Publish a summarized report on budget execution

40. The State Government through its budget office shall within 30 days after the end of each quarter publish a summarized report on budget execution in such form as may be prescribed by the Commission and not later than 6 months after the end of the financial year, a consolidated budget execution report showing implementation against physical and financial performance targets shall be published by the Commissioner for submission to the State House of Assembly.

PART XI - STATE RESERVE ACCOUNT

Establishment of State Reserve Account

41. The State shall for the purpose of macro-economic stability establish and maintain a State Reserve Account with a reliable and reputable Bank which shall form part of the State's Consolidated Revenue Fund.

Savings in to State Reserve Account

42. There shall be paid into and saved in the State Reserve Account such sums as the Governor may, on the advice of the Commissioner, by order, direct.

Permitted us of sums in the State Reserve Account

43. Subject to section 44 of this Law, sums standing to the credit of the State Reserve Account may be applied for the following purposes
 - (a) augmenting a persistent shortfall in budgeted revenues, for the implementation of a duly enacted Appropriation Law arising from a sustained fall in the Predetermined Reference Commodity Price;
 - (b) funding high impact, economically viable infrastructure projects pursuant to an Appropriation Law enacted in the year following the accrual of such sums to the State Reserve Account;
 - (c) investing in such independently rated securities, instruments and funds expressly recommended by the Central Bank of Nigeria.



44. Not more than 50% of the sums standing to the credit of the State Reserve Account in any financial year may be applied towards the purpose specified in paragraph (c) of section 43 of this Law;

*Further limitation
on use of sums in
State Reserve
Account*

PART XII - ENFORCEMENT

45. (1) Any person shall have legal capacity to enforce the provisions of this Law by obtaining prerogative orders or other remedies at the State High Court, without having to show any special or particular interest subject to 30 days pre-action notice.
- (2) Subject to the provisions of this Law no suit shall be commenced against any party before the expiration of 30 days after written notice of an intention to commence the suit shall have been served upon the party by the intending claimant or his agent and the notice shall clearly and explicitly state
- the cause of action;
 - the particulars of the claim;
 - the name and address of the legal practitioner of the intending claimant; and
 - the relief being sought.

Enforcement

PART XIII - MISCELLANEOUS PROVISIONS

46. Government securities provided that they are duly listed on the Stock Exchange, may be offered as collateral to guarantee loans or other financial transactions under the Law for their economic value as defined by the Ministry.
47. The proceeds derived from the sale or transfer of public properties and rights over public assets shall not be used to finance recurrent and debt expenditure, provided that, such proceeds may be used to liquidate existing liabilities directly charged against such properties or assets.
48. The Governor shall, in addition to any other powers conferred on him under this Law, make regulations generally for the purposes of carrying into effect the provisions of this Law.

*Government
securities as
collateral to
guarantee loans*

*Restriction on
utilization of
proceeds of sale
public assets*

*Power of the
Governor to make
Regulations*

PART XIV - INTERPRETATION AND CITATION

49. In this Law, unless the context otherwise requires—
“Appropriation Bill” means the Bill referred to in section 121 of the Constitution;

Interpretation

“Appropriation Law” means a Law passed by the State House of Assembly or Local Government authorizing spending from the Consolidated Revenue Fund and includes a Supplementary Appropriation Law;

“Arms of Government” means the Legislature, Executive and Judiciary;

“Borrowing” means any financial obligation arising from—

- (i) any loan including principal, interest, and fees of such loan,
- (ii) the deferred payment for property, goods or services,
- (iii) bonds, debentures, notes or similar instruments,
- (iv) letters of credit and reimbursement obligations with respect thereto,
- (v) trade or bankers acceptances,
- (vi) capitalized amounts of obligations under leases entered into primarily as a method of raising financing or of financing the acquisition of the asset leased,
- (vii) agreements providing for swaps, ceiling rates, ceiling and floor rates, contingent participation or other hedging mechanisms with respect to the payment of interest or the convertibility of currency; and
- (viii) a conditional sale agreement; capital lease or other title retention agreement;

“Budget Call Circular” means a circular—

- (a) requesting the submissions in a prescribed form; of the revenue and expenditure estimates of Ministries, Extra-Ministerial Departments, and other executing agencies of Government for the next financial year; and
- (b) giving detailed guidelines and instructions on the preparation of the estimates and expenditure in a manner consistent with the Medium-Term developmental priorities set out in the Medium-Term Fiscal Framework;

“Capital expenditure” means spending on an asset that lasts for more than one financial year and expenses associated with the acquisition of such assets;

“Commission” means the Fiscal Responsibility Commission established by section 1 of this Law;

“Commissioner” means the commissioner charged with the responsibility for Finance;

“Concessional terms” means the terms of the loan must be at a rate not exceeding the prevalent interest rate as fixed by the Central Bank of Nigeria;



"Consolidated debt" means the aggregate of the outstanding financial obligations of Government including those of its Parastatals and Agencies at any point in time arising from

- (i) borrowed money including principal, interest and fees of such borrowed money,
- (ii) the deferred payment for property, goods or services,
- (iii) bonds, debentures, notes or similar instruments,
- (iv) letters of credit and reimbursement obligations with respect thereto,
- (v) guarantees,
- (vi) trade or bankers' acceptances,
- (vii) capitalised amounts of obligations under leases entered into primarily as a method of raising financing or of financing the acquisition of the asset leased,
- (viii) agreements providing for swaps, ceiling rates, ceiling and floor rates, contingent participation or other hedging mechanisms with respect to the payment of interest or the convertibility of currency, and
- (ix) a conditional sale agreement, capital lease or other title retention agreement,

"Constitution" means the Constitution of the Federal Republic of Nigeria, 1999;

"Cost-benefit analysis" means an analysis that compares the cost of undertaking a service, project or programme with the benefits that citizens are likely to derive from it;

"Financial year" has the meaning ascribed thereto in the Constitution;

"Fiscal Policy Objectives" means the goals set by Government for attainment of set targets for a given period;

"Fiscal Risk Appendix" means an explanatory attachment that provide a set of indicator that can be used to measure local fiscal risks;

"Fiscal Risk Target" provides numerical target for each risk indicator with which a fiscal entity will be considered fiscally healthy;

"Fiscal year" means financial year and has the meaning ascribed to financial year in this Law;

"Government-Owned Company" means a statutory corporation, Government agency and a company in which Government has controlling interest;

"Governor" means the Executive Governor of the State;

"Medium-Term Fiscal Framework" means the document referred to and the contents of which is prescribed in section 12 of this Law;

"Member" includes the chairman;

"Ministry" means Ministry of Finance;

"Net debt" means the Consolidated Debt less what is owned to Government, its parastatals and agencies at any point in time;

"Public Debt Securities" means public debt represented by securities issued by the State Government (including those of the Central Bank of Nigeria), and Local Governments;

"Public expenditure" means outlays other than those resulting into debt reduction;

"Quarter" means one quarter of a financial year and quarterly shall be construed accordingly;

"Recurrent expenditure" means normal overhead and administrative expenses and personnel cost including salaries, emoluments and other benefits of employees;

"Reference Commodity Price" means such price as may be determined by the Governor subject to the approval of the State House of Assembly;

"Refinancing of debt securities" means issuance of securities to repay the existing debt;

"State" means Kwara State of Nigeria;

"State Financial Institution" means any financial institution in which the State Government has controlling shares;

"Tax Expenditure Projections" means the projected amount expected to be utilized in granting tax relief or tax holiday; and

"Tax Revenue Projections" means the projected collectible tax or revenue within a particular planning period;

Citation

50. This Law may be cited as the Kwara State Fiscal Responsibility Law, 2008.

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

.....
Clerk of the House