

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF
THE ONDO STATE INFORMATION TECHNOLOGY
AGENCY (SITA) AND FOR OTHER PURPOSES
CONNECTED THEREWITH.

Commencement

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

PART 1
PRELIMINARY

Citation

1. This Law may be cited as the Ondo State
Information Technology Agency Law, 2020.

2. In this Law, unless the context

Interpretation otherwise requires:

"Agency" means the State Information
Technology Agency established under section 3
subsection (1) of this Law;

"Board" means Governing Board of the Agency
established under this Law;

"Co-Location" means joint, additional or multiple use of an
already existing structure;

"Computer" connotes any electronic device
or computational machinery using
programmed instruction which has one or
more of the capabilities of storage,
retrieval, memory, logic, arithmetic or
communication and includes all input,
output processing and associated
documentation concerned with the operation
of a computer system.

"His" includes both gender;

"IT" means Information
Technology.

"ODIRS" means Ondo State Internal Revenue Service;

"SMART CARD" is a plastic card (like a credit card) that has a small micro-chip that is used for storing information;

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

'State" means Ondo State of
Nigeria;

"Software" includes any program, procedure and associated

documentation concerned with the operation of a computer system;

"Utility Infrastructure" means any infrastructure in, on, under or over a road which is not road infrastructure. It means all classes of broadcasting infrastructure, communication infrastructure, electricity infrastructure, water infrastructure, oil and gas infrastructure and transportation infrastructure as defined in this Law;

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

"Communication infrastructure" means coaxial and fibre 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;

"Water infrastructure" means potable water supply pipelines, water tank structures, in both public and private spaces, used for the storage, treatment or distribution of water;

"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;

"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;

"Transportation Infrastructure" means pedestrian bridges, bus-stops, traffic light, street lights, and such other infrastructure that aids transportation and movement of traffic;

"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;

'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;

"Project Monitoring Fee" means amount not less than ten (10 per cent of the permit fee collected by the Agency from owners and operators of Utility Infrastructure for the purpose of ensuring compliance with the provisions of this Law and any regulations made hereunder, the Building Code and construction standards.

"Public Safety "means the general state of wellbeing of members of the general public that reduces or eliminates potential for accidents, mishap, 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;

"MDAs" means Ministries, Departments, and Agencies;

PART 11

ESTABLISHMENT AND FUNCTIONS OF THE AGENCY

Establishment

3. (1) There is hereby established an Agency to be known as STATE INFORMATION TECHNOLOGY AGENCY (SITA) (referred to in this Law as "the Agency").
- (2) The Agency shall:
 - (a) be a body corporate with perpetual succession and a common seal;
 - (b) have power to sue and be sued in its corporate name;
 - (c) be capable of holding, purchasing and disposing of property movable and immovable for the purpose of ..

carrying out its functions under this Law; (d) have a Governing Board.

Functions of the Agency

4. (1) The functions of the Agency shall be to:

- (a) create a framework for the planning, research, development, standardization, application, coordination, monitoring, evaluation and regulation of Information Communication Technology (ICT) practices, activities and systems in the State and all matters related thereto and for that purpose;
- (b) provide guidelines to facilitate the establishment, sustenance and maintenance of appropriate infrastructure for ICT and system application and development in the State for public and private sectors, urban or rural development and the overseas economy of the State and Local Government;
- (c) develop guidelines for electronic governance and monitor the use of electronic data interchange and other forms of electronic communications transactions as an alternative to paper-based methods in governance both in private and public sectors, where the use of electronic communications may improve the exchange of data and communication;
- (d) develop guidelines for networking of the State, its Local Governments, public and private sector establishments;
- (e) midwife and manage relationships between government and private ICT firms within the State;

- (f) develop guidelines for setting up standardization and certification of ICT applications and delivery systems in the State and Local Governments;
- (g) render advisory services in ICT matters to the public and private sectors in accordance with the guidelines stipulated by National Communication Commission;
- (h) create incentives to promote the use of ICT in all spheres of live in the State, including the guidelines for setting up ICT systems and knowledge parks;
- (i) solely grant all Ministries, Departments, Agencies and all other institutions of the State clearance on all Information Technology (IT) procurement and services in all its sectors including but not limited to education, economic, social and so on;
- (j) introduce appropriate regulatory policies and incentives to encourage private sector investment in the ICT industry;
- (k) collaborate with the State or any Local Government, company, firm or person in any activity, which in the opinion of the Agency is intended to facilitate the attainment of the objectives of the Law;
- (l) determine the critical areas in ICT requiring Research and Development in those areas;
- (m) advise the State Government on ways of promoting the development of ICT including introducing appropriate ICT legislations to enhance State Security;
- (n) create and maintain a civic database of the State;
- (o) create a residency card for the State;
- (p) create incentives to promote the use of SMART CARD in service delivery of Ministries, Department and Agencies (MDAs) in the State including the development of guidelines for setting up of IT enabled service point;

- (q) carry out the following activities for the regulation of all categories of Utility Infrastructure in any public space within the geographical boundaries of the State:
- (i) establish standards including necessary certifications, procedure, regulations and guidelines for constructing, laying, installing and maintaining Utility Infrastructure within the State;
 - (ii) supervise the use, repair, resurfacing and reconstruction of damaged roads in the State by Utility Infrastructure provider in collaboration with the state Ministry of Works and Infrastructures;
 - (iii) ensure public safety in the use of public rights of way by persons owning and operating any Utility Infrastructure in the State;
 - (iv) ensure the management and control of all public rights of way in the State;
 - (v) define the specification and quality of materials to be used by Utility Infrastructure providers in the State;
 - (vi) keep and maintain records of the various systems using the public rights of way to prevent interference among facilities and Utility Infrastructure;
 - (vii) monitor the design, erection, construction, laying, installation and maintenance of Utility Infrastructure within the State in the interest of public health and safety of the environment;
 - (viii) prevent the breaking of public roads without permit;
 - (ix) establish harmonized routes for erection, construction, laying of cables, energy utilities and so on;
 - (x) co-ordinate schedules for planning and deployment of facilities and infrastructure among utility providers in the State;

- (xi) cooperate with relevant MDAs in the preparation and review of developmental plans;
- (xii) fix fees, rates, charges and penalties for the doing of or failure to do anything required under this Law and make regulations and make guidelines pursuant to this Law;
- (xiii) formulate and implement policies and programmes that promote orderly development of Utility Infrastructure within the State;
- (xiv) encourage and promote infrastructure sharing amongst permit holders;
- (xv) enforce standards, procedures, regulations and guidelines with respect to any of its functions or anything which it has power to do pursuant to this Law;
- (xvi) ensure compliance with the provisions of this Law and any regulations made thereto, by owners and operators of Utility Infrastructure in the State;
- (xvii) monitor compliance with right of way standards in the State including road set-back standards and other provisions as stipulated in the Building Lines Registration Law;
- (xviii) set standards and issue permits in respect of the hoisting or mounting of any Utility Infrastructure on any signage, traffic light, street light or water stanchion in the State;
- (xix) protect and promote the interests of members of the public by way of enforcement against dangerous practices by owners and or operators of Utility Infrastructure which are not in compliance with the Agency's permits, requirements or applicable building codes within the State;

- (xx) perform such other functions as may be specified by any law enforcement; and
- (xxi) undertake such other activities as are necessarily incidental and expedient for giving full effect to the provisions of this Law.

PART 111

COMPOSITION, FUNCTIONS AND POWERS OF THE BOARD

Board of the Agency

5. (1) There is hereby established for the Agency a Governing Board (hereinafter referred to as "the Board") which shall be responsible for the formulation of policies and strategies for the effective management of the Agency.

Membership of the Board

(2) The Board of the Agency shall consist of:

- (a) the Chairman, who shall be a person of impeccable character, with requisite knowledge of Information and Communication Technology, cognate experience in management and who shall be appointed by the Governor;
- (b) the Administrative Secretary of the Agency who shall be a person who is qualified to be appointed as may be determined by the Governor based on the recommendation of the Head of Service;
- (c) any other member(s) not exceeding three as may be appointed by the Governor.

Tenure of office

(3) Members of the Board shall hold office for a term of four (4) years and may be re-appointed by the Governor for another four (4) years contingent upon satisfactory performance.

(4) The Chairman or member of the Board may resign his appointment by a letter addressed to the Governor.

Cessation of office

6. A member of the Board shall cease to hold office if:

- (a) he resigns his appointment as a member of the Board by notice, under his hand and addressed to the Governor;
- (b) he is bankrupt or makes a compromise with his creditors;
- (c) he is convicted of a felony or any offence involving dishonesty or corruption;

- (d) he becomes incapable of carrying out the functions of his office arising from an infirmity of the mind or of the body; and
- (e) the Governor is satisfied that it is not in the interest of the

Agency or of the public for the person to continue in office and notifies the member in writing to that effect.

Vacancy

7. When a vacancy occurs in the membership of the Board, the Governor shall on the recommendation of the Board, appoint a successor to hold office for the remainder of the term of office of his predecessor.

Remuneration

8. The Chairman and members of the Board shall be paid such emoluments, allowances and benefits as may be approved by the Governor and in accordance with the State Civil Service.

Functions the Board

9. The functions of the Board shall be to:

- (a) determine the overall objectives of the Agency;
- (b) approve guidelines and criteria for the implementation of the Agency's programmes;
- (c) supervise the activities of the Agency and issue directives to the management on the functions of the Agency;
- (d) prepare and approve the budget of the Agency for onward transmission to the appropriate authority;
- (e) receive and consider the periodic reports on the implementation of the programmes of the Agency;
- (f) review from time to time the programmes of the Agency; and
- (g) do such other things as are necessary and expedient for the effective execution of the functions of the Agency.

Powers of the Board

10. The Board shall have power to:

- (a) formulate overall policy for the management of the affairs of the Agency;
- (b) accept grants from the Federal, State and Local (Government and international) donor Agencies;

- (c) accept donations, endowment and gifts from members of the public or voluntary organizations;
- (d) liaise with relevant bodies or institutions local and or foreign, engaged in Information Communication Technology for the efficient and effective performance of its functions under this Law;

- (e) exercise such powers as are necessary or expedient for giving effect to the provisions of this Law;
- (f) issue and renew from time to time, permits for the use of public right of way, construction, installation Or laying of any Utility Infrastructure to owners and operator of such Utility Infrastructure within the State;
- (g) authorize any officer or representative of the Agency to inspect any Utility Infrastructure for the purpose of determining whether it complies with the provisions of this Law and any regulations made hereunder, the Building Code and construction standards provided in existing laws and such inspection shall be between the hour of 8.00 am and 5.00 pm;
- (h) disconnect, decommission, confiscate, seal and or dismantle any Utility Infrastructure laid or erected in contravention of the provisions of this Law and to impose charge and or **collect such fees as the agency shall deem fit, to offset the cost of the disconnecting, decommissioning, confiscation, sealing or dismantling of infrastructure from any or all defaulting party or parties;**
- (i) revoke any permit issued pursuant to any other provision of this Law;

- (j) engage consultants to carry out any audit, investigation, inspection or monitoring of any Utility Infrastructure; and to carry out any assessment, collection and remittance of **same in respect of any fees or charges due to the Agency** in accordance with this Law and in conjunction with ODIRS;
- (k) impose fees, penalties or rates from time to time for the doing or failure to do anything required by the Agency in accordance with this Law and in conjunction with ODIR<;
- (l) inspect and audit from time to time the quality, quantum, structural condition, location and sitting of all Utility Infrastructure within the State either through officers of the Agency or through appointed Consultants;
- (m) demand from utility infrastructure owner(s) or operator(s) and all other stakeholders; all the records and details of

their existing infrastructure erected and or laid in the State. All infrastructure owners, telecommunication operators and all other stakeholders utilising voice, video and data in the transmission of information shall provide this information notwithstanding the availability of such information with SITA, Ministry, Department or Agency in the State, or in the public domain;

(n)take all necessary steps to enforce the provisions of this Law

Administrative
Secretary

11. (1) There shall be appointed by the Governor upon the recommendation of the Head of Service an Administrative Secretary, who shall be a civil servant in Ondo State Civil Service not below Grade Level 15 and who shall have requisite management experience and IT knowledge.

(2) The Administrative Secretary shall:

- (a) be the Accounting Officer of the Agency;
- (b) be responsible for the execution of policy and the day to day administration of the affairs of the Agency;
- (c) keep records of the proceedings of the Board;
- (d) issue notices and organize meetings for and on behalf of the Board ;
- (e) ensure compliance of the Board as regards statutory obligations;
- (f) enforce and monitor the decisions of the Board; and
- (g) carry out any other duty as assigned to him by the Board.

Common Seal

(3) The common seal of the Agency shall be affixed and authenticated by the signatures of the Chairman and the Administrative Secretary

PART IV s T AND STRUCTURE OF THE AGENCY

12 (1) There shall be for the Agency, a Management Team

—Management
Team

comprising of:

- (a) the Chairman;
- (b) the Administrative Secretary;

- (c) the Director, Finance and Administration;
- (d) the Director, Planning and Information Technology (IT) innovation;
- (e) the Director of Engineering and Information Technology infrastructure;
- (f) the Director, Software Development; and
- (g) the Director, Civic Data Management ;

(2) The team shall be responsible for the implementation of the policies and directives of the Board.

(3) Subject to the provisions of this Law, the Agency may make staff regulations relating to the conditions of service of the staff in line with the State Civil Service.

Other staff of the Agency

13. (1) Other staff of the Agency may be deployed or seconded from the State Civil Service to assist in the day to day running of the Agency.

Senior staff of the Agency

(2) The senior Staff of the Agency, on G.L. 07 and above shall be appointed and deployed by the State Civil Service Commission in accordance with the Rules and Regulations of the Civil Service, provided that such Officers shall possess adequate qualifications relevant to the functions of the Agency.

Junior staff of the Agency

(3) The junior Staff of the Agency, on G.L. 06 and below, shall be appointed and deployed by the Board as is deemed necessary and adequate and in accordance with the Civil Service Rules and Regulations.

Terms and

(4) The terms and conditions of service of the staff of the

Agency, including remunerations, allowances, benefits, pension and gratuities, and career progression shall be within the state Civil Service structure in accordance with the Rules and Regulations of the Civil Service, provided also that the Governor shall have power to approve such specific additional remunerations as may be recommended by the Board for the attraction and retention of quality and high caliber manpower either for specific programme(s) or for general application.

PART V

FINANCIAL PROVISIONS

Funds of the
Agency

14. The Agency shall establish and maintain an account into which shall be paid and credited:

- (a) running grants and budgetary allocations from the State Government;
- (b) gifts, loans, grants-in-aid from national, bilateral and multilateral organizations and agencies;
- (c) project monitoring fee of less than ten (10) per cent of permit fees collected by the Agency from owners and operators of Utility Infrastructures within the State; and
- (d) all other sums accruing to the Agency from time to time.

Expenditure of
the Agency

15. The Agency may from time to time, apply its funds to:

- (a) the cost of administration of the Agency;
- (b) the payment of the emoluments, allowances and benefits of the members of the Board and for reimbursing members of the Board or of any committee or institutions set up by the Board and for such expenses as may be expressly authorized by the Board;
- (c) the development and maintenance of any property vested in or owned by the Agency.
- (d) maintaining general financial reserves subject to special directive(s) that may be given in that behalf by the Governor in accordance with the provisions of this Law;
- (e) any other expenditure in connection with all or any of its functions under this Law.

Annual estimates and
accounts

16. (1) The Agency shall not later than the 30th day of September each year submit to the Governor an estimate of its expenditure and income (including payments to the agency of the fund for the next succeeding year).

(2) The Agency shall keep proper accounts in respect of each year and proper records in relation to those accounts and shall cause its accounts to be audited within six months after the end of each year by auditors appointed in accordance with the guidelines supplied the Auditor- General for the State.

Annual report

17. The Agency shall, as soon as possible after the end of each financial year not later than the 30th day of September of each year, prepare and submit to the Governor the activities of the Agency during the immediate preceding year and shall include in the report a copy of the audited accounts of the Agency for that year and of the Auditor's Report thereon.

Power to
borrow funds

18. 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 or its subsidiary legislation. Such funds shall not be taxable but should be used for the improvement of the Agency.

PART VI

LEGAL PROCEEDINGS

Limitation of
suits against
the Agency

19. (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.

Pre-action
Notice

(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 as follows:

- (i) The cause of action;
- (ii) The particulars of claim;
- (iii) The name and place of abode of the intending plaintiff; (iv) The relief, which the plaintiff claims.

Monetary
award

(4) 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, where no notice of appeal or stay of execution against the judgment has been given, be paid from the general fund of the Agency.

Service of notices and

(5) Any notice of Summons or any other document required to

other
documents

be served on the Agency, member of the Board or any of its staff shall be served on the:

- (a) Chairman of the Agency; and
- (b) sending it by registered post addressed to the Chairman of the Agency at the principal office.

representation

(6)The Agency shall in legal proceedings be represented by the Administrative Secretary or any principal member of the Agency or by Counsel appointed by the Board based on the recommendation of Ministry of Justice.

Indemnity

20. A member of the Board or any staff of the Agency shall be indemnified out of the assets of the Agency against any liability incurred by him in defending any proceeding whether civil or criminal, if the proceeding is brought against him in his capacity as a Board member, Administrative Secretary, Officer or other employee of the Agency.

PART VII MISCELLANEOUS

Directive by

21. The Government may give to the Agency such directives of a

(2) All existing contracts agreements currently in effect by (SITDEC) continue in effect.

(3) All records, property and equipment previously belonging to or allocated for use of (SITDEC) become, on the effective date of this Law, part of the property of State Information Technology Agency (SITA).

(4) All existing forms, licences, letterheads and similar items bearing the name of or referring to (SITDEC) may be utilized by State Information Technology Agency (SITA) until existing supplies of those items are exhausted.

the Board

general nature or relating generally to matters of policy with regard to the exercise of its functions as the Governor may consider necessary and it shall be the duty of the Agency to comply with the directives or cause them to be complied with.

Regulations by the Board

22. The Board shall make such regulations which in its opinion are necessary or expedient for giving full effect to the provisions of this Law.

Transitional provisions

23.(1)The State Information Technology Agency (SITA) is the successor-in- title in every way to the powers, duties and function of the former State Information Technology Development Centre (SITDEC).

FIRST SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD

the Board

1. Subject to this Law and existing procedure which provides for decisions of a statutory body to be taken by a majority of its members and for the person presiding at any meeting, when a vote is ordered, to have a second or casting vote, the Board may make standing orders regulating its proceedings or that of any of its committees.

2. At every meeting of the Board, the Chairman shall preside and in his absence the members present at that meeting shall appoint one of the members to preside at that meeting.

Quorum

3. The quorum at a meeting of the Board shall be not less than two third (2/3) Board members at the date of the meeting.

Meetings

4. The Board shall for the purposes of this Law, meet not less than four times in each year and subject, thereto, the Board shall meet whenever it is summoned by the Chairman, and if required to do so by notice given to him by not less than three of members, he shall summon a meeting of the board to be held within fourteen days from the date in which the notice is given.

Power to co-opt

5. Where the Board desires to obtain the advice of any person on any particular matter, the Board may co-opt the person for such period as it thinks fit, but a person who is a member by virtue of this paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.

Committees

6. Subject to its standing orders, the Board may appoint such number of standing or ad -hoc committees as it thinks fit

Proceedings of

to:

- (a) consider and report on any matter with which the board is concerned;
- (b) provide guidelines to facilitate the establishment and maintenance of appropriate infrastructure for ICT and system application and

development in the State for public and private sectors, Urban-rural development, the economy of the State and Local Governments;

- (c) develop guideline for electronic governance and monitor the use of electronic data interchange and other forms of electronic communication transactions as an alternative to paper-based methods in government,

- commerce, education, the private and public sectors, labour and other fields, where the use of electronic communications may improve the exchange of data and communication;
- (d) develop guidelines for networking of the State, its Local Governments, public and private sector establishments;
 - (e) develop guidelines for standardization and certification of ICT applications and delivery systems in the State and Local Governments;
 - (f) render advisory services in all ICT matters to the public and private sectors;
 - (g) create incentives to promote the use of ICT in all spheres of life in the State including the development of guidelines for setting up of ICT systems and knowledge parks;
 - (h) introduce appropriate regulatory policies and incentives to encourage private sector investment in the ICT industry;
 - (i) collaborate with any local or state government, company, firm or person in any activity, which in the opinion of the Agency is intended to facilitate the attainment of the objectives of the Law;
 - (j) determine the critical areas in ICT requiring Research and Development in those areas;
 - (k) advise the State Government on ways of promoting the development of ICT including introducing appropriate ICT legislations to enhance state security.

SECOND SCHEDULE

REGULATIONS MADE PURSUANT TO THE POWERS OF THE BOARD

Prohibition of
excavation and
installation in
public places

1. (1) No person shall excavate or install any tower or mast or lay any cable in a right of way for any purpose without the prior written approval or permit/ licences from the Agency.

(2) The Agency shall carry out the re-instatement of such roads that were dug to its original state for the purpose of maintaining uniformity and quality. The re-instatement shall be at the expense of the person or entity that dug the roads. Any invoice issued by the Agency to the person or entity to carry out the reinstatement shall be settled within seven days or fourteen days in the case of installation of equipment.

(3) The failure to settle such invoice within the afore-stated period shall attract a penalty fee of twice the amount stated in the invoice.

(4) The reinstatement referred to in sub-section (2) of this Section shall not be considered done until an assessment is made by authorized officers of the Agency.

(5) From the date of commencement of this Law, any company or persons wishing to develop or construct a tower, mast, lay cables or energy utilities in a right of way shall apply for the necessary construction permit/ licences as set out in the Schedules to this Law; which permit/ licences shall be granted or refused within twenty one (21) days upon submission of completed applications and required documents.

(6) No person, corporation, partnership or other body shall engage in any development, use, erect or construct any wireless communication tower or mast, lay cable or energy utilities without obtaining the necessary permit/ licences from the Agency.

(7) From the date of the commencement of this Law, any company or person engaged in a development or construction of tower, mast, lay cables or energy utilities shall submit a report of such activities mentioned herein to include evidence of permit/ licences to carry out such activities in said report within 21 days of the coming into force of this Law.

(8) To carry out such activities in the said report within 21 days of the coming into force of this Law.

(9) The Agency shall determine the requisite information and particulars of such report.

Classes of 2. Subject to further amendments or any subsequent regulations or permits guidelines made pursuant to this Law requiring or specifying new permits, the following classes of Permits shall be issued by the Agency:

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

Obligation to

3. (1) No person shall construct, develop, erect, excavate, haul,

obtain permit

hoist, install, modify or lay any Utility Infrastructure in any

and approval

public or private space within the State without the prior written approval or permit from the Agency.

(2) From the commencement of this Law, any person wishing to retain the use of a right of way or decommission any existing Utility infrastructure shall apply for the necessary permit or approval from the Agency in accordance with any guidelines set by the Agency.

(3) No person, corporation, partnership or anybody shall 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.

(4) 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.

(5) The owner of an existing tower, mast, cables, or energy utilities shall apply for a temporary permit/ licenses for an existing tower, mast cables, or energy installations within 3 (three) months from the date of commencement of this Law.

(6) Before issuing a temporary permit/ licences, the Agency shall within a period of one year verify the validity of the existing tower, mast, cables or energy utilities and may direct that an alternative tower or mast be erected

within 3,000 feet of the location where the equipment is located.

Application
for
permits and
approvals

4. (1) All applications for a permit/licences shall be submitted by the owner or his agent.

(2) The application shall be submitted to the Agency in the form prescribed by the Agency.

(3) All permit shall be issued in the name of the owner of the Utility Infrastructure and when issued, the permit/ licences 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.

(4) All application for temporary permit/ licences shall comply with the requirement for fresh application as required under the schedule to this law with such modification as the Agency may determine by either waiver or express exclusion.

(5) The owner of the Utility Infrastructure must 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.

Conditions
for issuance
and refusal of
permits and
approvals

5. (1) The Agency shall issue the requested permit within a period not less than 5 (five) days but within 45 (forty-five) days upon submission of completed applications and required documents, unless it concludes based on information presented to it that:

- (a) the requested permit is not within its jurisdiction;
- (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;
- (d) the requested permit pertains to any activity that is likely to affect public health and safety adversely;
- (e) the requested permit shall require an extended period that shall be approved by the Accounting Officer 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 maintenance of existing infrastructure;
- (d) commitment to decommission infrastructure when no longer required; (e) failure to present relevant credentials or

- certifications as a licensed operator which are required for 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 developmental plans;
- (j) satisfactory Environmental Impact Assessment Report;
- (k) necessity of the Utility Infrastructure, any ⁽¹⁾any other valid reasons by the Agency.

Renewal of permits or licenses	6. Permits or licenses issued pursuant to the provisions of this Law shall be renewed annually by the Agency at such rates not higher than ten percent (10%) of the prevailing permit rate.
Current fees	7. (1) The current fees payable for the issuance of permits/licenses are as prescribed in Schedule 1 to this Law. (2) All owners or operators of Utility Infrastructures within the State shall pay to the Agency a Project Monitoring Fee of not less than 10% of the permit rate.
Project Monitoring Fee	
Sale and transfer of permits	8. (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. (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. .
Environment Impact Assessment Report	9. 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.
Registry and	10. (1) The Agency shall 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;

(2) The Agency shall retain all technical, historical and biographic information submitted by all permit holders in respect of any permit and infrastructure;

(3) The Agency shall 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;

(4) The Agency shall from time to time 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;

(5) The Registry of Utility Infrastructure and Permits shall be for the purpose of the Agency;

(6) The Agency shall 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 sectorspecific national industry regulatory bodies, including Nigerian Communications Commission (for the telecommunications sector), Nigerian Electricity Regulatory Commission (for the electricity sector).

Revocation

11. (1) The Agency may revoke a permit pursuant to its powers

and permits

under this Law if:

- (a) a permit holder fails to comply with the terms of the permit;
- (b) fails to maintain the Utility Infrastructure in a way that safeguards public health and safety;
- (c) fails to renew the permit, or
- (d) fails to do anything required under this Law or Regulations and Guidelines made pursuant to this Law.

(2) The Agency may from time to time suspend the issuing of permits for a certain period and shall give reasons.

Other provisions on permits

12. (1) All existing towers, masts, cables or energy utilities shall be certified by an Engineer of the Agency to be structurally sound and in conformity with the Building Code requirements as set out by the Federal and State Laws.
- (2) For new towers, masts, cables or energy utilities such certification shall be submitted with an application in accordance with the provisions of this Law.
- (3) The Agency shall have authority to enter the property in which a tower or mast is located 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.
- (4) The inspection referred to in sub-section (3) 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 tower, mast, cables or energy utilities owners.

Obligations to
maintain
Utility
Infrastructure

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

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

(3) All owners of towers, masts and cables shall maintain compliance with current RF emission standard under the Nigerian Communications Commission Act.

(4) 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 within fourteen (14) days from the date of discontinuance of his intention to discontinue the use; and the responsibility to dismantle the structure shall be that of the owner; and such structure shall be dismantled within thirty (30) days of such notice.

(5) 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.

14. (1) Towers, Masts and energy utilities shall display signs such as

Public safety
measures

"DANGER" , Aviation Lights, and other warning signs necessary, for human safety as may be prescribed by regulations made by the Agency.

(2) The owner of any mast, tower, cables or energy utilities 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.

(3) Anything done by an owner or operator of any Utility Infrastructure pursuant to subsection (2) of this section shall be in

accordance with safety laws and regulations in such manner that will not interfere with the use of any private space.

(4) The owner of any tower, mast, cables or energy utilities shall be required to install and maintain towers, telecommunications facilities, wires, cables, fixtures, 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 other person's property.

(5) All towers, masts, cables or telecommunication facilities, antenna structures and energy utilities shall be kept and maintained in good condition and repair so that same shall not endanger the life or property of any person.

(6) All maintenance or erection of towers, cables, telecommunication facilities and antenna support structures and energy utilities shall be performed by duly qualified construction personnel.

Re-
instatements

15. (1) All Re-instatements of any road shall be carried out by a contractor duly approved by the Agency. The re-instatement shall be carried out within seven days on roads or fourteen days in the case of installation of equipment. All associated costs, including administration costs and charges shall be borne by the owner or operator of the Utility Infrastructure.

(2) The reinstatement referred to in sub-section (1) of this Section shall not be considered done until an assessment is made by authorized officers of the Agency or consultants appointed for that purpose.

Offences and penalties

16. (1) Any person, corporation, partnership or other body who contravenes the provisions of this Law is guilty of an offence punishable by a fine of Ten Thousand Naira (NIO,000.00) for every day for which the contravention lasts.

(2) For every contravention of the provisions of this Law and for every omission to do anything required to be done by or under this Law for which no penalty is provided, the offender is liable to a reasonable fine to be determined by the Accounting Officer of the Agency.

(3) 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 the tower, mast, cables or energy utility laid at the expense of the defaulter.

(4) Any infrastructure owner, telecommunication operator or stakeholder utilizing voice, video and data in the transmission of information that fails, refuses and or neglects to provide the requested information within seven (7) days of such request is liable to a fine of one Hundred Thousand Naira Only (100,000) for each day of default and such infrastructure shall be shut

down and sealed off.

(5) Any person who contravenes any provision of this Law, is guilty of an offence punishable by a fine contained in the regulations to this Law.

(6) Any person who causes any damage to any Utility Infrastructure, is liable to a fine contained in the regulations to this Law.

THIRD SCHEDULE

REQUIRED DOCUMENTATION FOR GRANT OF PERMIT FOR THE LOCATION OF THE UTILITY INFRASTRUCTURE

- A. The applicant must provide the following at the time of application:
1. Legal description, plot number and address of the plot of land upon which the proposed communication structure is to be situated.
 2. If the applicant is not the owner of the proposed plot of land where the tower is to be situated, then a 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 structure is to be situated, together with proof of ownership and a copy of the deed of transfer or lease as the case may be.
 3. Communication structures may be located in any zone with approval.
 4. Co-location shall be given first priority and may be required.

5. 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.
6. An application to locate a new tower shall be accompanied by technical information identifying and

documenting the need for such a location.

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

B. An applicant must submit an application for the operation of the new communication structure once the construction is completed. He must present the following with his application:

1. The required date to operate the construction.
2. The actual photograph of the completed site.
3. The number of persons expected to man the site.
4. The type of equipment already installed at the site.
5. A certification of compliance to be exhibited in a conspicuous place.
6. Tax Clearance Certificate.
7. Evidence of Ownership of the proposed site or Deed of Assignment in case of a site procured by lease by the applicant.

FOURTH SCHEDULE

PERMIT FEE FOR THE CONSTRUCTION OF UTILITY INFRASTRUCTURE

The following Permit Fees are payable by an Applicant:

1. UNDERGROUND INFRASTRUCTURE:

(a) RIGHT OF WAY (RoW) FEE:

Company Category: - Telecom Operators/ Oil and Gas/Water/Power/Energy

	Details	Application Fee (NGN)	Permit Rate (NGN)	Annual Maintenance Fee (NGN)	Monitoring Project Rate (NGN)
i.	Telecom (Fibre Optic Cable)	20,000.00	145.00/linear meter	145.00/linear meter	500.00/linear meter
ii.	Discos (Power Cable)	20,000.00	5,000.00/linear meter	500.00/linear meter	500.00/ linear meter
	Oil & Gas Pipe Line	20,000.00	10,000.00/linear meter	1,000.00/linear meter	1,000.00/linear meter
iv.	Water (Pipe Line)	20,000.00	8,000.00/ linear meter	800.00/linear meter	800.00/ linear meter

1. (b) RIGHT OF WAY (ROW) REINSTATEMENT FEE:

i.	Payment for reinstatement of road surface after cutting/ excavation for Fibre Optic/ Oil and Gas/ Power/ Water works per meter.	Asphalt- N 8,000.00/ linear meter
		Concrete- N6,000.00/ linear meter
		Paving stone- N5,000.00/linear meter
		Lawn- N5,000.00/linear meter
		Thrust boring- N 5,000.00/ linear meter
		Bridge attachment- N3,000.00/linear meter
		Soft soil- N3,000.00/linear meter

ii.	Duct lease	N2,500.00/linear meter
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2. SURFACE INFRASTRUCTURE: Towers/Masts/Rooftop Structures

Company Category: Telecom Operators / ISP's/ Oil and Gas

S/ N	Tower Structure Category	Application and Processing Fee (NGN)	Permit Rate (NGN)	Annual Safety and Inspection Fee (NGN) (10% of Permit Rate)	Monitoring Project Rate (NGN) (10% of Permit Fee)
i.	Roofto	20,000.00	250,000.00	25,000.00	25,000.00
ii.	10 meters and above Ground Level GL)	20,000.00	1,000,000.00	100,000.00	100,000.00

3. SURFACE INFRASTRUCTURE: Towers/ Masts/Rooftop Structures

Company Category: - Commercial Banks/ Water/ Power/ Energy

S/ N	Tower Structure Category	Application and Processing Fee (NGN)	Permit Rate (NGN)	Annual Safety and Inspection Fee (NGN) (10% of Permit Rate)	Monitoring Project Rate (NGN) (10% of Permit Fee)
i.	Rooftop	20,000.00	250,000.00	25,000.00	25,000.00
ii.	10 meters and above Ground Level GL	20,000.00	500,000.00	50,000.00	50,000.00

4. SURFACE INFRASTRUCTURE: Towers/Masts/Rooftop Structures

Company Category: - Micro-Finance Banks/Insurance and others

S/ N	Tower Structure Category	Application and Processing Fee (NGN)	Permit Rate (NGN)	Annual Safety and Inspection Fee (NGN) (10% of Permit Rate)	Monitoring Project Rate (NGN) (10% of Permit Fee)
i.	Rooftop	20,000.00	250,000.00	25,000.00	25,000.00
ii.	10 meters and above Ground Level GL	20,000.00	400,000.00	40,000.00	40,000.00

5. PENALTY FEE:

i.	Penalty for non-payment of applicable fees/charges.	50% of the applicable fee infringed in addition to the applicable fee.
ii.	Any site sealed for non-compliance with existing laws, rules and regulations stipulated by the Agency	20% of the applicable fee infringed in addition to the applicable fee.
iii.	Penalty for general non-compliance with existing laws, rules and regulations with regard to technical standards, approved drawings and specifications and other processes and/ or procedures stipulated by the Agency.	N50,000 per day for each day the infringement continues.

The printed impression has been carefully compared by me with the Bill which has been passed by the Ondo State House of Assembly and found by me to be true copy of the said Bill.



.....
Rt. Hon. Chief Oleyelogun Bamidele David
Chief Oleyelogun Bamidele David
Speaker, Ondo State House of Assembly



.....
Adeyelu Michael Bode
Adeyelu Michael Bode
Clerk of the House of Assembly

Governor's Assent

I hereby signify my assent to this Bill

.....
31st

.....
December

Governor's Seal

A handwritten signature in red ink, consisting of a long horizontal line with several loops and a small circle at the end, positioned above a dotted line.

Arakunrin Oluwarotimi O. Akeredolu, SAN
Governor, Ondo State of Nigeria

Dated thisday of ..2020