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### A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE KOGI STATE UTILITY INFRASTRUCTURE MANAGEMENT AND COMPLIANCE AGENCY AND OTHER MATTERS CONNECTED THEREWITH, 2018

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**KOGI STATE UTILITY INFRASTRUCTURE MANAGEMENT AND COMPLIANCE AGENCY BILL, 2018.****ARRANGEMENT OF SECTIONS**

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## SCHEDULE

A BILL FOR A LAW TO ESTABLISH THE KOGI STATE UTILITY INFRASTRUCTURE MANAGEMENT AND COMPLIANCE AGENCY AND OTHER MATTERS CONNECTED THEREWITH.

BE IT ENACTED BY THE KOGI STATE HOUSE OF ASSEMBLY AND BY THE AUTHORITY OF SAME AS FOLLOWS:

*Enactment*

1. This law may be cited as the Kogi State Utility Infrastructure Management and Compliance Agency Law, 2018 and shall come into force on the ..... day of .....2018.

*Citation and Commencement*

2. In this law, unless the context otherwise requires:

*Interpretation*

**"Broadcast Infrastructure"** means masts and base stations used for transmitting and receiving radio and television broadcast.

**"Co-location"** means joint, additional or multiple use of an already existing structure.

**"Communication infrastructure"** means coaxial and fiber cable; lattice, monopole and disguised masts; parabolic and Point to Point antenna; base stations; or any other such infrastructure occupying any public or private space, used in transmitting and/or receiving voice, data or video.

**"Electricity infrastructure"** means cables, poles, transformers, Plinths, substations, step down stations, switching yards, transmission towers and any other such infrastructure necessary for the generation, transmission and or distribution of electricity which occupies any public or private space.

**"Governor"** means the Governor of the state.

**"IGR"** means Internal Generated Revenue.

**"Law"** means this Utility Infrastructure Management and Compliance Agency Law of 2018.

**"MDA"** means Ministries, Departments and Agencies.

**"Management"** means any processes including planning, coordinating, directing, controlling, monitoring, being done, required to be done or capable of being done to ensure the proper functioning and good condition of any Utility Infrastructure in public space.

**"NESRA"** means National Environmental Standard and Regulation (enforcement) Agency of the Federal Republic of Nigeria.

**"Oil and gas infrastructure"** means oil and gas pipelines including transmission lines, gate stations, valves, siphons, and other ancillary equipment which occupies any public or private space.

**"Orderly Development"** means any development, which conforms with best practices, developmental plans and standards of the State Government in such a way that there is no undue interference between infrastructure in a way that results in negative outcomes, damages, disasters or dysfunction of the utility system of the State.

**"Private Space"** means any area on land, water or atmosphere to which a private citizen owns legal and valid proprietary interest.

**"Public Safety"** means the general state of wellbeing of members of the general public that reduces or eliminates potential for accidents, mishap, inferno destruction of property, injury or threat to the citizenry.

**"Public Space"** means any area on land, water or atmosphere accessible by any person without potential threat of liability for trespass to property, and which no private individual can claim title to.

**"Regulations"** means those regulations made by the Agency pursuant to this Law with respect to all matters including fees to be paid for all installation, development of any Utility Infrastructure, required documentation for applications for permit, renewal fees payable.

**"R.F. Emission"** means Radioactive Frequency Emission.

**"State"** means Kogi State.

**"Transportation infrastructure"** means pedestrian bridges, bus-stops, traffic lights, street lights, and such other infrastructure that aid transportation and movement of traffic.

**"Utility Infrastructure"** means all classes of broadcasting infrastructure, communication infrastructure, electricity infrastructure, water infrastructure, oil and gas infrastructure and transportation infrastructure as defined in this Law.

**"Utility Service Providers"** mean companies who provide services in the broadcasting, communication, electricity, water, oil and gas, and transportation industries.

**"Water infrastructure"** means portable water supply pipelines, water tank structures, in both public spaces and private spaces, used for the storage, treatment or distribution of water, outside piping for house hold and domestic usage.

**"Waste Water infrastructure"** means liquid waste management facilities including central sewage pipeline networks and sanitary water collection systems, storm water collection and drainage pipelines and rainwater storage tanks, in both public spaces and private spaces, used for the collection, drainage or treatment of waste water.

3. (1) There is hereby established a body to be known as Kogi State Utility Infrastructure Management and Compliance Agency (referred to in this Law as "The Agency").

*Establishment of the Agency*

(2) The Agency shall:-

- (a) Be a body corporate with perpetual succession and a common seal;
- (b) Sue or be sued in its corporate name;
- (c) have power to acquire, hold, manage and dispose of any property moveable or immovable for the purpose of carrying into effect the provisions of this Law; and

(d) The common seal shall be authenticated by the signature of the Director General.

4. The functions of the Agency shall be to:

*Functions of the Agency*

- (a) Establish standards and procedures to regulate the construction of lines and laying of cables across public lands and properties within the State in a manner that will guarantee the safety of the public;
- (b) Construct and coordinate schedules of functions among Utility Service Providers in the State;
- (c) Ensure public safety in the use of public rights of way by Utility Service Providers and other persons in the State;
- (d) Ensure the protection and management of all rights of way in the State in relation to the Utility Service Providers;
- (e) Define the specification and quality of materials to be used by Utility Service Providers;
- (f) Keep track of the various systems using the public rights of way to prevent interference with Utility Infrastructure;
- (g) Monitor the installation and erection of Utility Infrastructure within the State by Utility Service Providers in the interest of public health and safety;
- (h) Prevent the breaking of roads without permit;
- (i) Establish harmonized routes for laying of Utility Infrastructure;
- (j) Provide protection of the network of roads in the State;
- (k) Reduce damage to public utilities;
- (l) Coordinate and harmonize the routes used by Utility Service Providers;

- (m) Work in concert with the Bureau of Land and Housing Service and other MDAs in charge of land matters in the State to obtain and keep precise records of all state roads and lands as distinct from the federal roads and lands;
- (n) Set standards and issue permits in respect of the hoisting or mounting of any Utility Infrastructure on any traffic light, street light or water stanchion in the State;
- (o) Engage officers deemed necessary for due and proper execution of its functions under this Law.
- (p) Fix fees, rates, charges and or penalties for the doing of, or failure to do anything required under this Law or regulations and make guidelines pursuant to this Law;
- (q) Formulate and implement policies and programs that promote orderly development of Utility Infrastructure within the State;
- (r) Encourage and promote infrastructure sharing amongst permit holders;
- (s) Enforce Standards, procedures, regulations and guidelines for constructing, laying, installing and maintaining Utility Infrastructure within the State;
- (t) Ensure compliance with the provisions of this Law and any regulations made thereto, by owners and operators of Utility Infrastructure in the State;
- (u) Monitor compliance with rights of ways standards in the State including road set-back standards and other provisions as stipulated in any other Law;
- (v) Perform such other functions as may be specified by any law or enactment; and



(w) Undertake such other activities as are necessarily incidental and expedient for giving full effect to the provisions of this Law.

5. The Agency shall have power to:

*Powers of the Agency*

(a) Issue permits/licenses for use of right of way to all telecommunication operators and other Utility Infrastructure Companies within the State and such permits/licenses shall contain conditions for periodic renewal as the Agency may deem necessary;

(b) Maintain a comprehensive data base of all Utility Infrastructure erected within the territory of the State by any person, company or organization whether private or public and shall continue to update the data base on a continuous basis;

(c) Disconnect, decommission, confiscate, seal or dismantle any Utility Infrastructure laid or erected in contravention of the provisions of this Law;

(d) Authorize any officer or representative of the Agency to inspect between the hours of 8:00a.m and 8:00pm any Utility Infrastructure within the State for the purpose of determining whether it complies with the provisions of this Law and the regulations made hereunder;

(e) Engage the services of consultants on behalf of the State to:-

(i) Manage or assist in the management of the activities of the Agency; and

(ii) Carry out any investigation, inspection, monitoring and assessment.

Provided that the collection and remittance of revenue, fees or charges due to the Agency in accordance with this Law shall

be carried out by the Agency in conjunction with the State Internal Revenue Service.

- (f) Carry out periodic audit of all Utility Infrastructure surface or underground in the State to ensure compliance with this Law and any regulation made pursuant to this Law and shall maintain records of such audit on a continuous basis;
- (g) Develop appropriate regulations, standards, guidelines, procedures and processes for an efficient implementation and realization of the objectives and duties of the Agency under this Law. Provided that such regulations and processes shall be gazetted by the State;
- (h) Determine and create such numbers of departmental structures for the effective administration and execution of its duties and mandate under this Law;
- (i) Create and maintain a Zonal Regulatory Office in each of the three Senatorial Districts of the State for intensive monitoring of its mandate under this Law;
- (j) Determine rates:
  - (i) at which ducts and sub-ducts are shared;
  - (ii) at which the State shall lease spare ducts and other similar items for the installation of any Utility Infrastructure and determine the conditions for such lease;
  - (iii) For Right of Way, permit fee, license fee, ratification fee and annual administration fee;
- (k) Stipulate the period for the ratification of existing Utility Infrastructure prior to decommissioning;
- (l) Delegate the issuance of decommissioning notice and decommissioning exercise as it may deem fit;

- (m) Determine levies, fees and charges payable for any activity envisaged under this Law and shall maintain a schedule of such levies, fees and charges which it may review as it may deem expedient;
- (n) Prescribe penalties and sanctions for non-compliance with the provisions of this Law by any Utility Infrastructure owner or owners;
- (o) Demand and ensure the registration of Utility Infrastructure companies and individuals carrying out or intending to commence business activities within the State with the Agency, and shall maintain a Register for this purpose;
- (p) Carry out the activities of the Agency in relation to Utility Infrastructure related services only, and shall extend to the activities of companies, individuals and public institutions; and
- (q) Take all lawful necessary steps to enforce the provisions of this Law.

6. (1) There is hereby established a Management Board for the Agency to be known as the Board of the Kogi State Utility Infrastructure Management and Compliance Agency (hereinafter referred to in this Law as "the Board")

*Establishment of  
Management Board*

(2) The Board shall comprise:

*Composition*

- (a) the Director General of the Agency as the Chairman of the Board, who shall be a member of a relevant recognized professional body in the area of Engineering (such as Communication, Energy, Hydro power, Environment, Land and Survey) or taxation, public administration, finance, law or management, or experienced in the management and operations of Communications and Utility Infrastructure Monitoring and Regulations to be appointed by the State Governor, and subject to confirmation by the State House of Assembly;

- (b) Two Directors in the service of the Agency;
- (c) A Director from the State Ministry of Finance;
- (d) A Director from the State Ministry of Works;
- (e) A Director from the Bureau of Land and Housing Service;
- (f) A Director from the Ministry of Environment and Natural Resources;
- (g) A Director from the Kogi State Internal Revenue Service;
- (h) A Director from the State Ministry of Justice.
- (i) Three (3) other persons appointed by the State Governor on their personal merit, each representing a Senatorial District in the State as members; and
- (j) The Secretary/Legal Adviser of the Agency shall be the Secretary to the Board.

(3) The Governor shall appoint members of the Board of the Agency.

(4) In the absence of a constituted Board, the Director General of the Agency shall continue to exercise the functions and duties of the Board until such time as the Governor may constitute a Board as provided in this enactment.

7. (1) The Chairman and members of the Board, shall hold office for a period of four years in the first instance and may be eligible for reappointment for a further term of four years only. *Tenure of office*
- (2) The Chairman and members other than ex-officio members shall be paid such emoluments, allowances and benefits as may be determined by the Governor. *Remuneration*
- (3) Members of the Board shall be paid such allowance as the Governor may determine taking into consideration the specialized nature of work to be performed by the Agency, and salaries paid to individuals of equivalent responsibilities in the private sector and in other Agencies of the State government.

- (4) The Board shall have the power to employ staff (junior cadre) *Staff*
8. The Board shall have powers and duties as are conferred on it by this Law or by any other Law, which may be enacted by the State House Assembly. *Power and Duties*
9. (1) The Governor shall appoint a Director General as the chief executive of the agency. *Appointment of Chief Executive*  
(2) The Director General of the Agency shall;  
(i) Be the chief executive and accounting officer of the Agency;  
(ii) Be responsible for the execution of the policies of government and the day-to-day administration of the Agency; and  
(iii) Hold office on such terms and conditions, as may be specified in his letter of appointment from the Governor of the State.
10. The Director General as the chief accounting officer of the Agency shall ensure that the Agency: *Duties of Director General*
- (a) Keeps proper accounting records, in accordance with standard accounting practice and financial regulations of the State in respect of:  
(i) all revenue and expenditure of the Agency;  
(ii) all its assets, liabilities and other financial transactions; and  
(iii) all other revenues collected by the Agency, including income on investments.
- (b) Prepares an annual report, including financial statements, in accordance with generally accepted accounting principles and practice; and
- (c) Ensures, that the available accounting Records of the Agency are adequate, in line with financial regulations and prepared by a qualified personnel, who shall be a member of a recognized professional body.

11. The Director General shall report directly to the Governor of the state. *Report to Governor*
12. (1) There shall be a Secretary/Legal Adviser to the Agency, who shall be a legal Practitioner of not less than 10 years post call. *Secretary/Legal Adviser*
- (2) The Secretary/Legal Adviser shall; *Functions*
- (a) Issue notices of meetings of the Agency/Board;
  - (b) Keep the records of the proceedings of the Agency/Board; and
  - (c) Carry out such duties, as the Director General/Chairman of the Board may direct.
13. (1) The Secretary shall summon the meetings of the Board, whenever business requiring its attention warrants, at least once every quarter from the 1<sup>st</sup> of January. *Meetings of the Board*
- (2) Two-Thirds of the members of the Board shall form a quorum for the purposes of the meetings of the Board.
- (3) The Chairman of the Board or any member appointed by him shall preside over the meetings of the Board, provided that in the absence of the Chairman, the members present may appoint any one from amongst them to so preside.
14. (1) Notwithstanding the provisions of section 6 of this Law, the Chairman or a member of the Board, shall cease to hold office if; *Cessation of membership*
- (a) He resigns his appointment as a member of the Board by notice, under his hand, addressed to the Governor; or
  - (b) He becomes of unsound mind; or
  - (c) He becomes, incapable of carrying out the functions of his office either arising from an infirmity of the mind or body; or
  - (d) He is convicted of a felony or of any offence involving dishonesty or corruption; or
  - (e) He becomes bankrupt or makes a compromise with his creditors; or
  - (f) The Governor is satisfied, that it is not in the best interest of the Agency or of the public, for the person to continue

- in office and the Governor shall remove him from office;  
or
- (g) He has been found guilty, of a breach of the code of conduct or other serious misconduct in relation to his duties; or
  - (h) In the case of a person possessing a professional qualification, he is disqualified or suspended from practicing his profession, in any part of the world by an order of a competent authority; or
  - (i) In case of a person who becomes a member by virtue of the office he occupies, when he ceases to hold that office.

(2) If the Board thinks it expedient that any vacancy in the Agency should be filled by a person holding office in the civil service of the State, it shall notify the Civil Service Commission to that effect and the Board may, by arrangement with the Commission, cause such vacancy to be filled by way of secondment or transfer.

*Vacancy in the Agency*

15. The Board shall be responsible for:-

- (a) Providing general policy guidelines regarding the functions of the Agency and supervising the implementation of such policies;
- (b) Doing all such things, as may be deemed necessary and expedient for the proper assessment and collection of all the rates, fees, penalties, levies and taxes due from Utility Service Providers operating in the State provided that such revenues shall be paid directly into the state dedicated IGR Bank Account as may have been instructed in writing by the Executive Chairman of Kogi State Internal Revenue Service.
- (c) Generally, controlling the management of the employees of the Agency in line with the Rules and Regulations of the State Civil Service on matters of Staff policy; and
- (d) Doing such other things, as are in the opinion of the Agency, necessary to ensure the efficient performance of its functions under this Law.

*Functions of the Board*

16. (1) The Board shall be autonomous in the day-to-day running of the technical, professional and administrative affairs of the Agency. *Autonomy of the Board*
- (2) The Board may, subject to such conditions as it may determine, appoint and employ practicing Consultant(s) with the requisite technical knowhow in relation to the core functions of the Agency, to conduct research, technical advice, carryout technical audit, raise pre-assessment notices for the Agency, collect information, through audit and to monitor compliance with all the relevant laws and regulations by Utility Service Providers in the State, including such other engagements which in the opinion of the Board are well suited to be handled by Consultants. *Appointment of consultants*
17. The Board shall cause to be prepared, not later than the 30<sup>th</sup> day of September of each year, an estimate of its income and expenditure and proposed revenue retention rate for the succeeding year. *Annual Estimates*
18. (1) The Board, shall cause proper accounts and records to be kept and such accounts shall, not later than six months after the end of each year, be audited by auditors, appointed by the Board, from the approved list and in accordance with the guidelines supplied by the Auditor- General of the State. *Accounts and Audit*
- (2) The Auditor-General for the State shall have power to conduct periodic checks of all government statutory corporations, commissions, authorities, agencies, including all persons and bodies established by a law of the House of Assembly of the State
19. (1) The Board, shall not later than the 30<sup>th</sup> of June, each year, submit to the Auditor-General of the State, a report of its activities during the immediate preceding year and shall include in such report, the audited accounts of the Agency. *Annual Report*
- (2) The Auditor-General, shall within thirty days of receipt of the report; present a copy of the report to;
- (a) The State Executive Council; and
  - (b) The State House of Assembly.



20. (1) The Board, 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 provided that the acceptance of the gift shall not in any way compromise the objectivity and integrity of the board, and the overall interest of the State. *Power to accept gifts*

(2) The Board shall not accept any gift if the acceptance of such gift or the condition attached to such gift will derogate the efficiency, objectivity and integrity of the board in the performance of its functions.

(3) Such gifts as aforementioned in subsection (1) of this section shall be brought to the notice of the Governor not later than three days after the receipt of the gift(s).

(4) The Board shall not accept any gift, if the conditions attached to it are inconsistent with its functions.

21. The Board, shall with the approval of the State House of Assembly, borrow by way of loan, overdraft or otherwise, from any source, such sums as it may require for the performance of its function and meeting its obligations under this law. *Method to obtain loan for performance of the Board*

22. The Board shall adopt measures which include: *Board to Adopt Measures*

(a) Compliance, enforcement and regulatory actions, as well as introduction and maintenance of investigative and control techniques, for detection and prevention of non-compliance;

(b) Collaborating and facilitating rapid exchange of scientific and technical information with relevant national or international agencies or bodies on Utility Infrastructure management and safety including other related matters;

(c) Undertaking exchange of personnel or other experts, with complementary agencies for purposes of comparative experience and capacity building;

- (d) Establishing and maintaining, a system for monitoring international dynamics of Utility Infrastructure, in order to identify suspicious transactions and activities if any, by Utility Service Providers;
- (e) Providing, maintaining, and accessing up-to-date adequate data and information, on all the activities of Utility Service Providers in the State;
- (f) Maintaining data base, statistics, records and reports on persons, organizations, private or public engaged in Utility Infrastructure Service provision in the State;
- (g) Undertaking research and similar measures, with a view to stimulating economic development and determining, the level of safety of the individuals, property, and the environmental effects which are incidental to the operation of service providers in the State;
- (h) collecting and keeping under review, all policies of the State Government relating to Utility Infrastructure as may be available or provided by other Ministries, Departments and Agencies of the State and undertake a systematic and progressive implementation of such policies;
- (i) Maintaining a liaison with the Ministry of Environment, Bureau of Land and Housing Service, office of the Attorney-General, and other MDAs, all government security and law enforcement agencies, financial supervisory institutions and the Internal Revenue Service of the State in the enforcement of this Law and Regulations made thereon;
- (j) Specifying the form of returns, claims, statements and notices necessary for the due administration of the powers conferred on the Agency by this Law or any other enactment;
- (k) Carrying out and sustaining public awareness and enlightenment campaigns, as may be necessary to provide for the safety of lives, properties and protection of the natural environment in the State; and

(l) Making Regulations containing a Schedule of fees, rates, levies, taxes, fines and penalties payable by Utility Service Providers by the operation of this Law or any other law or Regulation as applicable to the State. Provided that such Regulation shall be approved by the Governor and same shall be published in the Gazette of the State. *Making of regulations*

23. Subject to further amendments or any subsequent regulations or guidelines made pursuant to this Law requiring or specifying new permits, the following classes of Permits shall be issued by the Agency: *Classes of Permits*

- (a) Right of Way permit;
- (b) Temporary permit;
- (c) Construction permit;
- (d) Installation permit;
- (e) Modification/improvement permit;
- (f) Collocation permit;
- (g) Decommissioning permit;
- (h) De-rigging permit;
- (i) Maintenance permit;
- (j) Renewal Permit

24. (1) No person, corporation, partnership or body shall; *Obligation to obtain permit and approval*

- (a) Construct, develop, erect, excavate, haul, hoist, install, modify or lay any Utility Infrastructure in any public or private space within the State without the prior written approval or permit from the Agency.

(b) engage in any development of Utility Infrastructure, use of right of way or decommission any existing Utility Infrastructure without first obtaining the required permit from the Agency.

(2) Any person who intends to lay, construct or install any Utility Infrastructure of a temporary nature for use within a limited period of time not exceeding 3 (three) months shall apply for a temporary permit from the Agency, and the Agency shall issue any directives, orders or guidelines in respect of such temporary permit as it deems necessary.

25. (1) All applications for a permit/license shall be submitted by the owner or his agent to the Agency in the form prescribed by the Agency.

*Application and  
Issuance of  
Permit/license*

(2) All permits shall be issued in the name of the owner of the Utility Infrastructure and when issued shall be displayed in a conspicuous place at the site of the infrastructure and the relevant approved plans shall also be kept on site for inspection by the Agency at all relevant times.

(3) All applications for temporary permits/licenses shall comply with the requirements for a fresh application as required by the Agency

(4) The owner of the Utility Infrastructure shall ensure that all or any agents, contractors, sub-contractors and or representatives carrying out any works are aware of and comply with all the conditions attached to all permits.

26. (1) The Agency shall issue the requested permit within a period of 45 (forty-five) days upon submission of completed applications and required documents, unless it concludes based on information presented to it that:

*Conditions for  
Issuance/Refusal of  
Permits and Approvals*

(a) The requested permit is not within its jurisdiction; or

(b) The application is incomplete; or

(c) If completed as proposed in the application, the Utility infrastructure will not comply with one or more provisions of this Law or any planning laws or regulations: or

(d) The requested permit pertains to any activity that is likely to affect public health and safety adversely: or

(e) The requested permit shall require an extended period that shall be approved by the Director General of the Agency.

(2) Permits and approvals shall be approved or refused based on considerations such as:

- (a) Safety of persons and property;
- (b) Minimum disruption or disturbance of public infrastructure service or business activities;
- (c) Good or poor maintenance of existing infrastructure;
- (d) Commitment to decommissioning infrastructure when no longer required;
- (e) Failure to present relevant credentials or certifications as a licensed operator, that are required by a permit or class of permit;
- (f) Undertaking to allow certain information being made public or available under minimal restrictions;
- (g) Commitment to notify changes to information previously submitted to the Agency;
- (h) Failure to comply with mandatory specification and designs;
- (i) Compliance with development plans;
- (j) Satisfactory Environmental Impact Assessment Report;
- (k) Environmental Audit Report issued by NESRA (for existing infrastructure)
- (l) Necessity of the Utility Infrastructure; and

(m) Any other reasons that may be proffered by the Agency.

27. Permits/licenses issued under the provisions of this Law shall be renewed annually by the Agency at such rates as it may determine.

*Renewal of  
Permits/Licenses*

28. (1) Permit holders may sell or transfer their rights in any permit issued by the Agency, provided that the prior consent of the Agency is obtained.

*Transfer of permits*

(2) The Agency shall after giving its consent, invalidate the existing permit and re-issue it to the new holder on existing terms or upon such additional terms as the Agency may determine.

29. The Agency may suspend the issuing of permits for a certain period, and may give reasons.

*Suspension on Issuance  
of permits*

30. As part of the requirements for obtaining any permit or approval under this Law, applicants for permits or approvals shall prepare and submit an Environmental Impact Assessment Report containing details of the potential long-term and short-term effects of such infrastructural development and the areas affected by such infrastructure, and shall disclose and indicate the installation and locations of deployment of microwave antennas in its activities. It shall also submit an Environmental Audit Report by NESRA to the Agency.

*Requirement of  
Environmental Impact  
Assessment*

31. The Agency shall;

(a) maintain a registry of permits and database of all Utility Infrastructure within the State, either by itself or through a third party appointed by the Agency for that purpose;

*Maintaining Registry  
of permits and  
Database*

- (b) retain all technical, historical and biographic information submitted by all permit holders in respect of any permit and infrastructure;
  - (c) make best efforts to protect confidential information related to business or trade secrets or processes divulged or submitted by permit holders or applicants for any permit in the process of complying with any part of this Law;
  - (d) issue Guidelines and procedures for classifying information as public, restricted or private and stating the procedure for granting access to third parties or members of the public to any information classified as public or restricted information; and
  - (e) be at liberty to share the contents of the registry or database of Permits and Utility Infrastructure with other agencies of the State Government or relevant sector-specific national industry regulatory bodies, including Nigerian Communications Commission and Nigerian Electricity Regulatory Commission.
32. The Agency may revoke a permit pursuant to its powers under this Law if;
- (a) a Permit holder fails to comply with the terms of the permit; or
  - (b) fails to maintain the Utility Infrastructure in a way that safeguards public health and safety; or
  - (c) fails to renew the permit within fourteen days of its expiry; or
  - (d) fails to do anything required under this Law or Regulations and Guidelines made pursuant to this Law.

*Revocation of  
Permits*

33. (1) All Utility Infrastructures shall be kept and maintained in good condition and repair by the owner or operator in the interest of public safety.

*Obligation to Maintain  
Utility Infrastructure*

(2) All maintenance, laying or construction of any Utility Infrastructure shall be performed by duly certified personnel.

(3) In the event that the use of any Utility Infrastructure is discontinued by the owner or operator, such owner or operator shall notify the Agency in writing of his intention to discontinue use and the responsibility to dismantle the structure shall be that of the owner or operator and the infrastructure shall be so dismantled within thirty (30) days.

(4) The Agency shall in any event have the right to dismantle and confiscate any Utility Infrastructure that the Agency deems to be a danger to public safety.

34. (1) All existing Utility Infrastructure shall be certified by an Engineer of the Agency to be structurally sound and in conformity with the Building Code requirements as may be set out by the Federal and State Laws as precondition for commencement, recommencement or continuation of its operations.

*Certification and  
Inspection*

(2) The Agency shall have authority to enter the property in which a tower or mast is located or where cables or energy utilities are laid, and inspect same for the purpose of determining whether it complies with the Building Code and construction standards provided by the Federal and State Laws.

(3) The inspection referred to above shall be conducted between the hours of 8 a.m. and 5 p.m. after giving seventy-two (72) hours' notice in writing to the owner of the Utility Infrastructure.

(4) All Utility Infrastructure, where applicable shall display signs such as "DANGER", "Aviation Lights", and other warning

*Display of Safety signs*



signs necessary, for human safety as may be prescribed by regulations made by the Agency.

35. (1) The owner of any Utility Infrastructure shall exercise adequate care, install devices and provide methods for preventing failures, and accidents which are likely to cause damages, injuries or nuisance to the public including its Staff.

*Obligation to exercise adequate care*

(2) The owner or operator of any Utility Infrastructure shall be required to carry out installations and other equipment maintenance in compliance with the requirements of the safety code of the State and Federal Laws in such manner that will not interfere with the use of another person's property or any private space.

*Compliance with Safety Codes*

(3) All maintenance or erection of Utility Infrastructure including their support structures shall be performed by duly qualified construction personnel.

*Use of Qualified Personnel*

(4) All Utility Infrastructures shall maintain compliance with current RF emission standards under the Nigerian Communications Commission Act.

*Compliance with R.F. emission standards*

36. (1) Any person, corporation, partnership or other body who contravenes any of the provisions of this Law is guilty of an offence punishable by a fine of ten thousand Naira (₦10,000.00) for every day for which the contravention last.

*Offences and Penalties*

(2) A fine shall become due twenty-one (21) days after the instance of the order to conform to the standard that has been infringed upon and if the irregularly continues for over a period of one week, the Agency may order the removal of any Utility Infrastructure at the expense of the defaulter.

(3) Any person, corporation, partnership or other body who contravenes any provision of this law, is guilty of an offence punishable by a fine contained in this Law or Regulations to this law made by this Agency.

(4) Any person who causes any damage to any Utility Infrastructure shall be liable to a fine.

37. (1) All reinstatements of any road shall be carried out:

*Reinstatement of roads*

(a) by a contractor duly approved by the Agency.

(b) within seven days on roads; or fourteen days in the case of installation of equipment.

(2) All associated costs, including administration costs and charges shall be borne by the owner or operator of the Utility Infrastructure.

(3) The reinstatement referred to in this Section shall not be considered done until an assessment is made by authorized officers of the Agency or consultants appointed for that purpose.

38. (1) The Agency shall make reasonable efforts to notify parties likely to be affected by any alteration of time frames, policies, guidelines, fees, rates and penalties, by direct notification to persons or corporations that have previously supplied their contact details to the Agency or by indirect notification through public media.

*Notification and Public Awareness*

(2) A fine shall become due, twenty-one (21) days after the issuance of the order to conform to the standard that has been infringed upon and if the irregularity continues for over a period of one week, the Agency may order the removal of any Utility Infrastructure at the expense of the defaulter.

(3) Any person, corporation, partnership or other body who contravenes any provision of this Law, is guilty of an offence punishable by a fine contained in this Law or Regulations to this Law made by this Agency.

(4) Any person who causes any damage to any Utility Infrastructure, shall be liable to fine

39. (1) The Agency shall serve a contravention notice on the owner or operator of any Utility Infrastructure or any person who constructed, laid, installed such infrastructure or encroached on any public right of way or road, set back, without due authorization by the Agency.

*Contravention notice*

(2) The Agency, may if it so determines, direct the defaulting party or person to take appropriate steps to comply with the provisions of this Law and shall stipulate a definite deadline for taking such steps.

*Defaulting party to comply with the law*

(3) Where it appears to the Agency that an unauthorized development is being carried out, or a development does not comply with a permit duly issued under this law, or a development is defective or poses a danger to the owner, contractor, occupier, or the public, or constitutes a nuisance to the occupier or public, the Agency shall issue a Stop Work Order on the owner, occupier or contractor or holder and such owner, occupier, or contractor shall immediately cease any further development or use of the infrastructure.

*Agency can issue Stop Work Order*

(4) Where the circumstances so require, the Agency may issue a notice to any owner or operator of any Utility Infrastructure developed, installed, constructed or laid without the required permit or which poses a danger to the owner, occupier or public, directing such owner or operator to decommission or remove the infrastructure.

*Agency can issue notice to decommission or remove infrastructure*

(5) Where any person is required by the Agency to do anything in the foregoing subsections (1), (2), (3) & (4) of this section, the Agency shall enforce such directive without further notice and shall recover the cost of such enforcement from the defaulting party.

*Agency can enforce directive*

(6) Where the circumstances so require, the Agency may issue a notice to the holder of any permit, revoking the said permit and shall state the reasons for such revocation.

*Revocation of permit*

(7) The Agency may act either through its officers or consultants appointed for any specified purpose under the instrument of appointment; *Officers/consultants may act for Agency*

(8) Third parties appointed by the Agency shall exercise such powers as may be stated in the instrument appointing such persons to act on behalf of the Agency and any action taken by such third parties in accordance with their appointing instrument shall be valid. *Third party appointed by Agency*

40. (1) Notwithstanding anything contained in any other enactment, no suit or action shall lie or be instituted in any court of Law against the members of the Agency, its officers or servants by any person aggrieved by anything done in pursuance of the provisions of this Law or any other enactment or law or of any public duty or in respect of any alleged neglect or default in the execution of this Law or any other enactment or Law, duty or authority unless such suit or action is commenced within 3 months after the act, neglect, omission or default complained of. *Institution of Suits*

(2) No such suit or action shall lie or be instituted in any court of Law against the members of the Agency, its officers or servants before the expiration of one month after written notice of intention to commence the suit shall have been served on the Agency by the intending plaintiff.

(3) The notice referred to in subsection (2) of this section shall clearly and explicitly state:

(a) the cause of action;

(b) the particulars of claim;

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

(d) The relief, which the plaintiff claims.

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

*Restriction of Execution against the property of the Agency*

(2) Any sum of money which may, by the judgment of a court be awarded against the Agency shall subject to any directions given by the court, be paid from the general fund of the Agency.

42. From the date when this Law shall come into force, every company, firm, business or individual;

*Registration/Revalidation Of Utility Infrastructure business*

(a) Carrying on the business of Utility Infrastructure within the State shall approach the Agency for the Registration or revalidation of its business activities by obtaining, filling and filing an Application form with the Agency.

(b) Carrying on or desiring to carry on the business of Utility Infrastructure within the State shall be regulated by this Law.

43. The sources of Funds of the Agency shall consist of;

*Sources of Funds*

(a) Budgetary provisions;

(b) Loans and grants to the Agency;

(c) Such revenue as the Agency may derive from its investments and services; and

(d) Any other legal source.

44. (1) The Agency shall establish and maintain a Fund from which all expenditures incurred by the Agency shall be defrayed.

*Agency fund*

(2) The Fund shall comprise funds derived from but not limited to the following sources:

- (a) such monies as may be appropriated to the Agency by the Kogi State House of Assembly;
  - (b) an amount equal to not less than ten percent of such fees, rates, charges and fines collected by the Agency under this Law;
  - (c) gifts, loans, grants, aids etc.; and
  - (d) all other assets that may accrue to the Agency.
45. The Agency may with the approval of the Governor, borrow such sums of money as the Agency may require in the exercise of its functions under this Law. *Power to borrow*
46. The Agency shall apply the proceeds of the Fund; *Expenditure*
- (a) to meet the administrative and operating costs of the Agency;
  - (b) for the payment of salaries, wages, fees and other allowances, retirement benefits such as pensions and gratuities and any other remunerations payable to the members and staff of the Agency;
  - (c) for the purchase or acquisition of property or other equipment and other capital expenditure and for maintenance of any property acquired or vested in the Agency; and
  - (d) for purposes of investment and for or in connection with all or any of the functions of the Agency under this Law.
47. Notwithstanding any law being an enactment of the House of Assembly of the State giving power to any MDA to perform or carry out any of the functions of the Agency, it shall be done at the request or upon the written authority of the Agency, *Power of MDAs to carry out Agency functions*

authorizing any MDA to carry out or continue to carry out such functions or duties at the instance of the Agency.

48. (1) All cases of default in payment and remittances by persons, individuals or corporations, to whom this law applies shall be referred by the Agency to the Kogi State Internal Revenue Service for review and appraisal.

*Recovery of liabilities  
and prosecution  
activities.*

(2) The Kogi State Internal Revenue Service shall review and appraise the referral mentioned under subsection 1 of this section, including reconciliation on remittances, if any, by the defaulting individual or corporation to establish any outstanding tax, rate, levy, charge or any form of revenue due to the State from individual or corporation.

(3) The Kogi State Internal Revenue Service, upon establishing any outstanding revenue liability from defaulter, shall cause to be prepared a comprehensive liability report containing relevant correspondences, receipts, and documents required to establish the outstanding revenue obligations of the defaulter in an appropriate court of law.

(4) The Kogi State Internal Revenue Service shall proceed to forward the liability report to the State Ministry of Justice for any necessary action.

(5) The State Ministry of justice shall review the liability report within a reasonable time of receipt of same and if satisfied that a valid case of default is disclosed, proceed to take any necessary step, including approaching the court of law.

(6) The State Ministry of Justice, in conjunction with the representative of the Kogi State Internal Revenue Service in attendance, may receive and consider an amicable settlement of the dispute either before or after an action for recovery is entered by the Ministry.

(7) Where an amicable settlement of the dispute is reached, the consent and approval of the Honourable Attorney-General and the Executive Chairman of the Kogi State Internal Revenue Service is required to give effect to the terms of settlement by the parties.

(8) Where such recovery actions initiated by the State Ministry of Justice proceed to trial, the Kogi State Internal Revenue Service shall ensure regular attendance of her representative at such trials.

(9) Any violation of offences arising from the implementation of this law shall be reported to the Honourable Attorney-General for necessary action.

(10) The State Ministry of Justice shall be entitled to receive three (3) percent commission from all monies recovered from defaulters, including penalties, to defray all the unavoidable expenses placed on the prosecutor by law.

(11) The Agency shall forward a monthly report on its activities to the Kogi State Internal Revenue Service and subject to this law, including record of remittance and non-compliance by such individuals and corporation.

49. From the date of commencement of this law:

*Fees, rate, rent, levies  
and penalties.*

1. the fees, rate, rent, penalty or any other charge or revenue to be applied by the Agency under this law shall be as contained in the schedule to this law;
2. the Agency shall charge and receive, using the best of judgment, any rate, levy, charge or penalty lawfully chargeable under this law where such is not contained in the schedule to this law.
3. the Chairman of the Agency, Kogi State Internal Revenue Service and the Commissioner for Lands and Urban



Development or any officer authorized to act on behalf of the Director-General (Lands and Housing Bureau) shall, by official gazette, cause a review of the rent, rates, charges and penalties contained in the schedule to this law every two years.

SCHEDULE

1. The applicant shall supply with his application the following information:-
- (a) The name of the applicant of the proposed communication and/or utility infrastructure together with her registered business office address, and telephone number;
  - (b) Evidence of licence from the relevant Federal Government Agency to operate the said communication/utility infrastructure or facility;
  - (c) The professional occupation of the applicant;
  - (d) The purpose of the communication structure;
  - (e) Tax Clearance Certificate;
  - (f) Nominal Roll of the Employees within the State; if any
  - (g) Life Span of structures/facilities to be erected/laid must be specified;
  - (h) Registered office address (Headquarters and within the State);
  - (i) Copy of the Certificate of Registration of company or business name to be attached;
  - (j) Environmental Impact Assessment Report;
  - (k) The following permit fees are payable by an applicant:-
    - (i) Communication Underground Infrastructure. (GSM/Oil & Gas/Disco/Water Infrastructure)

*Applicant's information.*

Permit fee for the construction of communication/utility infrastructure or facility.

	Details	Application Fee (NGN)	Permit (NGN)	Rate	Annual Renewal Rate (NGN)
a	Fibre Optic (GSM)	20,000.00	5,000.00/linear meter		500.00/linear meter
b	Disco (Power Cable)	20,000.00	5,000.00/linear meter		500.00/linear meter
c	Oil & Gas (Pipeline)	20,000.00	10,000.00/linear meter		1,000.00/linear meter
d	Water (Pipeline)	20,000.00	8,000.00/linear meter		800.00/linear meter

Excluding water pipeline for domestic use

- (ii) Communication Surface Infrastructure (GSM/Oil & Gas – Tower/Mast Height Category)

- v. The use of public properties shall be subject to approval by the Agency and the state's determination that the public's intended use of the site will not be unreasonably hindered.

Application for an unclassified use permit shall be made in the manner provided in this law.

- vi. An application to locate a new tower shall be accompanied by technical information identifying and documenting the need for such a location.

3. The applicant shall provide the names, addresses and telephone numbers of all owners of the towers or antenna support structures, capable of supporting the applicant's telecommunication facilities within 500 feet of the proposed tower.

*Neighbouring communication infrastructure.*

4. An applicant shall submit an application for the operation of the new communication infrastructure once the construction is completed. He must present the following with his application:-

*Application for the operation of the new communication/ electricity infrastructure or facility.*

- i. The required date to operate the construction.
- ii. The actual photograph of the completed site.
- iii. The number of persons expected to man the site.
- iv. The type of equipment already installed at the site.
- v. A certificate of compliance to be exhibited in a conspicuous place.
- vi. Tax Clearance Certificate.
- vii. Evidence of Ownership of the proposed site or Deed of Assignment in case of a site procured by lease by the applicant.

5. (i) The owner of existing communication infrastructure or tower shall apply for a temporary permit for the existing structure or tower within one month of the enactment of this law and a temporary permit will be issued for the communication infrastructure.

- (ii) The tower shall be required within three months to provide the technical specifications set out in this law.

6. The owner of an existing infrastructure shall provide the following information:-
- (i) Legal description, plot number and address of the plot of land upon which the proposed communication infrastructure is to be situated.
  - (ii) The date of the construction of the communication infrastructure and the life span of the equipment or facilities to be erected or laid.
  - (iii) If the owner of the infrastructure is not the owner of the parcel of land upon which the proposed infrastructure is to be situated, the written consent of the owner shall be attached to the application together with the name of the owner of the parcel of land upon which the proposed communication infrastructure is to be situated, together with proof of ownership.

*Requirement for  
Validation/Relevant  
information regarding  
the site*

7. (i) The owner of an existing infrastructure shall provide information regarding the site or where he needs to specify and provide the names, addresses, and telephone numbers of all owners of other tower or antenna support infrastructure, capable of supporting the applicant's telecommunication facilities within 500 feet of the proposed communication infrastructure site.
- (ii) The owner of an existing infrastructure shall provide Global Position Information (GPS measurement) specifying the coordinates of the proposed location and the altitude location.

*Relevant information  
regarding the location*

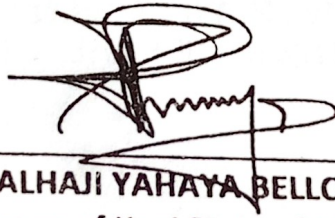
This printed impression has been carefully compared by me with the Bill that has been passed by the Kogi State House of Assembly and found by me to be a true and correctly printed copy of the said Bill.



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**SHAIBU, MATTHEW IREYI**  
Clerk of the House

I Assent/~~Withhold assent~~ this 24<sup>th</sup> day of April 2018 2019



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**ALHAJI YAHAYA BELLO,**  
Governor of Kogi State of Nigeria.

**SUMMARY****SCHEDULE OF THE LAW**

<b>TITLE OF THE LAW</b>	<b>SUMMARY OF THE CONTENT OF BILL</b>	<b>DATE PASSED INTO LAW BY THE HOUSE</b>
A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE KOGI STATE UTILITY INFRASTRUCTURE MANAGEMENT COMPLIANCE AGENCY AND OTHER MATTERS CONNECTED THEREWITH, 2018	THE KOGI STATE UTILITY INFRASTRUCTURE MANAGEMENT AND COMPLIANCE AGENCY LAW 2018 WITH FUNCTIONS AND POWERS.	24 <sup>TH</sup> DECEMBER, 2018



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**SHAIBU MATTHEW IREYI**  
CLERK OF THE HOUSE



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**ALHAJI YAHAYA BELLO**  
GOVERNOR OF KOGI STATE