

EDICT NO. 5

of 1991

28 October, 1991

Date of Commencement.

The Military Administrator of Kogi State of Nigeria hereby makes the following Edict:-

1. This Edict may be cited as the Town Planning and Development Board Edict, 1991.

Title

2. In this Edict, unless the context otherwise requires:-

Definitions

"the Auditor-General" means the Auditor-General of the State or his Representative.

"the Board" means the Kogi State Town Planning and Development Board established under s.3.

"the Chairman" means the Chairman appointed under sub-section (2) of Section 4.

"the Commissioner" means the Commissioner or person for the time being assigned the responsibility for Lands and Physical Development;

"Financial Year" means the twelve months ending on the 31st day of December in any year;

"General Manager" means the General Manager appointed under Section 22 of this Edict or person for the time being appointed to discharge the functions of the General Manager under this Edict;

"Government" means the Government of the State;

"Military Administrator" means the Military Administrator, Military Governor or Governor of the State;

"owner" includes joint owner, lessee, tenant for life and any other person in actual possession of the premises of any tenure or description or the agent or attorney of such person or any of them and any other person who has an interest in or draws the rent;

"Permission" means a Right of Occupancy issued in respect of a plot of land granted by a Local Government or by the Military Administrator;

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"right of occupancy" shall have the same meaning as in the Land Tenure Law, and the Land Use Act, 1978;

"the State" means the Kogi State of Nigeria;

"Structure" includes buildings, tents, stalls kiosks, tenements, hereditaments, drains ditches, constructions or erections of any kind.

PART II - ESTABLISHMENT, CONSTITUTION AND FUNCTIONS OF THE BOARD

3. There is hereby established the State Town Planning and Development Board which shall be a body corporate with perpetual succession and a common seal and shall have power to sue and be sued in its corporate name.

Establishment of the Board. ✓

4. (1) The Board shall consist of a Chairman and eight other members, four of whom shall be ex-officio members, representing the Ministries of Finance, Health, Works and Department of Lands and Survey.

Constitution of the Board.

(2) The Chairman and the three other members shall be appointed by the Military Administrator.

5. (1) The entire area known as Kogi State is hereby declared a planning area within the meaning of this Edict.

Declaration of Planning Area.

(2) It shall be the duty of the Board within a planning area:-

Functions

\* (a) to administer, execute and enforce the provisions of the Town and Country Planning Law, Cap.130, Laws of Northern Nigeria, for which areas or area the Board is hereby appointed the planning authority under that law or any other law; and,

(1) generally to plan, promote and secure the physical development and environmental improvement of the State through orderly control over development and use of land in the State by carrying out

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construction and engineering works or other operations in connection with the execution of its duties under this Edict;

(11) to formulate, monitor, control and coordinate physical and regional activities;

(111) to carry on, in association with other bodies and persons (including companies, government authorities, township or local Government) or as managing agents, any activities which are necessary or desirable for the performance of its functions under this Edict and to provide technical advisory or managerial services or assistance or plants or machinery required for this purpose;

(b) (1) to administer, execute and enforce the provisions of the Building Lines (Regulations) Law, 1963, subject to the provisions of S.2 of that Law.

(11) any reference to Administrative officer under the said Law shall be to the General Manager of the Board and all reference to "Chief Civil Engineer" Ministry of Works shall be deemed to be to the Head of Engineering Department or Division of the Board.

(c) to exercise all the powers of a Local Government under the Road Traffic Laws, 1963, and all reference in the Law to Local Authority or Local Government shall be deemed to be reference to the Board

(d) to exercise the powers of a town council or a Local Government Council under the Township Law, 1963, and any reference to town council or local government shall, at the appropriate places be deemed to be reference to the Board.

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- (e) to exercise all the powers of a Local Government under the Public Health Law, 1963, and Rules made thereunder; all references in the Law to Local Government shall be deemed to be reference to the Board.
- (f) to secure and maintain proper sanitary conditions, amenities and conveniences.
- (g) to preserve buildings, objects and other places of architectural, historical or artistic or natural interest and beauty.
- (h) to provide, maintain and construct roads and other proper infrastructures for development.

Note ✓ (ii)

- (i) to carry out such other activities as are conducive to the discharge of the duties of the board under this Edict.

- (3) The terms defined in all the Laws specified under sub-section (2) of this Section shall in this Edict have the meanings assigned to those terms by the respective Laws.
- (4) For the purposes of carrying out its functions under this Edict, the board shall deploy such of its staff or appoint such committees as it deems fit, to execute such of its functions, within the planning area.

\* 6. (1) There is hereby established for each Local Government Area in the State, a Local Town Planning and Development Board Committee (hereinafter referred to as 'the Committee') which shall consist of:-

- (i) two members of the public who are indigenes or the Local Government Area (one of whom shall be the Chairman of the Committee) to be appointed by the Military Administrator;
- (ii) the Secretary to the Local Government;

(2) The Committee shall perform such duties and functions and exercise such power under this Edict as may be assigned to it by the Board.

7. (1) No person shall in a planning area carry out any development of land or any construction demolition, alteration, extension, repair or change of use of any building except in accordance with a scheme approved under this Edict

Prohibition of development etc.

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and published in the State Gazette with respect to the planning area;

Provided that the Military Administrator may, pending the publication and taking effect of such approved scheme, make a general order with respect to the interim development of land in a planning area or a special order with respect to the interim development of any particular land within the area.

(2) Subject to the provisions of any order made by the Military Administrator under subsection (1) of this Edict, the authority may grant to any person applying in writing, therefore, interim development permission subject to such conditions as it deems necessary to impose to develop or to construct, demolish, alter change the use of, extend or repair any building within a planning area.

(3) An application for interim development permission shall be deemed to be refused within two months of the date of its receipt by the Board unless notice has been given to the applicant that the Board has decided:

- (a) to grant permission with or without conditions, or
- (b) to refuse permission, or
- (c) to postpone consideration of the said application on the ground that the development cannot be carried out immediately.

8 (1) Subject to the provisions of this Edict, the Board shall, for the purpose of carrying out its functions under this Edict, have power to carry on all activities which are necessary, advantageous or expedient.

(2) Without prejudice to the generality of the provisions of subsection (1) the powers of Board shall include, power -

- (a) to enter into any contract necessary for the performance of any of its functions;
- (b) to acquire, hold and dispose of immovable property;

Power of the Board.

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- (c) to advise and approve plans for any development or erection of any structure within the area or areas specified in the schedule; and generally to be satisfied that the proposed development or erection will:-
  - (i) not involve any injury to health or involve excessive or premature expenditure of public funds;
  - (ii) not be likely to injure the community in the locality;
  - (iii) not contravene any law for the time being in force;
  - (iv) not be less than twenty-three metres from the road;
- (d) Nothing in this section shall be construed as authorising the Board to engage in reckless ventures involving the expenditure of public funds or the transfer of public funds.

- 9. (1) Where it appears to the Board within a planning area that an illegal structure is erected, the Board shall notify in writing the owner thereof to demolish the same within the period of one month.
- (2) If within the period stated in sub-section (1) the owner fails to demolish the structure, it shall be lawful for the Board to demolish the structure at the cost of the owner.
- (3) In this section 'illegal structure' means any structure erected or development without the prior permission of the Local Government or the State Department of Lands and Survey or similar government establishment (as the case may be), or without an approval plan by the Board.
- (4) No structure shall be declared illegal which has been in existence prior to the coming into operation of this Edict, and which was approved by the relevant authority before the coming into force of this Edict.
- 10. (1) The Board may appoint one or more committee for the purpose of performing such of its functions as the Board may specify.

Board may appoint Committee.

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(2) The members of any committee appointed under this Edict, the Chairman of such committee, the term of office and remuneration of the members, shall be such as the Board may specify.

(3) Any committee appointed under this section may include persons who are not members of the Board but who possess such special qualifications or experience as in the opinion of the Board may prove beneficial to the work or purpose of the Board.

11. (1) The Military Administrator may give to the Board such general directions as to the discharge by the Board of its functions under this Edict as appears to him to be necessary to ensure conformity by the Board with the Policy of the Government and the Board shall give effect to such directions.

Military Administrator's directives.

(2) The Military Administrator may, after due consultations with the Board, give to the Board specific directions for the purposes of remedying any defect which may be disclosed in the arrangements of the Board for the discharge of its functions under this Edict and Board shall give effect to any such directions.

(3) The power conferred by subsection (2) of this Section on the Military Administrator shall include power to give directions prohibiting or limiting any expenditure proposed to be incurred by the Board which appears to the Military Administrator to be excessive or unnecessary.

(4) The Board shall furnish to the Military Administrator information relating to the assets and liabilities and activities of the Board, and shall furnish him with returns, accounts and other information relating thereto and shall afford the Military Administrator facilities for the verification of information furnished in such manner and at such time as he may require.

Board to furnish information.

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PART III - FINANCIAL PROVISIONS, ASSETS AND LIABILITIES OF THE BOARD.

- 12 (1) The Military Administrator may by notice in the Gazette vest any other property in the Board and the provisions of this section shall have respect to such property.
- (2) Where, by the operation of any foregoing provisions of this section any right or liability becomes a right or liability of the Board, the Board and all other persons shall as from the commencement of this Edict, have the same rights, powers and remedies for ascertaining, perfecting or enforcing that right or liability of the Board.
- (3) In this section 'property' includes buildings and appurteneances, stores, materials, funds loans and accounts receivable.

Vesting in property in the Board.

13. The funds and resources of the Board shall consist of:-

- (a) all sums, investments or other property whatsoever vested in the Board under the provisions of this Edict.
- (b) all sums or such percentage of all sums collected by the Board in respect of each of the items as the Military Administrator may by order determine.
- (c) Such sums or other property whatsoever as may from time to time be advanced by way of loan or granted to the Board by the Government;
- (d) Such sums or other property whatsoever as may from time to time be advanced by way of loan or granted to the Board by any township authority, local government, statutory corporation, any other government, any international agency, any private foundation or any person whatsoever;
- (e) Any investments or other property whatsoever acquired by or vested in the Board and all monies earned or arising therefrom;
- (f) All sums received by falling due to the Board in respect of repayment of any loan made by the Board or the interest payable in respect thereof;

Funds and other resource of the Board.



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- (g) All other sums or other property which may in any manner whatsoever become payable to or vested in the Board.
14. (1) It shall be lawful for the Government to give to the Board -
- (a) grants of any sums or property as the Government may deem fit;
  - (b) loans upon such terms as to repayment, or interest or otherwise as the Government may determine.
- (2) The Military Administrator may, if he deems it expedient so to do, waive in favour of the Board any right to the Government in respect of any property vested in the Board by or under the provisions of sections 12.
- (3) The Board shall in respect of any monies (other than grants) advanced by the Government to provide working Capital for the Board create an advance account in favour of the Government for an amount equal to the total sum of monies so advanced.
- (4) The advance account referred to in subsection (3) shall be subject to such conditions as to interest and repayment as the Administrator may from time to time determine.
15. (1) Subject to the provisions of this section, the Board may, by issuing debentures, stocks or other securities, or in any other manner borrow money required by it for meeting any of its obligations or discharging any of its functions under this Edict.
- (2) the power of the Board to borrow shall be exercisable only with the approval of the Military Administrator as to the amount or source of the loan, and the approval given for the purposes of this subsection may be either general or limited to a particular borrowing;
16. (1) If the Government makes any loan to the Board at any time in accordance with the provisions of this Edict, the Board shall, if so required by the Military Administrator, issue to the Government a debenture or debentures for the sum loaned.

Loans and grants by the Government, and advance account for working capital.

Debenture.

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(2) Debentures issued in accordance with the provisions of sub-section (1) shall bear interest at such rate, if any from such date as the Military Administrator may specify.

17. The Board may invest moneys standing to its credit and not for the time being required for the purpose of its functions in stocks, shares, debentures or any other securities whatsoever.

Investment of moneys.

PART IV - ACCOUNTS FINANCIAL REPORTS

18. (1) The Board shall:-

Account & Audit

- (a) cause to be kept proper accounts in respect of its functions under this Edict and other records in relation thereto; and
- (b) prepare in respect of each financial year a statement of accounts in such form as may be approved by the Military Administrator.

(2) The said annual statement of accounts shall be a fair and accurate statement of the financial position, and of the result of the operations of the Board for the financial year to which it relates.

(3) The said annual statement of accounts shall be audited by the Auditor-General.

(4) As soon as the said annual statement of accounts has been audited as aforesaid the Board shall forward to the Military Administrator a copy of the statement of accounts together with a copy of the report made by the Auditor-General.

(5) Before the commencement of each financial year the Board shall prepare an estimate of its revenue and expenditure for that financial year and submit same to the Military Administrator for his approval, and he shall have power to disallow or reduce the provisions under any item in the estimate as he may consider necessary.

19. (1) The Board shall, within three months after the end of each financial year, make to the Administrator a report in such form and

Annual Report

(2) Every annual report made by the Board under sub-section (1) shall contain particulars of all directions given under this Edict by the Military Administrator to the Board during the financial year.

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2 20. (1) The Military Administrator shall appoint by name or office a General Manager to the Board upon such terms and conditions as to remuneration or otherwise but he shall not be a member of the Board.

General Manag

? (2) The General Manager to be appointed shall be a professionally qualified in Urban and Regional Planning with relevant post qualification, working experience, for a term of four years in the first term of four years.

(3) The General Manager shall be the Chief Executive Officer of the Board and shall attend all meetings of the Board and have ultimate responsibility in accordance with the provisions under this Edict or any other written law.

\* 21. (1) The Board shall have power to appoint and exercise disciplinary control over such other officers, servants and agents as it may think necessary for the discharge of its functions under this Edict and to determine their terms and conditions of service as to remuneration or otherwise.

(2) The exercise of the power vested in the Board by sub-section (1) shall be in accordance with the provisions of any regulations or rules that may be made under sections 23 or 24 respectively.

\* 22. (1) The Board may appoint such other persons to be officers and servants of the Board as it may deem fit.

Other staff

(2) The remuneration and tenure of the officers and servants shall be determined by the Board.

← (3) The Board may employ such officers on secondment as it may deem necessary or expedient for the purpose of performing its functions under this Edict.

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Power to make regulations relating to employees of the Board.

(1) The Board may, with the approval of the Military Administrator, and subject to the provisions of this Edict, make regulations with respect to the appointment, promotion transfer and dismissal of, and exercise of disciplinary control over, its employees and without prejudice to the generality of the foregoing provisions, make regulations for any of the following matters:-

- (a) the qualification required for appointment;
- (b) the method of appointment, including probation and confirmation;
- (c) the form of any agreement to be entered into between the Board and its employees;
- (d) the terms and conditions of service including, without prejudice to the generality of the expression, the salaries and allowances, the grant of advances, the provisions of quarters, leave, and medical treatment;
- (e) the procedure and requirements for promotion;
- (f) the maintenance of discipline including dismissal and the termination of appointment.
- (g) the transfer of employees between the Board and the Government of the State, any other State, township authority or local government, or any other statutory Corporation;
- (h) such other matters relating to departmental procedure and duties and responsibilities of employees as the Board considers can be best provided for by regulations;
- (i) the pension, gratuities and retirement allowances to be granted to pensionable employees of the Board and their dependents;
- (j) the gratuities and retirement allowances to be granted to non-pensionable employees of the Board and their dependents;
- (k) all matters ancillary to the matters mentioned in paragraphs (h) and (i).

(2) Until such rules are made all rules and regulations applicable in the State Civil Service shall apply to the Board.

24. (1) Any contract or instrument which if entered into or executed by a person not being a body corporate would not require to be under seal may be entered into or executed on behalf of the Board by the General Manager or by any person generally or specially authorized by the Board for the purpose.

Execution of contracts & instruments.

(2) Any document purporting to be a document duly executed or issued under the seal of the Board or on behalf of the Board shall, unless the contrary is proved, be deemed to be a document so executed or issued as the case may be.

25. No act done or proceeding taken under this Edict shall be questioned on the ground merely of:-

Act, not to be invalidated.

(a) the existence of any vacancy, in, or any defect in the constitution of, the Board, or

(b) any omission, defect or irregularity not affecting the merits of the case.

26. The General Manager may, with the approval of the Board:-

Settlement of disputes.

(a) Compound any offence against this Edict; and

(b) Compromise any claim made by or against the Board

27. No matter or thing done and no contract entered into by the Board and no matter or thing done by any member or by any servant of the Board or other person acting under the direction of the Board shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of carrying out the provisions of this Edict, subject the members or any of them or any such servant or other persons personally to any action, liability or claim whatsoever.

Protection of Members' Servants of the Board

28. No suit shall be instituted against the Board in respect of any act purported to be done or any neglect of duty under this Edict until the expiration of one month next after a written notice has been delivered at the office of the Board stating the cause of action the name and place of abode of the intending plaintiff and the relief which he claims.

Notice of action against the Board.

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Evidence of Board approval.

29. Whenever under the provisions of this Edict, the power or right to do any act requires the approval or the consent of the Board or the General Manager, a document signed by the General Manager purporting to express such approval or consent shall be sufficient evidence thereof.

30. (1) Every notice required or authorised by this Edict or by any regulation made thereunder to be served or given by or on behalf of the Board shall be signed by the General Manager or other officer authorised in that behalf.

Signing of Notice

(2) Any such notice, shall be deemed to have been duly signed until the contrary is proved, if it purports to bear the signature of the General Manager or such other officer.

31. (1) Every notice, order or other document required or authorised by this Edict or by any regulation made thereunder to be served on any person may be served:

Service of Notice and Documents.

(a) by delivering the same to such person or delivering the same at the abode where such person ordinarily resides to some adult member or servant of his family.

(b) if the abode where such person ordinarily resides is not known, by forwarding the same by registered post addressed so such person at his last known place of abode or business; or

(c) if the name of such person is not known, or if service cannot with reasonable diligence, be effected under paragraph (a) or (b) of this section by fixing the same on a conspicuous part of the premises in respect of which the notice, order or other document is issued.

(2) A notice, order or other document required or authorised by this Edict or any regulations made there under to be served on the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "Owner" or "Occupier" of such premises without further name or

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32. In any case not otherwise expressly provided for in this Edict the Board may pay reasonable compensations to any person who sustains damages by reason of the exercise of any of the powers vested by this Edict, or any regulations made or scheme sanctioned thereunder, in the Board, in the Chairman or in an officer or servant of the Board.

33. (1) If on account of any act or omission any person has been convicted of any offence against this Edict or any regulation made thereunder, and by reason of the same act or omission of the said person, damage has occurred to any property of the Board, an order for compensation shall be made against the said person for the said damage by the court notwithstanding any punishment to which he may have been sentenced for the said offence.

Compensation to be paid by offender for damage caused by them.

(2) If the amount of any compensation due under this section be not paid, the same shall be recovered under a warrant from the said court as if it were a fine inflicted by him on the person liable thereto.

34. Any person, authorised in writing by the General Manager may at all reasonable time after giving not less than three days notice to the Occupier, or to the owner, if the owner is known, of his intention to enter into or upon any building or land situated in any area to which this Edict applies:-

Power of Entry.

(a) for the purpose of survey, examination and valuation necessary in order to determine whether any powers conferred on the Board under this Edict should be exercised in respect of any building or land; and

(b) for the purpose of doing any act necessary to perform any duty imposed on the Board by this Edict.

35. (1) The General Manager of the Board may issue a notice calling upon any person whom he has reason to believe is able to give any information respecting the ownership of or the

Power to sur-  
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information  
produce title  
deeds.

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boundaries of land within a planning area, or in whose possession or powers any document relating to such ownership or boundaries is believed to be, to attend before him and give such information or produce such document within two weeks at a place to be mentioned in the notice.

(2) Any person on whom such notice is served shall be legally bound to attend and give such information or to produce such document as required by the notice.

36.

If any person unlawfully :-

- (a) obstructs or molests any member of the Board or any officer or servant of the Board, or any person with whom the Board has entered into a contract, in the performance or execution by such member, officer, servant or anything which he is empowered or required to do by virtue of or in consequence of this Edict or any regulation or scheme made thereunder, or
- (b) removes any mark set up for the purpose for indicating any level or direction necessary for the execution of work authorised by this Edict or any regulation made or scheme sanctioned thereunder, or
- (c) removes any notice fixed by the Board on any premises, shall be liable to a fine of not more than one hundred naira or to imprisonment not exceeding three months or to both such fine and imprisonment.

Penalties.

37.

Any Person who:-

- (a) acts in contravention of any regulation made under the provisions of this edict, or
- (b) being legally bound to comply with any lawful order or with the regulation contained in any notice served under this Edict or any regulation made thereunder refuses or neglects to comply therewith, shall be guilty of an offence and liable

Contravention of Regulation.



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to a fine of not more than one hundred rupees or to imprisonment not exceeding three months or both such fine and imprisonment.

38. Any offence under this Edict may be tried by a Magistrate's court of any grade or by the Upper Area Court.

Jurisdiction of Courts.

39. All damages realised in cases in which prosecution are instituted under this Edict or any regulations made thereunder shall be paid to the Board directly and if paid to the court, shall be remitted to the Board within two days.

Disposal of Damages.

40. It shall be lawful for the Board subject to the provisions of this Edict to make regulations with respect to -

Powers of Board to make regulations.

- (a) the furtherance of the provisions and purposes or schemes or of any particular scheme.
- (b) any other matter which under this Edict is required or permitted to be prescribed.

41. Stamp Duties under the provisions of the Stamp Duties Act shall not be payable by the Board in respect of the instrument to which the Board is a party.

Exemption from Stamp Duties Cap. 191 of 1951

42. Service upon the Board of any notice, order or other document may be effected by delivering it or sending it by registered post addressed to the General Manager of the Board at its Head Office.

43. (1) No act or other proceeding of the Board shall be invalid by reason only of any defect in the appointment of any member.

(2) There shall be paid out of the funds of the Board to each member not being an officer in the Public Service of the State or an officer in the Service of any township or local Administration, such remuneration, if any, whether by way of salary, fees or allowances, as the Board may determine.

(3) A member shall not be personally liable for any act or omission to do any act or for any default of the Board so long as such act, omission or default is in the course of performance of the functions of the Board and is in good faith.

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- (1) The Board may, with the approval of the Military Administrator delegate to the General Manager or any officer of the Board the routine administration of the affairs of the Board.
- (2) Nothing in this section shall authorize the delegation of any power to make major decisions of policy in connection with the functions of the Board, or to make standing orders or to authorize expenditure exceeding such amounts as may, from time to time, be fixed by the Board.

Delegation of powers by the Board.

- 45. The supplementary provisions contained in the Schedule hereto shall have effect with respect to the constitution and proceedings of the Board.
- 46. The Town Planning Authority Edict, No.7 of 1984 of Kwara State and Urban Development Board Edict 1986 of Benue State their Amendments and Regulations applicable to Kogi State are hereby repealed.

Supplementary Provisions seconded Schedule.

Repeal.

SCHEDULE

- (1) The Board shall hold such and so many meetings as may be necessary for the due fulfilment of its functions so, however, that it shall hold at least four meetings every year.
- (2) At a meeting of the Board -
  - (a) The Chairman of the Board shall, if present be Chairman of the meeting;
  - (b) If and so long as the Chairman of the Board is not present or if the office of Chairman is vacant, the members of the Board who are present may choose one of their members to be Chairman of the meeting.
- (3) Every question at a meeting of the Board shall be determined by a majority of the votes of the members present and voting. In the case of any equal division of votes, the Chairman of the meeting shall have a second or casting vote.
- (4) The Board may act notwithstanding one or more vacancies among its members.

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(5) Any three members of the Board may by notices in writing signed by them request the Chairman to call a special meeting of the Board for the purpose set out: in such notice and the Chairman shall thereupon call a special meeting.

A quorum at a meeting of the Board shall be six members. The Board shall as soon as may be after its Establishment provide a seal.

Subject to the provisions of this Edict, the Board may regulate its own proceedings and may make standing Orders for that purpose.

Quorum.

Seal

Standing Order.

DATED at Lokoja ..... this 28 ..... day of Oct 19

*[Handwritten Signature]*  
COLONEL DANLADI MOHAMMED ZAKARI  
MILITARY ADMINISTRATOR  
KOSOF STATE OF NIGERIA.

