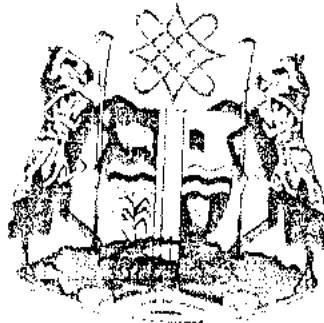


A LAW TO PROVIDE FOR PRUDENT PUBLIC EXPENDITURE, FINANCIAL MANAGEMENT AND DISCIPLINE WITH A VIEW TO ENSURING A LONG-TERM MACROECONOMIC STABILITY IN KADUNA STATE



Kaduna State of Nigeria

Law No.⁷..... 2016

(30th April 2016)

Date of Commencement

**PART I
PRELIMINARY**

BE IT ENACTED by the House of Assembly of Kaduna State as follows:

Enactment

1. This Law may be cited as the Fiscal Responsibility Law, 2016.

Short Title

2. This Law shall come into operation on the^{30th}..... day of^{April}..... 2016.

Commencement

3. In this Law:

Interpretation

"Appropriation Law" means Law passed by the State House of Assembly authorizing spending from the Consolidated Revenue Fund and includes a Supplementary Appropriation Law;

"Borrowing" means any financial obligation arising from:

- (i) the deferred payment for property, goods or services;
- (ii) any loan including principal, interest, fees on such loan;
- (iii) bonds, debentures, notes or similar instruments;

- (iv) letters of credit and reimbursement obligations with respect thereto;
- (v) trade or bankers' acceptance;
- (vi) capitalized amount 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) conditional sale agreements, capital leases or other title retention agreements;

"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;

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

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

"Medium-Term Expenditure Framework" means the framework for government's fiscal operation for the next three financial years as contained in section 16 of this Law.

"Commissioner" means the Commissioner of the Government of the State charged with the responsibility for Budget and Planning;

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

"Governor" means the Governor of Kaduna State of Nigeria;

"Public Debt Securities" means the public debt represented by securities issued by the State and Local Governments;

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

"Public Revenue" means all monies received by the State and Local Governments;

"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;

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

"State Financial Institution" means any financial institution in which one or more State governments has controlling shares;

"State" means Kaduna State of Nigeria;

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

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

PART II

ESTABLISHMENT, FUNCTIONS AND POWERS OF THE FISCAL RESPONSIBILITY COMMISSION

- | | | | |
|----|-----|--|---|
| 4. | (1) | There shall be established in the State, a body to be known as the Kaduna State Fiscal Responsibility Commission (KADSFREC). | Establishment of the Fiscal Responsibility Commission |
| | (2) | The Commission shall:
(a) be a body corporate with perpetual succession and a Common Seal;
(b) have power to own property and may sue and be sued in its corporate name; | |
| 5. | (1) | The Commission shall:
(a) monitor and enforce the provisions of this Law;
(b) disseminate such standard practices including international best practice that will result in greater efficiency in the allocation and management of | Functions of the Commission |

public expenditure, revenue collection, debt control and transparency in fiscal matters;

- (c) undertake fiscal and financial studies of all public finances as it affects the State;
- (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 as may be directed by the Governor.

(2) The Commission shall be independent in the performance of its functions.

6. (1) The Commission shall establish and maintain a Fund from which shall be defrayed all expenditure incurred by the Commission in line with what is obtainable in Public Service.

Establishment of a Fund for the Commission

(2) There shall be credited to the Fund established pursuant to subsection (1) of this section, the budgetary allocation from Appropriation Law by the House of Assembly and any other source approved by the State Government.

7. (1) The Commission shall have a Governing Board consisting of the following:

Composition of the Commission

- (a) Chairman, who shall be the Chief Executive and Accounting Officer;
- (b) one member each representing:
 - (i) the Organized Private Sector;
 - (ii) Civil Society Organisations engaged in causes relating to probity, transparency and good governance;
 - (iii) Organized Labour;
- (c) one member to represent each of the three Senatorial Districts of the State, one of whom shall be a woman; and
- (d) a representative of the Ministry of Justice not below the rank of a Director.

- (2) The Chairman shall be a person knowledgeable in Public Expenditure Management with a professional background in Economics and Public Finance
- (3) All members of the Commission shall be persons of proven integrity.
- (4) The Chairman and members of the Commission other than ex-officio members shall be appointed by the Governor subject to confirmation by the House of Assembly.
- (5) The Chairman and members representing the Senatorial Districts shall be full time members.

8. The Chairman and members of the Commission shall hold office for a single term of 5 years only.

Tenure of Office

9. (1) 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 numbers 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 remuneration, allowances and benefits of the employees of the Commission in conformity with the State Government's policy on salary and wages;
- (f) do other things, which in its opinion are necessary to ensure the efficient performance of the functions of the Commission;

- (g) regulate its proceedings and make standing orders with respect to the holding of 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
- (h) make staff regulations relating generally to the condition of service of employees.

(2) For the purpose of performing its functions under this Law, the Commission shall have power to cause an investigation into whether any person has violated any provisions of this Law.

(3) If the Commission is satisfied that such a person has violated any provision of this Law, the Commission shall forward a report of the investigation to the Attorney-General of the State.

10. (1) Notwithstanding the provisions of Section 7 of this Law, a member of the Commission shall cease to hold office if he:

Cessation of Membership

- (a) becomes bankrupt;
- (b) is convicted of a felony or any offence involving dishonesty, corruption or fraud;
- (c) becomes incapable of carrying out the functions of his office by an infirmity of mind or body;
- (d) is removed by the Governor on grounds of public interest;
- (e) has been found guilty of violation of the Code of Conduct for Public Officers as contained in the Constitution or serious misconduct in relation to his duties;
- (f) resigns his appointment by a notice under his hand, addressed to the Governor; or
- (g) in the case of a person who become a member by virtue of his office, he ceases to be a member upon vacating that 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.

11. (1) There shall be paid to the Chairman and members of the Commission such salaries, allowances and benefit as the Governor may from time to time approve. Remuneration of Members
- (2) The salaries and allowances mentioned above shall be a charge on the funds established under section 6 of this Law as approved by the State House of Assembly in the appropriation Law of the State.
12. (1) The Commission shall keep proper Account and records and shall prepare in each financial year, a Statement of Account in accordance with the State Financial Regulations. Submission of Annual Report of the Commission
- (2) The Accounts of the Commission shall be audited annually.
- (3) The Commission shall compile and submit to the Auditor-General not later than 30th June, in each financial year, a report of its activities including all cases of contraventions investigated during the preceding financial year; and shall include in the report of a copy of its own audited accounts for the preceding financial year.

PART III STAFF OF THE COMMISSION

13. (1) There shall be appointed by the Governor, a secretary for the Commission who shall carry out such duties as may be prescribed in this Law and such other duties as may be directed by the Commission, and he shall: Appointment and Functions of the Secretary
- (a) be responsible for preparing the minutes of the Commission's meeting;
- (b) keep and secure the records of the Commission;
- (c) issue notices of meetings for the implementation of the Commission's decisions, subject to the direction of the Chairman;
- (d) be responsible for the implementation of the Commission's decisions, subject to the direction of the Chairman;

(e) be the head of the Secretariat staff of the Commission and responsible for the general administration of the Commission; and

(f) perform such other functions as may be determined by the Commission.

(2) The Secretary shall be appointed from:

(a) the State Civil Service not below the rank of a Director; or

(b) organized Private Sector with cognate experience.

14. (1) The Commission shall appoint for the Commission such other 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.

Staff of the Commission

(2) The Commission shall have power to appoint either on transfer or on secondment from within the State Civil Service, such number of employees as may be required to assist the Commission discharge any of its function under this Law.

(3) The terms and conditions of service (including remuneration, allowances, benefit and pension) of the employees in the Commission shall be as obtained in the State Civil Service.

15. The Commission shall grant pension and gratuities to the staff of the Commission in accordance with the Pensions and Gratuities Law operating in the State.

Pensions and Gratuities

PART IV

THE MEDIUM-TERM EXPENDITURE FRAMEWORK

16. (1) The Government of the State after consultation with all the Local Governments of the State shall:

Medium-Term Expenditure Framework

(a) not later than six months from the date of commencement of this Law, cause to be prepared and laid before the State House of

Assembly for its consideration a Medium-Term Expenditure framework for the next three financial years; and

- (b) thereafter, not later than four months before the commencement of the next financial year, lay before the State House of Assembly a Medium-Term Expenditure Framework for the next three financial years.
- (2) The framework so laid shall be considered for approval with such modifications if any, as the House of Assembly finds appropriate by a resolution.
- (3) The Medium-Term Expenditure 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, borrowings and other liabilities, lending and investment or any other income or expenditure;
 - (iii) the strategic, economic, social and developmental priorities of the State government for the next three financial years, an explanation of how the financial objectives, strategic, economic, social and developmental priorities and fiscal measures set out pursuant to sub-paragraphs (i), (ii) and (iii) of this paragraph relating to the fundamental economic objectives of the Nigerian State set out in section 16 of the Constitution are to be achieved;

- (c) an expenditure and Revenue Framework setting out:
 - (i) estimates of aggregate revenues for the State for each financial year, based on the predetermined tax revenue projections;
 - (ii) aggregate tax expenditure project for the State for each financial year in the next three financial years; and
 - (iii) minimum capital expenditure floor for the State for each financial year in the next three financial years:

PROVIDED that, the estimates and expenditure provided under paragraph (c) of this subsection shall be:

- (i) Based on reliable and consistent data certified in accordance with section 11 (2) (b) of this Law;
 - (ii) Targeted at achieving the macro-economic project set out in subsection (2) (a) of this Section;
 - (iii) Consistent with and derive 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 crystallization of such liabilities.

17. The estimates of:

Aggregate Expenditure Ceiling

- (1) aggregate expenditure and the aggregate amount appropriated by the Legislature for each financial years shall not be more than the estimated aggregated revenue plus a deficit not exceeding 5 per cent or any sustainable percentage as may be determined by the Legislature for each financial year.
- (2) 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 security of the State.

18. (1) The Commissioner shall be responsible for the preparation of the Medium-Term Expenditure Framework.

Preparation of the Medium-Term Expenditure Framework

(2) In preparing the draft Medium-Term Expenditure Framework, the Commissioner:

- (a) shall hold public consultation, on the Macro-economic Frame-work, the Fiscal Strategy Paper, the Revenue and Expenditure Framework, the strategic, economic, social and developmental priorities of the State, and such other matters as the Commissioner may deem necessary:

PROVIDED that, such consultations shall be open to the public, the press and any citizens or authorized representatives of any organization, group of citizens, who may attend and be heard on any subject matter properly in view;

(b) shall seek inputs from relevant statutory bodies as the Commission may determine; and

(c) shall consider and reflect as may be deemed appropriate the input of the bodies and persons referred to in Paragraph (a) and (b) of this Section.

19. (1) The Commissioner shall, before the end of the second quarter of each financial year, present the Medium-Term Expenditure Framework to the State Executive Councilii for consideration and endorsement.

Time Limit for Presentation of Medium-Term Expenditure Framework

(2) The Medium-term Expenditure Framework as endorsed by the State Executive Council shall take effect upon approval by a resolution of the Legislature.

20. The Medium-Term Expenditure Framework as approved by the Legislature shall be published in the Gazette.

Publication of Medium-Term Expenditure Framework in State Gazette

21. (1) Subject to subsection (2) of this section, the Governor may cause adjustments to be made to a Medium-Term Expenditure Framework.

Medium in Medium-Term Expenditure Framework

(2) Any adjustment to a Medium-Term Expenditure 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.

22. Any Local Government which so desires, shall be assisted by the State Government to manage their fiscal affairs within the medium-term framework.

Assistance to Local Governments

PART V THE ZERO-BASED ANNUAL BUDGET

23. The Commissioner shall, ensure the annual budget is formulated using the Zero Based Annual Budgeting method for preparing cash flow budgets and operating plans.

Zero Based Annual Budget to be Derived from Medium-Term Expenditure Framework

24. Notwithstanding anything to the contrary contained in this Law or any other law, the Medium-Term Expenditure Framework shall:

Estimates of Revenue and Expenditure to be based on Medium-Term Expenditure Framework

(1) be the basis for the preparation of the estimates of revenue and expenditure required to be prepared and laid before the Legislature; and

(2) The sectoral and command compositional distribution of the estimates of expenditure referred to in subsection (1) of this section shall be consistent with the medium term development priorities set out in the Medium-Term Expenditure Framework.

25. The estimates of revenue and expenditure shall be accompanied by:

Annual Budget to be accompanied by Certain Documents

- (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 year;
- (c) a revenue framework broken down into monthly collection targets;
- (d) measures on cost, cost control and evaluation of result of programmes financed with budgetary resources;
- (e) a Fiscal Target Appendix derived from the underlying Medium-Term Expenditure 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 VI
BUDGETARY PLANNING OF CORPORATIONS
AND OTHER RELATED AGENCIES

26. (1) Government corporations and agencies and government owned companies listed in the Schedule to this Law shall, not later than 6 months from the commencement of this Law and for every three financial years thereafter and not later than the end of the second quarter of every year, cause to be prepared and submitted to the Commissioner

Preparation of Estimates of Revenue and Expenditure of Corporations, Agencies etc

their schedule of estimates of revenue and expenditure for the next three financial years.

(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 Law part of the Appropriation to be submitted to the Legislature.

27. (1) Notwithstanding, the provisions of any written law governing 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 Fund

(2) The balance of the operating surplus shall be paid to the Consolidated Revenue Fund of the State, not later than one month following the statutory deadline for publishing each Corporation's accounts.

28. (1) The Corporation's 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.

29. The provisions of Sections 26, 27 and 30 shall cease to apply to any of the corporations from the date of its privatization.

Cessation of Application of
Part V

PART VII
BUDGETARY EXECUTION AND ACHIEVEMENT OF TARGETS

30. In implementing their Annual Budgets, Local Governments shall adopt the provisions of this Part with such modifications as may be appropriate and necessary. Application of Part VI to Local Governments
31. (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. Annual Cash Plan
- (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.
32. The Commissioner of Finance 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 purpose of implementing the Appropriation Law. Disbursement Schedule
33. (1) The sums appropriated for a specific purpose shall be used solely for the purpose specified in the Appropriation Law. Restriction on Use of Appropriated Fund
- (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-codes, without exceeding the amount appropriated to such Main code.
34. Where after three months of the enactment of Appropriation Law, it is determined that the targeted revenues may be insufficient to fund heads of expenditure in the Appropriation Law, the Governor shall forward for a review of the Budget to the State House of Assembly. Power to Restrict Further Commitment

**PART VIII
PUBLIC REVENUES**

35. (1) The Governor shall, at least 30 days before the deadline for the submission of the State 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
- (2) Estimated revenue shall be broken down by the Governor into monthly collection targets, including, where applicable, a separate description of measures to combat tax fraud and evasion. Executive to Breakdown Estimated Revenue
36. (1) No suit shall be commenced against the Commission until one month at least after written notice of intention to commence the same has been served on the Secretary of the Commission by the intending plaintiff or his agent. Pre-action Notice
- (2) Such notice shall state the course of action, the name and the place of abode of the intending plaintiff and the relief which he claims.

**PART IX
MISCELLANEOUS PROVISIONS**

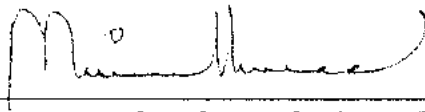
37. All proceeds realized from the sale or transfer of public properties and rights over public assets shall be transferred to the Treasury Single Account. Restrictions on Utilisation of Proceeds of Sale of Public Asset
38. The Governor may in addition to any power conferred on him under this Law make regulations generally for the purpose of carrying into effect the provisions of this Law. Power of Governor to Make Regulations

LIST OF KADUNA STATE GOVERNMENT PARASTATALS

- Kaduna State Water Board
- Kaduna State Council for Arts and Culture
- Kaduna State Urban Planning and Development Authority
- Kaduna State Transport Authority
- Kaduna State Universal Basic Education Board
- Kaduna State Council of Chiefs
- Kaduna State Judicial Service Commission
- Kaduna State Civil Service Commission
- Kaduna State Local Government Service Commission
- Kaduna State House of Assembly Service Commission
- Kaduna State Local Government Joint Account Allocation Committee
- Kaduna State University
- Nuhu Bamalli Polytechnic
- Kaduna State College of Education
- Shehu Idris College of Health Sciences and Technology
- Kaduna State College of Nursing and Midwifery
- Library Board of Kaduna State
- Kaduna State Markets Development Company Limited
- Kaduna State Development and Property Company Limited
- Kaduna State Muslim Pilgrims Welfare Board
- Science and Technical Schools Management Board
- Kaduna State Private Schools Board
- Kaduna State Teachers' Service Board
- Kaduna State Economic Planning Board
- State Independent Electoral Commission

Kaduna State Board of Internal Revenue
Kaduna State Media Corporation
Kaduna State Public Works Agency
Kaduna State Sports Council
Kaduna State Agency for Mass Literacy
Kaduna State Christian Pilgrims Welfare Board
Kaduna State Environmental Protection Agency
Kaduna State Agricultural Development Project
Kaduna State Scholarship Board
Kaduna State Bureau of Statistics
Kaduna State Traffic and Environmental Law Enforcement Agency
Kaduna State Public Service Institute
Kaduna State Rural Water Supply and Sanitation Agency
Kaduna State Power Supply Company
Kaduna State Emergency Management Agency
Kaduna State Primary Health Care Agency
Kaduna State Drugs and Medical Supplies Agency
Ikara Food Processing Company Limited
Zaria Pharmaceuticals Company Limited
Kachia Ginger Processing Company

DATED AT KADUNA this 30th day of April 2016.


Malam Nasir Ahmad el-Rufa'i
Governor, Kaduna State.

EXPLANATORY NOTE

(This note does not form part of this Law and has no legal effect).

The purpose of this Law is to provide for prudent public expenditure, financial management and discipline with a view to ensuring a long-term macroeconomic stability in Kaduna State.

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

HON. AMINU ABDULLAHI SHAGALI
(Speaker)



UMMA ALIYU HIKIMA Esq.
(Clerk to the Legislature)