

CHAPTER K33 - KWARA STATE LOCAL GOVERNMENT LAW

ARRANGEMENT OF SECTIONS PART I

Existence of Local Government Areas and the Local Government System

SECTION

1. Local Government areas of the State.
2. Local Government System.
3. Government ensuring the existence of Local Government System.
4. Creation of Development Areas.
5. Local Government participation in Economic Development.
6. Local Government statutory allocation.
7. Conditions for creating new Local Government Areas.
8. Boundary adjustment.
9. Supplement provisions.
10. Returns of creation of more Local Governments Areas to the National Assembly.
11. Savings, Caps 92 and 94 Laws of Kwara State 1994.
12. Object Clause.
13. Powers of the House of Assembly to make Laws for Local Governments in the State.
14. Legislative and Executive arms.
15. Functions of the Local Government Councils.
16. By-law inconsistent with Act or Law.
17. Functions and Powers of the Local Government Executive and Legislative Councils.
18. Tenure of Local Government Executive and Legislative Councils.
19. Division of Local Government Areas into wards and periodical review of wards.

PART II

Local Government Executive Council

The Chairman and Vice-Chairman, etc.

20. Establishment of the Offices of the Chairman and Vice-Chairman.
21. Qualification of Chairman.
22. Disqualification of Chairman.
23. Chairman to nominate associate candidate.
24. Declaration of Assets and Liabilities, Oaths of Allegiance and Office.
25. Functions of Local Government Chairman.
26. Delegation of power.
27. Tenure of Office of Chairman.
28. Removal of Chairman or Vice-Chairman.
29. Suspension of Chairman or Vice-Chairman.
30. Permanent incapacity of Chairman or Vice-Chairman.
31. Discharge of the functions of Chairman by the Vice-Chairman.
32. Executive responsibility of Vice-Chairman.
33. Death of Chairman elect before Oath of Office.
34. Exercise of Executive powers of a Local Government.
35. Appointment of supervisor.
36. Appointment of Secretary.
37. Local Government Executive Committee.
38. Meeting of the Executive Committee.
39. Power and control over public funds and annual budget.

PART III

The Local Government Legislative Council

40. Establishment of Local Government Legislative Councils.
41. Number of Councillors in a ward.
42. Qualification of Councillors.

43. Disqualification of Councillors.
44. Tenure of office of members of Legislative Council.
45. Recall.
46. Local Government Council declared to be the Legislature.
47. Composition of the Local Government Legislative Council.
48. Sitting of Legislative Council.
49. Presiding at the sitting of the Legislative Council.
50. Functions of the Local Government Legislative Council.
51. Rights of attendance and address by Chairman.
52. Vacation of office by the Council Speaker and Council Deputy Speaker.
53. Staff of the Legislative Council.
54. Declaration of Assets and Liabilities and Oaths of Member.
55. Quorum of Legislative Council.
56. Languages.
57. Voting.
58. Unqualified persons sitting or voting.
59. Mode of exercising Legislative Power.
60. Regulation of procedures.
61. Vacancy or participation of strangers not to invalidate proceedings.
62. Committees.
63. Exercise of the monitoring and vetting functions of Legislative Council.
64. Power of investigation and inquiry.
65. Evidence.
66. Establishment of the Office of the Auditor-General for Local Government.
67. Appointment of Auditor-General of Local Governments.
68. Auditing of the accounts of Local Government.
69. Establishment of Liaison Unit.
70. Appointment, conditions of service, remuneration etc. of Liaison Officers.
71. Functions of Liaison Officers.
72. Repeal of No. 6 of 1999 and savings.

73. Interpretation.

74. Citation.

FIRST SCHEDULE

SECOND SCHEDULE

KWARA STATE LOCAL GOVERNMENT LAW

A Law to repeat the Kwara State Local Government Law 1999 and to make Provisions for a new Kwara State Local Government Law on the Structure Composition Functions and Finance of Local Government Councils in the State and for Other Connected Person.

[No. 8 of 2005.]

[Date of commencement: 20th May, 2005]

PART I

Existence of Local Government Areas and the Local Government System

1. Local Government areas of the State

(1) There shall be sixteen Local Government Areas in the State, to be known by the name in column A, the respective areas of which shall be those districts named in column B, and the headquarters which shall be those respectively named in column C, of the First Schedule to this Law.

(2) Subject to the provisions of section 7 of this Law, nothing in this section shall be construed as limiting the powers of the House of Assembly from creating new Local Government Areas out of one or more Local

Government Areas or merging existing Local Government Areas.

2. Local Government System

(1) The system of Local Government shall under this Law be by democratically elected Local Government Councils.

(2) This Law shall provide for the structure composition finance and functions of the Local Government Legislative and Executive Councils.

(3) All persons holding elective offices in the Local Government Areas, specified in the First Schedule to this Law shall from the date of the commencement of this Law be deemed to have been duly and validly elected under this Law.

3. Government ensuring the existence of Local Government system

The Government shall ensure the existence of Local Government system under this Law.

4. Creation of Development areas

(1) The House of Assembly may by a Law create Development Areas for any Local Government.

(2) Such Development Areas shall not exceed seven.

(3) The House of Assembly shall—

(a) define such areas as clearly as practicable; and

(b) ensure to the extent to which it may be reasonably

justifiable, that in defining such areas regard is paid to—

- (i) the common interest of the community in the area;
- (ii) the traditional association of the community; and
- (iii) administrative convenience.

5. Local Government participation in Economic Development

(1) It shall be the duty of Local Government Councils within the State to participate in economic planning and development of Local Government Areas and the areas referred to in section 4 of this Law.

(2) Such economic planning and development shall be under the supervision of the Kwara State Local Government Economic Planning Board.

(3) The Kwara State Local Government Economic Planning Board shall be established by a Law of the House of Assembly.

6. Local Government statutory allocation

The House of Assembly shall make provisions for statutory allocation of public revenue to Local Government Councils within the State.

7. Conditions for creating new Local Government Areas

A Bill for a Law for the purpose of creating a new Local Government Area shall only be passed if—

- (a) a request supported by at least two-thirds majority of members (representing the areas demanding the creation of the new Local Government Area) in each of the following—

- (i) the House of Assembly; and
 - (ii) the Legislative Council in respect of the area, is received by the House of Assembly;
- (b) a proposal for the creation of the Local Government Area is thereafter approved in a referendum by at least two-thirds majority of the people of the Local Government Area where the demand for the proposed Local Government Area originated;
- (c) the result of the referendum is then approved by a simple majority of the members in each Legislative Council in a majority of all the Legislative Councils in the State; and
- (d) the result of the referendum is approved by a resolution passed by two-thirds majority of the members of the House of Assembly.

8. Boundary adjustment

A Bill for a Law for the purpose of boundary adjustment of any existing Local Government Area shall only be passed if—

- (a) a request for the boundary adjustment is supported by two-thirds majority of members (representing the area demanding and the area affected by the boundary adjustment) in each of the following—
 - (i) the House of Assembly, and

(ii) the Legislative Council in respect of the Area, is received by the House of Assembly; and

(b) a proposal for the boundary adjustment is approved by a simple majority of members of the House of Assembly.

9. Supplement provisions

Where the House of Assembly amends or repeals a Law establishing a Local Government the Governor may by order published in the *Gazette* make provisions with respect to the administrative arrangements as may appear to him to be necessary, and without prejudice to the generality of the foregoing may by such order—

(a) provide for transfer of or adjustment with respect to the assets and liabilities of any Local Government affected;

(b) provide for the transfer of any records or documents relating to any Local Government or area affected and for determining questions arising from such transfer.

10. Returns of creation of more Local Governments Areas to National Assembly

The House of Assembly shall after the creation of more Local Government Areas pursuant to section 7 of this Law make adequate returns to each House of the National Assembly.

11. Savings Caps 92 and 94 Laws of Kwara State, 1994

Subject to the provisions of this Law the provisions of the Local Government (Establishment) Law, and all other existing laws whose provisions are in conformity with the objects of this Law and present Local Government

system shall apply to this Law.

12. Object Clouse

The object of this Law is to ensure to the great extent that is practicable that matters affecting presidential system and good governance to a significant extent are practised at the Local Government level in the State.

13. Powers of the House of Assembly to make Laws for Local Governments in the State

Subject to the provisions of the Constitution of Federal Republic of Nigeria and other existing laws the House of Assembly shall enact laws providing for the establishment, structure, composition revenue, expenditure, other financial matters, and other relevant matters for the Local Government Areas of the State.

14. Legislative and Executive arms

There shall be for the dispensation of the functions of each Local Government Areas in the State—

(a) the existence of the Legislative arm; and

(b) the existence of the Executive arm.

15. Functions of the Local Government Councils

(1) The functions of the Local Government Councils, shall include those functions set out in section 7 and the Fourth Schedule of the Constitution of Federal Republic of Nigeria and as set out hereunder—

(a) the formulation of economic plans and development

schemes for the Local Government Areas;

- (*b*) collection of rates and issuance of radio and television licences;
- (*c*) establishment and maintenance of cemeteries, burial grounds and homes for the destitute or infirm;
- (*d*) licensing of bicycles, trucks (other than mechanically-propelled trucks), canoes, wheelbarrows and carts;
- (*e*) establishment, maintenance and regulation of slaughter houses, slaughter slabs, markets motor parks and public conveniences;
- (*f*) construction and maintenance of roads, street lights, drains, parks, gardens, Chief's Palace, open spaces or such public facilities as may be prescribed from time to time by the House of Assembly of the State;
- (*g*) naming of roads and streets and numbering of houses;
- (*h*) provision and maintenance of public conveniences, sewage and refuse disposal;
- (*i*) assessment of privately-owned houses or tenements for the purpose of levying such rates as may be prescribed by the House of Assembly of the State;
- (*j*) control and regulation of—
 - (i) out-door advertising and boarding;

- (ii) movement and keeping of pets of all descriptions;
- (iii) shops and kiosks;
- (iv) restaurants, bakeries and other places for sale of food to the public;
- (v) laundries;
- (vi) licensing and the sale of liquor; and
- (k) registration of all births, deaths and marriages;
- (l) participation in the Government of a State in respect of the following matters—
 - (i) the provision and maintenance of primary, adult and vocational education;
 - (ii) the development of agriculture and natural resources, other than the exploitation of minerals;
 - (iii) the provision and maintenance of health services;and
 - (iv) such other functions as may be conferred on a Local Government by the House of Assembly of the State.

(2) The functions shall also include the power of the Legislative Councils to make by-laws.

16. By-law inconsistent with Act or Law

A by-law of any Legislative Council, that is inconsistent with any Act of the National Assembly or any Law of the House of Assembly shall be void to the extent of the inconsistency.

17. Functions and powers of the Local Government Executive and Legislative Councils

(1) The Executive functions of the Local Government shall be vested in the Chairman who shall be the accounting officer of the Local Government.

(2) The Legislative functions shall be vested in the Legislative Councils.

18. Tenure of Local Government Executive and Legislative Councils

(1) The Local Government Executive Council shall stand dissolved at the expiration of a period of three years commencing from the date of the swearing-in of the Chairman.

(2) The Local Government Legislative Council shall stand dissolved at the expiration of a period of three years commencing from the date of the first sitting of the Legislative Council.

(3) Where a situation of disturbance of normal Government business occurs or for any other reason and the Governor considers that it is not practicable to hold elections, the House of Assembly may by resolution, extend the period of the three years mentioned in subsection (1) of this section from time to time but no such extension shall exceed the period of six months at any given time.

(4) Subject to the provisions of this Law, the person elected as

Chairman of a Local Government shall have power to issue proclamation for the holding of the first session of the Local Government Legislative Council concerned immediately after his being sworn in or for its dissolution as provided in this section.

19. Division of Local Government Areas into wards and periodical review of wards

(1) Subject to the provisions of this Law, the Commission shall divide each Local Government Area into such number of wards, not less than ten and not more than twenty, as the circumstance of each Local Government Area may require.

(2) The boundaries of each ward shall be such that the number of inhabitants of the ward is as nearly equal to the population quota of the ward as is reasonably practicable.

(3) The Commission shall review the division of every Local Government Area into wards at intervals and may alter such wards in accordance with the provisions of subsection (1) of this section to such extent as it may consider desirable in the light of the review.

PART II

Local Government Executive Council

The Chairman and Vice-Chairman, etc.

20. Establishment of the Officers of the Chairman and Vice-Chairman

There shall be for each Local Government a Chairman and a Vice-Chairman elected by the majority of the people qualified to vote in the Local

Government Area.

21. Qualification of Chairman

A person shall be qualified to hold the office of the Chairman if—

- (a) he is a citizen of Nigeria;
- (b) he has attained the age of thirty years;
- (c) he is educated up to, at least school certificate level or its equivalent; and
- (d) he is a member of a political party and sponsored by that political party.

22. Disqualification of Chairman

(1) No person shall be qualified to hold the office of Chairman if—

- (a) he has voluntarily acquired the citizenship of a country other than Nigeria, or except in such cases as may be prescribed by the National Assembly, he has made a declaration of allegiance to such other country;
- (b) under any law in force in any part of Nigeria, he is adjudged to be a lunatic or otherwise declared to be of unsound mind;
- (c) he is under a sentence of death imposed on him by any court of law or tribunal in Nigeria or a sentence of imprisonment for an offence involving dishonesty or fraud

(by whatever name called) imposed on him by such a court or substituted by a competent authority for any other sentence imposed in him by such a court;

(*d*) he has been found guilty of the contravention of the Code of Conduct as prescribed by the Fifth Schedule of the Constitution of Federal Republic of Nigeria;

(*e*) he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Nigeria;

(*f*) he is a person employed in the public service of the Federation, any State or Local Government and has not resigned, withdrawn, or retired from such employment one month before the date of election;

(*g*) he is a member of a secret society;

(*h*) he has been indicted for embezzlement or fraud by a Judicial Commission of Inquiry or a Tribunal under the Tribunals of Inquiry Act or any other law set up by the Federal, State or Local Government; and

(*i*) he has been elected to such office at any two previous elections.

(2) Where in respect of any person who has been—

(*a*) adjudged to be a lunatic; or

(*b*) declared to be of unsound mind; or

(*c*) sentenced to death or imprisonment; or

(d) adjudged or declared bankrupt,

an appeal against the decision is pending in a court of law in accordance with a law in force in Nigeria, subsection (1) of this section shall not apply during a period beginning from the date when the appeal is lodged and ending on the date when the appeal is finally determined or, as the case may be, the appeal lapses or is abandoned whichever is earlier.

(3) A Chairman shall not hold any other executive office or paid employment in any capacity whatsoever during his tenure.

(4) For the purpose of subsection (2) of this section "**appeal**" includes any application for an injunction or an order of certiorari, mandamus, prohibition or habeas corpus or an appeal from any such application.

23. Chairman to nominate associate candidate

(1) In an election, a candidate for the office of a Chairman of a Local Government, shall not be deemed to have been validly nominated for such office, unless he nominates another candidate as his associate, running for the office of Vice-Chairman, and that candidate shall be deemed to have been duly elected to the office of Vice-Chairman if the candidate who nominated him is duly elected as Chairman.

(2) The provisions of this Law relating to qualification for election, tenure of office, disqualifications, declaration of assets and liabilities, Oath of Allegiance and Oath of Chairman shall apply in relation to the office of the Vice-Chairman as if reference to Chairman were reference to the Vice-Chairman.

24. Declaration of Assets and Liabilities, Oaths of Allegiance and Office

A person elected to the office of the Chairman shall not begin to perform the functions of that office until and unless he has declared his assets and liabilities as prescribed by the Code of Conduct contained in the Fifth Schedule of the Constitution of Federal Republic of Nigeria and has subsequently taken and subscribed before the Governor or the Chief Judge the Oath of Allegiance and the Oath of Office as prescribed in the Second Schedule to this Law.

25. Functions of Local Government Chairman

(1) The Chairman of a Local Government shall be the Chief Executive and Accounting Officer of the Local Government.

(2) He shall perform the following functions—

- (a) preside over the meetings of the Executive Committee;
- (b) submit a report to the Local Government Legislative Council on the proceedings of the Executive Committee as may be required by the Council;
- (c) ensure strict compliance with the provisions of the Financial Memoranda throughout the Local Government organisation;
- (d) observe and comply fully with checks and balances spelt out in the existing guidelines and Financial Regulations governing receipts and disbursement of public funds and other assets entrusted to his care and shall be liable for any breach thereof;
- (e) ensure that all instructions relating to expenditure of public

funds by the Accounting Officer shall be in writing;

- (f) be responsible to account for all monies voted for each Department and shall be peculiarly liable;
- (g) render monthly statements of income and expenditure and annual reports to the Local Government Legislative Council for it to consider and debate in order to ensure accountability and enforce the performance ethics. The format and content of the annual report shall place emphasis on performance and concrete achievements of the Local Government targets and output during the relevant year;
- (h) render quarterly returns of the actual income and expenditure of the Local Government to the House of Assembly;
- (i) ensure strict observance of the spending limits by all concerned;
- (j) direct the affairs of the Local Government and allocate responsibilities to the Vice-Chairman, Supervisors and the Secretary to the Local Government;
- (k) hold meetings with the members of the Executive Committee of the Local Government i.e. Vice-Chairman, Secretary and Supervisors, etc., at least, once every week;
- (l) maintain liaison with the Local Government Legislative Council and its Speaker in the interest of the Local Government;
- (m) address the Local Government Council and present to the

Council at least once a year an account of his stewardship stating clearly his achievements and problems during the year and at the beginning of every year, present his budget proposals to the Local Government Legislative Council for it to consider and approve;

- (n) be bound by the provisions of any other rules, regulations, guidelines and laws governing the roles and functions of a Chief Executive and Accounting Officer;
- (o) in consultation with the Secretary to the Local Government and the Supervisors, set the target which each employee in the Local Government shall aim at, even in routine matters. In setting target for Local Government employees, the Chief Executive shall first take into account the relevant local policies, the development plan and annual budgets;
- (p) he shall ensure that audit queries addressed to him are answered within stipulated time. Where the query concerns him, it shall be answered promptly by him in person;
- (q) have responsibility for the organisation of financial/accounting functions in the Local Government, however, he shall delegate to the Treasurer the day to day operation of the function in consultation with the Secretary;
- (r) establish and maintain an Internal Audit to provide a complete and continuous auditing of the accounts and records of revenue, expenditure, plant allocated and unallocated stores;
- (s) ensure that the recommendations of the Internal Auditor,

whether in respect of losses, waste or the improvement of systems or procedures taken thereon including, if necessary, reference to the Council for its decision or direction;

(t) ensure that any directions issued by the Local Government Legislative Council concerning any aspects of the financial management of the Local Government, or any decisions of the Auditor-General in regard to matters of disallowance and surcharge are properly and promptly implemented; and

(u) perform such other functions as may be relevant to his office.

(3) As from the commencement of this Law, no Local Government Chairman shall on behalf of any Local Government borrow from any bank any loan above the sum of—

(a) two hundred thousand naira without the approval of the Commissioner for Local Government and Chieftaincy Affairs;

(b) five hundred thousand naira without the approval of the State Executive Council.

26. Delegation of power

(1) The Chairman shall delegate reasonably substantial parts of his administrative and financial functions and authority to the Vice-Chairman, Supervisors and the Secretary, who shall be fully involved in the key decision-making processes.

(2) There shall be further delegation of powers and functions down the line to each Local Government Departments.

(3) The Chairman shall exercise his powers in consultation with his Vice-Chairman, Supervisors and Secretary.

(4) The Chairman of the Local Government shall not be the Supervisor for Finance.

27. Tenure of office of Chairman

(1) Subject to the provisions of this Law, a person shall hold the office of the Chairman until—

- (a) he becomes a member of a Legislative house; or
- (b) he becomes President, Vice-President, Governor, Deputy Governor or a Minister of the Government of the Federation or a Commissioner of the Government of a State; or
- (c) being a person whose election was sponsored by a political party, he resigns from that political party or becomes a member of another political party before the expiration of the period for which he was elected, provided that his membership of the latter political party is not as a result of a division in the political party of which he was previously a member or of a merger of two or more political parties or factions by one of which he was previously sponsored; or
- (d) when his successor-in-office takes the Oath of that office;

or

- (*e*) he dies whilst holding that office; or
- (*f*) the date when his resignation from office takes effect; or
- (*g*) he otherwise ceases to hold office in accordance with the provisions of this Law; or
- (*h*) he becomes a member of a secret society or does any other thing disqualifying him from holding the office of a Chairman.

(2) The Secretary to the Local Government shall give effect to the provisions of subsection (1) of this section, so however, that the Secretary shall first present evidence satisfactory to the Legislative Council that any of the provisions of that subsection has become applicable in respect of the Chairman.

(3) Subject to the provisions of subsection (1) of this section the Chairman shall vacate his office at the expiration of the period of three years commencing from the date when—

- (*a*) in the case of a person first elected as Chairman under this Law, he took the Oath of Allegiance and the Oath of office; or
- (*b*) the person last elected to that office took the Oath of Allegiance and the Oath of office or would, but for his death have taken those Oaths.

28. Removal of Chairman or Vice-Chairman

- (1) The Chairman or Vice-Chairman may be removed from office in

accordance with the provisions of this section.

(2) Whenever a notice of any allegation in writing signed by not less than one-half of the members of the Legislative Council—

- (a) is presented to the Council Speaker of the Legislative Council; and
- (b) stating that the holder of the office of Chairman or Vice-Chairman is guilty of misconduct in the performance of the functions of his office, detailed particulars of which shall be specified,

the Council Speaker shall within seven days of the notice cause a copy of the notice to be served on the holder of the office and on each member of the Legislative Council, and shall also cause any statement made in reply to the allegation by the holder of the office to be served on each member of the Legislative Council.

(3) Within fourteen days of the presentation of the notice to the Council Speaker (whether or not any statement was made by the holder of the office in reply to the allegation contained in the notice) the Legislative Council shall resolve by motion without any debate whether or not the allegation shall be investigated.

(4) A motion of the Legislative Council that the allegation be investigated shall not be declared as having been passed unless it is supported by the votes of not less than two-thirds majority of all the members of the Legislative Council.

(5) Within seven days of the passing of a motion under subsection (4) of this section, the Council Speaker shall inform the Chief Judge, who shall appoint a panel of five persons who in the opinion of the Chief Judge are of

unquestionable integrity not being members of—

- (a) the public service;
- (b) a legislative house; or
- (c) a political party,

to investigate the allegation as provided in this section.

(6) The holder of an office whose conduct is being investigated under this section shall have the right to defend himself in person or be represented before the panel by a legal practitioner of his own choice.

(7) A panel appointed under this section shall within one month of its appointment, report its findings to the Legislative Council.

(8) Where the panel reports to the Legislative Council that the allegation has not been proved, no further proceedings shall be taken in respect of the matter.

(9) Where the report of the panel is that the allegation against the holder of the office has been proved, then within fourteen days of the receipt of the report, the Legislative Council shall consider the report, and if by a resolution of the Legislative Council supported by not less than two-thirds majority of its members, the report of the panel is adopted, the holder of the office shall stand removed from office as from the day of the adoption of the report.

(10) A copy of the Legislative Council resolution shall be forwarded to the following—

(a) the Governor;

(b) the Speaker of the House of Assembly; and

(c) the Chief Judge of the State.

(11) No proceedings or determination of the panel or the legislative Council or any matter relating thereto shall be determined or questioned in any court.

29. Suspension of Chairman or Vice-Chairman

(1) Notwithstanding the provisions of section 28 of this Law, the Governor may suspend from office, the Chairman or Vice-Chairman or both the Chairman and Vice-Chairman of any Local Government for misconduct, after due investigation; and upon a resolution supported by the votes of a simple majority of the members of the House of Assembly that he be so suspended.

(2) The resolution of the House of Assembly referred to in subsection (1) of this section shall be passed within seven working days of the receipt of the report, failing which the recommendation of the Governor shall be deemed as accepted.

(3) The period of suspension referred to in subsection (1) of this section shall not exceed three months at any given time.

(4) Notwithstanding the provisions of subsection (3) of this section, the Governor may at the expiration of the period of suspension referred to in subsection (1) of this section extend the suspension period for another three months, subject to the provisions of section 28 of this Law.

(5) Whenever—

- (a) the Chairman is suspended, the Vice-Chairman shall hold the office of the Chairman of the Local Government;
- (b) the Chairman and the Vice-Chairman are both suspended from office, the Council Speaker shall hold the office of the Chairman of the Local Government for the period of the suspension of the Chairman and Vice-Chairman of the Local Government.

30. Permanent incapacity of Chairman or Vice-Chairman

(1) The Chairman or Vice-Chairman shall cease to hold office if—

- (a) by a resolution passed by two-thirds majority of all the members of the Legislative Council it is declared that the Chairman or Vice-Chairman is incapable of discharging the functions of his office; and
- (b) the declaration in paragraph (a) of this subsection is verified after such medical examination as may be necessary by a medical panel established under subsection (4) of this section in its report to the Council Speaker.

(2) Where the medical panel certifies in the report that in its opinion, the Chairman or Vice-Chairman is suffering from such infirmity of body or mind as to render him permanently incapable of discharging the functions of his office, a notice of the medical report signed by the Council Speaker shall be published in the State Gazette.

(3) The Chairman or Vice-Chairman shall cease to hold office from

the date of the publication of the notice of the medical report pursuant to subsection (2) of this section.

(4) The medical panel referred to in this section shall be appointed by the Council Speaker and shall comprise of three medical practitioners in Nigeria of whom—

- (a) one shall be a medical practitioner of the choice of the Chairman or Vice-Chairman as the case may be; and
- (b) two other medical practitioners of proven integrity.

31. Discharge of the functions of Chairman by the Vice-Chairman

(1) Whenever the Chairman transmits to the Council Speaker a written declaration that he is proceeding on vacation or that he is otherwise unable to discharge the functions of his office, until he transmits to the Council Speaker a written declaration to the contrary, such functions shall be discharged by the Vice-Chairman as acting Chairman.

(2) The Vice-Chairman shall hold the office of the Chairman of the Local Government, if the office of the Chairman becomes vacant by reason of death, resignation or removal from office in accordance with sections 28 and 30 of this Law.

(3) Where a vacancy occurs in the circumstances mentioned in subsection (2) of this section or for any other reason during a period when the office of the Vice-Chairman is also vacant, the Council Speaker shall hold the office of the Chairman for a period of not more than three months, during which there shall be an election of a new Chairman, who shall hold office for the un-expired term of office of the last holder of the office.

(4) The Vice-Chairman shall act for the Chairman in his absence.

(5) Where the office of Vice-Chairman becomes vacant—

- (a) by reason of death or resignation or removal in accordance with sections 28 and 30 of this Law;
- (b) by his assumption of the office of Chairman in accordance with subsection (2) of this section; or
- (c) for any other reason,

the Chairman shall with the approval of the Legislative Council, appoint another person as the new Vice-Chairman of the Local Government.

(6) Where a new Vice-Chairman is appointed from the Legislative Council, the Commission shall conduct a by-election to fill the vacant seat created in the ward from which the new Vice-Chairman has been appointed.

(7) Whenever a Vice-Chairman is appointed pursuant to subsection (5) of this section—

- (a) he shall not be less than thirty years old; and
- (b) cognizance shall be taken of section 14 (4) of the Constitution of the Federal Republic of Nigeria.

32. Executive responsibility of Vice-Chairman

The Chairman shall assign to the Vice-Chairman specific executive responsibilities in respect of the business of the Local Government, including the administration of a department or supervision of any department in line with the provisions of section 35 (3) of this Law.

33. Death of Chairman elect before Oath of Office

(1) If a person duly elected as Chairman dies before taking and subscribing to the Oath of Allegiance and Oath of Office, the person elected with him as Vice-Chairman shall be sworn-in as Chairman, who shall then nominate and with the approval of the Legislative Council appoint a new Vice-Chairman.

(2) Where the persons duly elected as Chairman and Vice-Chairman of the Local Government die before taking and subscribing to the Oath of Allegiance and Oath of Office, the Commission shall immediately conduct an election for a Chairman of the Local Government.

34. Exercise of executive power of a Local Government

(1) The executive powers of a Local Government shall be vested in the Chairman which

(a) may subject to the provisions of a Law of the House of Assembly and by laws made by the Local Government Legislative Council be exercised by him or directly through—

(i) the Vice-Chairman, Supervisor, Secretary or the Local Government Executive Council Committee; or

(ii) officers in the service of that Local Government.

(2) The executive powers under this section shall include the execution and maintenance of this Law, all by-laws made by the Legislative Council and to all matters with respect to which the Local Government

Legislative Council has for the time being power to make by-laws.

(3) The executive powers vested in the Chairman shall not be exercised so as to impede or prejudice the exercise of the executive powers of the Federation or of the State or to endanger any asset or investment of the Government of the Federation or of the State in the Local Government Area.

35. Appointment of supervisor

(1) The Chairman shall with the approval of the Legislative Council, appoint persons as Supervisors of the Local Government who shall have responsibility for any business of the Local Government including the administration of any department of the Local Government as may be assigned by the Chairman.

(2) An appointment to the office of Supervisor under subsection (1) of this section shall be deemed to have been made when no return stating reasons for rejection has been received from the Legislative Council within twenty-one working days of the receipt of the nomination by the Legislative Council.

(3) There shall be not less than three and not more than five officers of supervisors to be appointed by the Chairman.

(4) The Supervisors appointed shall include a Supervisor for finance who shall be in charge of the administration of the finance of the Local Government.

(5) No person shall be appointed as a Supervisor of the Local Government except when he is qualified to be a member of the Legislative Council.

(6) Any elected Councillor who is appointed as a Supervisor of Local

Government shall be deemed to have resigned from his seat as Councillor upon taking oath of office as Supervisor as prescribed in the Second Schedule of this Law.

[Second Schedule.]

(7) The appointment referred to in subsection (1) of this section shall be in accordance with the provisions of section 14 (4) of the Constitution of the federal Republic of Nigeria.

(8) The Supervisor's tenure shall automatically end with the tenure of the Chairman who appointed him.

(9) The Supervisors shall be closely and intimately involved in the management of their respective departments by performing the following functions—

- (a) serving as political heads of their respective departments;
- (b) serving as members of the Executive Committee of the Local Government which, in effect, is the Cabinet of the Local Government;
- (c) giving directives to the professional heads of their respective departments on general policy issues;
- (d) assisting the Chairman to supervise the execution of the Local Government projects within their respective departments; and;
- (e) carrying out such other functions as the Chairman may assign from time to time.

(10) A person appointed as Supervisor under this section shall not begin to perform the functions of that office unless he has declared his assets and liabilities as prescribed in the Fifth Schedule of the Constitution of the Federal Republic of Nigeria and has subsequently taken and subscribed to the Oath of Allegiance and Oath of Office prescribed in the Second Schedule to this Law.

(11) A Supervisor shall hold office at the pleasure of the Chairman.

36. Appointment of Secretary

(1) There shall be a Secretary to the Local Government who shall be appointed by the Chairman, with the approval of the Governor and shall hold office at the pleasure of the Chairman.

(2) The approval referred to in subsection (1) of this Law, shall be conveyed to the Chairman within thirty days of the Chairman forwarding to the Governor, the name of the Secretary for approval.

(3) Where an approval is not conveyed within thirty days, the Secretary shall be deemed to have been duly appointed.

(4) The Secretary shall perform the following functions—

- (a) be responsible for policy formulation and execution;
- (b) be responsible for the day to day running of the affairs of the Local Government;
- (c) serve as the Secretary to the Local Government Executive Committee and other standing committees of the Local Government and keep the records of the Committee;

- (*d*) liaise on behalf of the Chairman, with the Local Government Legislative Council through the speaker of the Council;
 - (*e*) base with the Secreatry to the State Government and other agencies and functionaries on State-Local Government relations;
 - (*f*) convene all meetings of the Committee and other committees;
 - (*g*) be responsible for the preparation of minutes and reports of such committees, subject to the general directions laid down by the Local Government Executive Committee;
 - (*h*) advise of Chairman on all matters pertaining to the Local Government;
 - (*i*) co-ordinate all the activities of the deaprtments of the Local Government;
 - (*j*) be the Chaiman of the Local Government Tenders Board;
- and
- (*k*) perform such other duties as may be relevant or assigned to him from time to time by the Chairman of the Local Government;

(4) The Secretary shall cease to hold office whenever the Chairman ceases to hold office.

(5) When a person is appointed from the public service of the Federation, State or Local Government, he shall be entitled to return to the public service when he ceases to hold office.

(6) The Secretary shall declare his assets and liabilities as prescribed by the Code of Conduct for Public Officers in the Fifth Schedule to the Constitution of the Federal Republic of Nigeria and shall take and subscribe to the Oath of Allegiance and Oath of Office as prescribed in the Schedule of this Law.

[Schedule.]

37. Local Government Executive Committee

The Local Government Executive Committee is hereby declared to be the executive arm of the Local Government, and shall comprise of the Chairman, Vice-Chairman, Supervisors and Secretary to the Local Government, provided that the Director (Personnel Matters) and the Treasurer shall attend the meeting of the Committee to give necessary advice and guidance with regard to the administrative and financial procedures and guidelines.

38. Meeting of the Executive Committee

(1) The Chairman shall convey regular meetings of the Local Government Executive Committee for the purpose of—

(a) determining the general direction of the policies of the Local Government;

(b) co-ordinating the activities of the Local Government; and

(c) discharging the executive functions of the Local

Government.

(2) A meeting to which this section relates shall be held not more than one week from the date of the previous meeting.

(3) Other functions of the Committee shall be to—

- (a) make such recommendations as it considers necessary to the Local Government concerning the policy to be followed by the Committee and Departments in the framing of estimate proposals for the next financial year;
- (b) receive and consider the annual estimate proposals of all departments, as collated by the Treasurer, and to direct the Treasurer in the preparation of the draft of the annual estimates of the revenue and expenditure of the Local Government;
- (c) accept or amend the draft estimates submitted by the Treasurer and to submit the agreed draft annual estimates for the consideration of the Local Government Legislative Council;
- (d) examine proposals and to submit recommendation to the Local Government Legislative Council, as and when necessary, in regard to—
 - (i) the amendment of revenue-earning by-laws or rules or the enacting of new by-law or rules providing for the raising of revenue;
 - (ii) the level of a local tax or rate, to be levied;

- (iii) the raising of a loan;
 - (iv) the manner in which investments should be-made.
- (e) examine all applications for supplementary estimates or the re-allocation of funds and as may be appropriate, approve or recommend them or otherwise, to the Local Government Legislative Council;
- (f) consider and award contracts in accordance with the relevant Standing Orders and as prescribed in the Financial Memoranda;
- (g) take necessary disciplinary action against any officer who has been found negligent in the performance of his duties;
- (h) carry out such test, checks and other checks as are necessary to satisfy itself that the Local Government revenues are being promptly collected and accounted for and its funds properly disbursed;
- (i) examine and where necessary, take decisions or submit recommendations to the Local Government Legislative Council on matters arising from the statements and reports referred to it;
- (j) exercise a general supervision over the financial management of the affairs of the Local Government, including the collection of revenue and the expenditure of funds;

(k) ensure—

(i) that all revenues are promptly collected and brought to account;

(ii) that all expenditure properly authorised has satisfactorily achieved the purpose for which it is intended;

(iii) that adequate safeguards exist for the custody of funds, stores and other assets of the Local Government.

(l) that Boards of Survey or Boards of Enquiry are appointed on cash on hand revenue-earning books, losses of funds, stores and bonds of Local Government Officials, where appropriate;

(m) ensure that where applicable, all staff whose duties involved the handling of funds of the Local Government are adequately bonded;

(n) ensure that appropriate disciplinary action is taken against any individual held personally responsible for losses of funds, or stores, for making improper or unauthorised expenditure, for failing to collect revenues for which he is responsible, or in any other way failing to discharge properly his financial duties;

(o) ensure that all contract agreements include a clause enabling the Auditor-General for Local Government have access to sites for purposes of auditing or monitoring

contract performance; and

(*p*) perform such other functions as the need arises.

(4) The Chairman of Local Government or a Supervisor in the Local Government may present a Memorandum to the Executive Committee of the Local Government on any subject within his area of responsibility, such a Memorandum shall be prepared by the relevant Head of Department and vetted or endorsed by the Chairman or appropriate Supervisors.

(5) A Head of Department may be called in, when the Executive Committee is considering issues relating to his Department, to make clarifications on any such issue, purely in an advisory capacity.

(6) The Executive Committee will meet, at least once a week to consider any matter referred to it and, each month, will examine the following statements and reports which the Committee will require to be laid before it—

(*a*) the monthly reconciliation of accounts, showing the position at the end of the previous month;

(*b*) the bank reconciliation statement as at the end of the previous month;

(*c*) the Revenue Collectors Chart;

(*d*) a report on the checking of the accounts of revenue collectors and any irregularities in regard thereto;

(*e*) a report on the checking of revenue earning books;

(*f*) a report on the cash flow situation showing probable

receipts and estimated payments for each month of the following three months;

- (g) a statement showing progress in the collection of revenue under the various main heads as compared with the estimated amounts;
- (h) the Personal and other Advances Ledgers and the Deposit Ledgers showing the up-to-date position of each individual account;
- (i) any application to incur supplementary expenditure;
- (j) reports by the treasurer on any matter or any failure to reconcile departmental records with those of the treasury;
- (k) the Register of Audit Correspondence and a statement showing progress made in dealing with any outstanding matters raised by the Auditor-General;
- (l) the Register of Authorities for Supplementary Expenditure;
and
- (m) such other things as may be necessary and relevant.

(7) The Executive Committee shall in each year hold such special meetings as may be necessary for the consideration of annual estimate proposals of departments and the preparation of draft annual estimates to be submitted for approval by the Local Government Legislative Council.

(8) The Executive Committee in considering the annual estimate proposals of departments and the draft annual estimates, shall not become

involved in matters of policy which are the responsibility of the departments as laid down by the Council. The Executive Committee shall focus its attention on the broad allocation of funds to various departments and must seek to ensure that estimate proposal reflect a proper financial economy in achieving Local Government objectives and contain no wasteful or excessive expenditure.

(9) The Executive Committee may set up Standing and Ad-hoc Committees to handle specific assignments.

39. Power and control over public funds and annual budget

(1) The Chairman shall cause to be prepared and laid before the Legislative Council, at any time before the commencement of the financial year, estimates of revenues and expenditures of the Local Government for the following year.

(2) The Legislative Council shall have power to consider, debate, amend and approve the estimates referred to under subsection (1) of this section.

(3) The Chairman of the Local Government shall render monthly returns of the incomes and expenditures of the Local Government to the Local Government Legislative Council, and on a quarterly basis, make certified true copies of such returns available to the Governor and the House of Assembly.

PART III

The Local Government Legislative Council

40. Establishment of Local Government Legislative Councils

There shall be established for each Local Government Area in the State a

Local Government Legislative Council which shall consist of Councillors elected from each of the wards in the Local Government Area.

41. Number of councillors in a ward

There shall be elected from each ward in a Local Government Area one Councillor.

42. Qualification of councillors

A person shall be qualified to hold the office of Councillor if he—

- (a) is a citizen of Nigeria;
- (b) has attained the age of 25 years;
- (c) has been educated up to at least the school certificate level or its equivalent; and
- (d) is a member of a political party.

43. Disqualification of councillors

(1) No person shall be qualified to be a Councillor if—

- (a) he has voluntarily acquired the citizenship of a country other than Nigeria or except in such cases as may be prescribed by the National Assembly, he has made a declaration of allegiance to such other country;
- (b) under any law in force in any part of Nigeria, he is adjudged to be a lunatic or otherwise declared to be of

unsound mind;

- (c) he is under a sentence of death imposed on him by any court of law or tribunal in Nigeria or a sentence of imprisonment for an offence involving dishonesty or fraud (by whatever name called) imposed on him by such a court or substituted by a competent authority for any other sentence imposed on him by such a court;
 - (d) he has been found guilty of the contravention of the Code of Conduct prescribed in the Fifth Schedule of the Constitution of Federal Republic of Nigeria;
 - (e) he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of the Federation;
 - (f) he is a person employed in the public service of the Federation, any State or any Local Government and has not resigned, withdrawn or retired from such employment thirty days before the date of election;
 - (g) he is a member of a secret society; or
 - (h) he has been indicted for embezzlement or fraud by a Judicial Commission of Inquiry or a Tribunal under the Tribunals of Inquiry Act/Law or any other laws set up by the Federal, State or Local Government.
- (2) Where in respect of any person who has been—
- (a) adjudged to be a lunatic; or

- (*b*) declared to be of unsound mind; or
- (*c*) sentenced to death or imprisonment; or
- (*d*) adjudged or declared bankrupt,

an appeal against the decisions is pending in a Court of law in accordance with a law in force in Nigeria, subsection (1) of this section shall not apply during a period beginning from the date when the appeal is lodged and ending on the date when the appeal is finally determined or, as the case may be the appeal lapses or is abandoned whichever is earlier.

(3) For the purposes of subsection (2) of this section—

"**appeal**" includes any application for an injunction or an order of certiorari, *mandamus*, prohibition or habeas corpus, or an appeal from any such application.

44. Tenure of office of members of Legislative Council

(1) A member of a Local Government Legislative Council shall vacate his seat in the Legislative Council—

- (*a*) at the expiration of three years commencing from the date of the first sitting of the Legislative Council;
- (*b*) if he becomes a member of another legislative house;
- (*c*) on the date when his letter of resignation takes effect;
- (*d*) if he becomes President, Vice-President, Governor, Deputy Governor or a Minister of the Government of the Federation

or a Commissioner of the Government of a State, Supervisor, or Secretary to the Local Government;

- (e) being a person whose election was sponsored by a political party, he resigns from that political party or becomes a member of another political party before the expiration of the period for which he was elected, provided that his membership of the latter political party is not as a result of a division in the political party of which he was previously a member or of a merger of two or more political parties or factions by one of which he was previously sponsored;
- (f) if he becomes a member of a secret society or does any other thing disqualifying him from holding the office of Councillor under this Law; or
- (g) if the Council Speaker receives a certificate under the hand of the Chairman of the Commission stating that the provisions of section 45 of this Law have been complied with in respect of the recall of that member.

(2) The Council Speaker shall give effect to subsection (1) of this section, so however, that the Council Speaker shall first present evidence satisfactory to the Legislative Council that any of the provisions of that subsection has become applicable in respect of that member.

(3) Whenever the seat of a Councillor becomes vacant, due to his resignation, death, recall, or as in section 34 (6) or due to any other reason, the Commission shall conduct a by-election to fill the vacancy in the ward.

45. Recall

A member of a Legislative Council may be recalled if—

- (a) there is presented to the Chairman of the Commission a petition in that behalf signed by more than one-half of the persons registered to vote in the member's ward alleging their loss of confidence in that member; and
- (b) the petition is thereafter approved in a referendum conducted by the Commission within ninety days of the date of the receipt of the petition by a simple majority of the votes of the persons registered to vote in that member's ward.

46. Local Government Council declared to be the Legislature

(1) The Legislative Council shall be the legislature of the Local Government.

(2) The legislative power of Local Government shall be exercised by the Legislative Council.

(3) The Legislative Council shall exercise such powers as conferred on it by the Constitution of Federal Republic of Nigeria and by this Law.

47. Composition of the Local Government Legislative Council

(1) The Legislative Council shall consist of Councillors elected from each ward.

(2) The Legislative Council shall be headed by one of the Councillors elected from amongst themselves who shall be known as the Council Speaker and another who shall be the Council Deputy Speaker.

(3) The Legislative Council shall make by-laws on matters provided for by section 15 of this Law.

48. Sitting of Legislative Council

The Legislative Council shall sit for a period of not less than one hundred and one days in a year.

49. Presiding at the sitting of the Legislative Council

(1) At any sitting of the Legislative Council the Council Speaker shall preside and in his absence the Council Deputy Speaker shall preside, and shall have general responsibility for matters pertaining to the Council.

(2) In the absence of both the Council Speaker and the Deputy Council Speaker any other member of the Council as may be elected for that purpose by the Councillors may preside.

50. Functions of the Local Government Legislative Council

The Local Government Legislative Council being the Legislative arm of the Local Government shall perform the following functions—

- (a) make laws, debate and pass Local Government Legislation;
- (b) debate, approve and possibly amend Local Government annual budget;
- (c) monitor the implementation of projects and programmes in the Local Government annual budget;

- (*d*) ensure that there is compliance with the provisions of the Financial Memoranda;
- (*e*) ensure that financial directions under the law and any other financial instructions issued are strictly observed;
- (*f*) consider the report received from the Auditor-General and take any action required arising from such reports;
- (*g*) advise, consult and liaise with the Local Government Chairman who is the Head of the Executive Arm of the Local Government;
- (*h*) examine and debate the monthly statements of income and expenditure rendered to it by the Chairman of the Local Government;
- (*i*) perform such other functions as may be related to it and as may be assigned to it, from time to time by the House of Assembly of the State.

51. Right of attendance and address by Chairman

The Chairman of Local Government and a Supervisor of a Local Government shall attend the meeting of the Local Government Legislative Council under the following conditions—

- (*a*) the Chairman of a Local Government shall address annually, a meeting of the Local Government Legislative Council on the state of affairs of the Local Government Area and present the annual estimates of the Local Government to the Legislative Council, for it to consider and approve;

- (b) the Chairman of the Local Government may attend a meeting of the Local Government Legislative Council, from time to time, either to deliver an address on the policy and the state of affairs of the Local Government as he may consider to be important to the Local Government Area; and
- (c) the Chairman, Supervisors and any other functionary of the Local Government shall attend a meeting of the Legislative Council if invited by the Legislative Council to explain the conduct of affairs of the Local Government or any department thereof.

52. Vacation of office by the Council Speaker and Council Deputy Speaker

The Council Speaker or Council Deputy Speaker shall vacate his office—

- (a) if he ceases to be a member of the Legislative Council, otherwise than by reason of the dissolution of the Legislative Council;
- (b) if he is removed from office by a resolution of the Legislative Council by the votes of not less than two-thirds majority of the members of the Legislative Council.

53. Staff of the Legislative Council

(1) There shall be a Clerk to the Legislative Council and such other staff as may be prescribed by a Law enacted by the House of Assembly and the method of appointment, of the Clerk shall be as prescribed by that Law.

(2) Until the House of Assembly exercises its power to initiate a Law in accordance with subsection (1) of this section, the Clerk and other staff of the legislative council shall be deployed by the Local Government Service Commission.

54. Declaration of Assets and Liabilities and Oaths of Member

(1) Every person elected to the Legislative Council shall before taking his seat in that Council declared his assets and liabilities, in the manner prescribed in the Constitution of Federal Republic of Nigeria and subsequently take and subscribe before the Council Speaker, the Oath of Allegiance and Oath of Membership but a member may before taking Oaths, take part in the election of the Council Speaker or Council Deputy Speaker.

(2) The Council Speaker and Council Deputy Speaker shall declare their assets and liabilities in the manner prescribed by the Fifth Schedule of the Constitution of Federal Republic of Nigeria and subsequently take and subscribe to the Oath of Allegiance and the Oath of Office prescribed in Second Schedule to this Law before the Clerk of the Legislative Council.

55. Quorum of Legislative Council

(1) The quorum of a Legislative Council shall be one half of all the members of the Legislative Council.

(2) If objection is taken by any member of the Legislative Council present that there are present in that Council (besides the person presiding) fewer than one-half of all the members of that Legislative Council and that it is not competent for the Legislative Council to transact business, and after such interval as may be prescribed in the rules of procedure of the Legislative Council, the person presiding ascertains that the number of members present is still less than one-half of all the members of the Council, he shall adjourn

the Council.

56. Languages

The business of a Legislative Council shall be conducted in English language, but the Legislative Council may in addition to English language, conduct its business in any other local language considered as Lingua Franca in the area, subject to the approval of the majority of the members.

57. Voting

(1) Except as otherwise provided by this Law, a question proposed for decision in the Legislative Council shall be determined by simple majority of the members present and voting, and the person presiding shall have a casting vote whenever necessary to avoid an equality of votes.

(2) A Legislative Council shall by its rules provide—

- (a) that a member of the Council shall declare any direct pecuniary interest he may have in any matter coming before the Legislative Council before deliberation;
- (b) that the Legislative Council may by resolution decide whether or not such member may vote or participate in its deliberation on such matter;
- (c) the penalty, if any, which the Legislative Council may impose for failure to declare any direct pecuniary interest such members may have; and
- (d) for such other matters pertaining to the foregoing as the Legislative Council may think necessary but nothing in this

subsection shall enable any rule to be made to require any member, who signifies his intention not to vote on or to participate, to declare any such interest.

58. Unqualified persons sitting or voting

Any person who sits or votes in a Legislative Council knowing or having reasonable grounds, for knowing that he is not entitled to do so commits an offence and shall be liable on conviction to such sanctions as shall be prescribed by a by-law of the Legislative Council.

59. Mode of exercising Legislative Powers

(1) The power of a Legislative Council to make laws shall be exercised by by-laws passed by the Legislative Council and except as otherwise provided by this section, assented to by the Local Government Chairman.

(2) A Bill shall not become a by-law unless it has been duly passed and, subject to subsection (1) of this section, assented to in accordance with the provisions of this section.

(3) Where a Bill has been passed by the Legislative Council it shall be presented to the Chairman for assent.

(4) Where a Bill is presented to the Chairman for assent he shall within thirty (30) days thereof signify that he assents or that he withholds assent.

(5) Where the Chairman withholds assent and the Bill is again passed by the Legislative Council, by two-thirds majority, the Bill shall become a by-law and the assent of the Chairman shall not be required.

(6) The Speaker of the Council, shall cause every by-laws passed by the Council and duly authenticated to be deposited in the archives of the—

- (a) Governor;
- (b) House of Assembly;
- (c) Kwara State Judiciary;
- (d) Government Printer; and
- (e) Ministry of Justice.

60. Regulation of procedures

Subject to the provisions of the Constitution of Federal Republic of Nigeria, this Law and any law of the House of Assembly, a Legislative Council shall have power to regulate its own procedures including the procedures for summoning and recess of the Council.

61. Vacancy or participation of strangers not to invalidate proceedings

(1) A Legislative Council may act notwithstanding any vacancy in its membership.

(2) The presence or participation in the proceedings of the Council by strangers shall not invalidate such proceedings.

62. Committees

(1) A Legislative Council may appoint a Committee of its members for any special or general purpose as in its opinion would be better regulated and

managed by means of such Committee and may by resolution, regulation, or otherwise, as it thinks fit, delegate any function exercisable by it to such Committee.

(2) The number of members of a Committee appointed under this section, their term of office and quorum shall be fixed by the Legislative Council.

(3) Nothing in this section shall be construed as authorising a Legislative Council to delegate to a Committee the power to decide whether a bill shall be passed into by-law or to determine any matter which it is empowered to determine by resolution under the provisions of this Law, but such Committee may be authorised to make recommendation to the Legislative Council on any such matter.

63. Exercise of the monitoring and vetting functions of Legislative Council

(1) To further the cause of public probity and accountability, ensure the performance ethic and guarantee that public resources are scrupulously applied for the intended purposes, annual budgetary estimates submitted to the Local Government Legislative Council shall be carefully examined by the Council, before it is approved to—

- (a) ensure that each project contained therein is feasible, desirable and likely to facilitate the meaningful development of the Local Government Area;
- (b) that adequate provisions have been made for the execution of each project such that it is not likely to be abandoned; and
- (c) that development projects are not unduly concentrated in

any particular section of the Local Government Area.

(2) Upon the approval of the annual budget by the Local Government Legislative Council, and the assent of the Chairman of the Local Government, the vetting and monitoring role of the Local Government Legislative Council shall include the following—

- (a) carrying out on-the-spot inspections of the projects contained in the appropriation budget to ensure that the projects are being implemented as approved;
- (b) periodic inspection visits to each project by members of the relevant Committee of the Local Government Legislative Council;
- (c) comparing the situation on the ground with the contents of the monthly report rendered to the Local Government Legislative Council by the Chairman of the Local Government; and
- (d) summoning (by means of a motion) the Local Government Chairman, or any other relevant official of the Executive Arm of the Local Government to the Legislative Council to explain any observed discrepancies.

(3) To prevent avoidable delay, it shall not be necessary to subject each item in the approved budget to a second approval by the Legislative Council of the Local Government. Once approved, and assented to by the Chairman of the Local Government, the implementation of the budget shall be entrusted to the Executive Arm of the Local Government.

64. Power of investigation and inquiry

(1) Subject to the provisions of this Law, a Legislative Council shall have power by resolution to direct or cause to be directed an inquiry or

investigation into—

- (a) any matter or thing with respect to which it has power to make by-laws; and
- (b) the conduct of affairs of any person, authority or department charged or intended to be charged, with a duty of or responsibility for—
 - (i) executing or administering by-laws enacted by the Legislative Council; and
 - (ii) disbursing or administering money appropriated or to be appropriated by such Legislative Council.

(2) The powers conferred on a Legislative Council by the provisions of this section are only exercisable by the Legislative Council to—

- (a) make by-laws with respect to any matter within its legislative competence, and correct any defect in existing by-laws; and
- (b) expose corruption, inefficiency or waste in the execution or administration of by-laws within its legislative competence and in the disbursement or administration of funds appropriated by it.

65. Evidence

(1) For the purpose of any investigation under section 64 of this Law, and subject to the provisions thereon, a Legislative Council or a Committee appointed in accordance with section 62 of this Law shall have power to—

- (a) procure all such evidence, written or oral, direct or circumstantial, as it may think necessary or desirable;
- (b) examine all persons as witnesses whose evidence may be material or relevant to the subject-matter;
- (c) require such evidence to be given on oath;
- (d) summon any person in Nigeria to give evidence at any place and produce any document, or other thing in his possession or under his control;
- (e) examine such person as a witness and require him to produce any document or other thing in his possession or under his control, subject to all just exceptions;
- (f) issue a warrant to compel the attendance of any person who having been summoned, failed, refused or neglected to do so, and did not proffer any excuse for the failure, refusal or neglect to the satisfaction of the Legislative Council or Committee;
- (g) order such witnesses for the failure, refusal or neglect to obey the summons to—
 - (i) pay all costs occasioned in compelling his attendance;or
 - (ii) such fine as may be prescribed; and
- (h) any fine so imposed shall be recoverable in the same

manner as a fine imposed by a court of law.

(2) A summons or warrant issued under this section may be served or executed by any person authorised in that behalf by the Council Speaker.

PART IV

Auditing of Accounts of Local Government

66. Establishment of the Office of the Auditor-General for Local Government

There is hereby established the Office of the State Auditor-General for Local Governments, for enhanced public probity and accountability at the Local Government level through the regular auditing of the accounts of all the Local Governments within the State.

67. Appointment of Auditor-General for Local Governments

(1) There shall be an Auditor-General for the Local Governments of the State who shall be appointed by the Governor subject to the ratification of the House of Assembly.

(2) The public accounts of a Local Government and of all offices of the Local Government shall be audited by the Auditor-General annually who shall submit his report to the House of Assembly.

(3) For the purpose of subsection (2) of this section, the Auditor-General or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(4) In the exercise of his functions under this Law, the Auditor-General shall not be subject to the direction or control of any other authority

or person.

68. Auditing of the accounts of Local Governments

The accounts of the Local Government shall be audited annually in accordance with subsections (2) and (3) of section 67 of this Law.

PART V

Liaison Unit

69. Establishment of Liaison Unit

There shall be established in the Office of the Governor a Liaison Unit (hereafter referred to as the "Unit").

70. Appointment, conditions of service, remuneration etc. of Liaison Officers

(1) The Unit shall consist of Liaison Officers, one for each of the Local Government Areas of the State.

(2) The Liaison Officers shall—

(a) be appointed by the Governor;

(b) hold office for such periods and on such terms and conditions as may be contained in their instrument of appointment;

(c) be eligible for re-appointment upon the terms contained in their instrument of appointment; and

- (*d*) be paid such remuneration whether by way of salary, fees, or allowances as the Governor may determine.

(3) A Liaison Officer may resign his appointment in writing under his hand addressed to the Governor and upon the receipt by the Governor of the letter of resignation the appointment shall cease.

- (4) The Governor may revoke the appointment of a Liaison officer.

71. Functions of Liaison Officers

The Liaison Officers shall perform the following functions—

- (*a*) observe, all the activities of the Local Governments in the Local Government Areas;
- (*b*) monitor and co-ordinate State Projects that are being executed in the Local Government Areas;
- (*c*) ensure closer ties between the Government and the people of the Local Government Areas;
- (*d*) give prompt information to the State Government on the—
 - (i) needs of the people of the Local Government Areas;
 - (ii) impact of the State Government on the Local Government Areas;
 - (iii) impact of the Local Governments in the Local Government Areas.

72. Repeal of No 6 of 1999 and savings

(1) The Kwara State Local Government Law 1999 as amended is hereby repealed.

(2) The repeal of the Law referred to in subsection (1) of this section shall not affect any act, matter or anything done or purported to be done under the repealed Law.

(3) All acts done or any other thing done whatsoever or proceedings taken or conducted pursuant to or in accordance with the law referred to in subsection (1) of this section or under any other law relevant or connected with the said Law before the commencement of this Law shall be deemed to have been validly done, taken or conducted in accordance with the provisions of this Law.

(4) Any office or authority which immediately before the date when this Law commences was established and charged with any function by virtue of the Law referred to in subsection (1) of this section or any other law shall be deemed to have been duly established and shall continue to be charged with such function as if the office or authority was established and charged with the function by virtue of this Law.

(5) Any person who before the commencement of this Law was elected to any elective office mentioned in this Law in accordance with the provisions of the Law referred to in subsection (1) of this section or of any law in force immediately before the commencement of this Law shall be deemed to have been duly elected to that office under this Law.

(6) Any person who immediately before the date when this Law commences holds office by virtue of the Law referred to in subsection (1) of this section or any law in force immediately before the date when

this Law comes into force shall be deemed to be duly appointed to that office by virtue of this Law or by any authority by whom appointments to that office fall to be made in pursuant to this Law.

(7) Notwithstanding the repeal of the Kwara State Local Government Law 1999 in subsection (1) of this section any person who immediately before the commencement of this Law held office under that law either as an elective officer, staff or in any other post shall on the commencement of this Law be deemed to continue to hold same under this Law.

(8) The foregoing provisions of this section are without prejudice to the exercise of such powers as may be conferred by virtue of this Law or any other Law upon any authority or person with respect to such matters as may be prescribed or authorised by this Law including the establishment and abolition of offices, or authorities, and with respect to the appointment of persons to hold offices or authorities and their removal, suspension, etc. from such offices or authorities.

(9) Any proceeding or cause or order pending or existing or which could have been taken immediately before the commencement of this Law in respect of any right, may be continued, enforced or taken under this Law.

73. Interpretation

In this Law, unless it is otherwise expressly provided or the context otherwise requires—

"appointment" includes appointment to an office, confirmation of appointment, promotion or transfer;

"authority" includes Government or Government agency;

"Chairman or Vice-chairman" when used with reference to a Local

Government means the Chairman or Vice-Chairman of the Local Government;

"Chief Judge" means the Chief Judge of Kwara State;

"Civil Service" means service of Local Government in civil capacity as staff of the Local Government assigned with the responsibility of any business of the Government;

"Councillor" means a duly elected Councillor for a ward in a Local Government Area;

"Council Speaker or Council Deputy Speaker" means the head or the deputy head of the Legislative Council;

"decision" means in relation to court or tribunal any determination of that court or tribunal and includes a judgment, decree, conviction, sentence, order or recommendations;

"Commission" means State Independence Electoral Commission or any other body established by Law to conduct elections;

"enactment" means provisions of any law or a subsidiary instrument;

"Executive Council or Committee" means the executive council or Committee of each Local Government comprising of the Chairman, Vice-Chairman, Secretary and Supervisors;

"Federation" means the Federal Republic of Nigeria;

"functions" includes powers and duties;

"Government" includes the Government of the State or of a Local Government Area within the State or any person or organ exercising power or authority on its behalf;

"Governor" means the Executive Governor of Kwara State; **"House of Assembly"** means the House of Assembly of Kwara State; **"Law"** means a Law enacted by the House of Assembly;

"Legislative Council" means the Legislative Council of each Local Government Area comprising of all the Councillors in the area charged with the functions of making by-laws and legislative functions for the area;

"Misconduct" includes breach of the Oath of Allegiance. Oath of Office of Chairman or Vice-Chairman, etc, breach of the provisions of the Constitution of the Federal Republic of Nigeria or of this Law or any existing law, corrupt enrichment, fraudulent acquisition of property, gratification by and through agents, financial impropriety, bribery, conduct likely to breach peace, insubordination, false declaration of assets and liabilities, conviction for treasonable felony or attempts, preparation, abetment and conspiracy to commit any offence known to Law, commission of crimes or misconduct in any other capacity or form.

"National Assembly" means the Senate and House of Representatives;

"Oath" includes affirmation;

"Oath of Allegiance" means the Oath of Allegiance prescribed under the Second Schedule of this Law;

"Oath of Office" means the Oath of Office prescribed under the

Second Schedule of this Law;

"Office" includes any of the political offices that could be by election or appointment;

"Powers" includes functions and duties;

"School certificate or its equivalent" means the following—

- (a) a Secondary School Certificate or its equivalent, or Grade II Teachers' Certificate, the City and Guilds' Certificate; or
- (b) education up to Secondary School Certificate level; or
- (c) Primary Six Certificate or its equivalent; and—
 - (i) service in the public or private sector of the Federation in any capacity acceptable to the State Independent Electoral Commission for a minimum of ten years; and
 - (ii) attendance of course and training in such institution as may be acceptable to the State Independent Electoral Commission for a period totaling up to a minimum of one year; and
 - (iii) the ability to read, write, understand and communicate in English Language to the satisfaction of the State Independent Electoral Commission; and
- (d) any other qualification acceptable to the State Independent Electoral Commission;

"Secret society" includes any association, group or body of persons (whether registered or not)—

- (a) that uses secret signs, oaths, rites or symbols and which is formed to promote a cause, the purpose of which is to foster the interest of its members and to aid one another under any circumstance without due regard to merit, fair play or justice to the detriment of the legitimate interest of those who are not members;
- (b) the membership of which is incompatible with the function or dignity of any public office under this Law or any other law and whose members are sworn to observe oath of secrecy; and
- (c) the activities of which are not known to the public at large and the names of whose members are kept secret and whose meetings and other activities are held in secret;

"Secretary" means a Secretary appointed in accordance with section 36 of this Law;

"State" means Kwara State of Nigeria;

"Supervisors" means supervisors appointed in accordance with section 35 of this Law.

(2) In this Law, references to a person holding an office shall include reference to a person acting in that office or holding that office for the time being.

74. Citation

This Law may be cited as the Kwara State Local Government Law, 2005.

FIRST SCHEDULE

[Section 1(1).]

<i>Names of Local Government</i>		<i>Name of Districts</i>	<i>Headquarters</i>
1.	Asa	Afon, Onire, Owode	Afon
2.	Baruten	Gwanara, Hesha, Okuta, Yashikira	Kosubosu
3.	Edu	Lafiagi, Tsaragi, Tsonga	Lafiagi
4.	Ekiti	Osi/Opin, Isapa/Eruku, Obbo-Ile/Obbo-Aiyegunle	Araromi-Opin
5.	Ifelodun	Share, Oke-Ode, Omupo, Igbaja, Oro-Ago, Idofian Ora, Agunjin, Ile-Ire.	Share
6.	Ilorin-East	Balogun Gambari, Mogaji-Are, Iponrin	Oke-Oyi
7.	Ilorin-South	Akanbi, Balogun-Fulani	Fufu
8.	Ilorin-West	Ajikobi, Alanamu, Mogaji-Ngeri, Wara-Osin/Egbejila	Oja-Oba
9.	Isin	Isin	Owu-Isin
10.	Irepodun	Ajase, Oro, Esie/Ijan, Omu-Aran/Arandun, Oko	Omu-Aran

11.	Kaiama	Kaiama	Kaiama
12.	Moro	Malete, Ipaiye, Oloru, Lanwa, Eji-dongari	Bode-Saadu
13.	Oke-Ero	Hoffa/Odo-Owa, Ekan- Meje Idofin	Hoffa
14.	Offa	Balogun, Ojomu, Shawo, Essa, Igboodun	Offa
15.	Oyun	Oke-Ogun, Odo-Ogun	Ilemona
16.	Patigi	Patigi, Lade, Kpada	Patigi

SECOND SCHEDULE

OATHS

Oaths of Allegiance

I, do solemnly
swear/affirm

that I will be faithful and bear true allegiance to the Federal Republic of
Nigeria and that I will preserve and defend the law, including the Constitution
of the Federal Republic of Nigeria.

So help me God.

Oath of Office of Chairman of a Local Government

I, do solemnly
swear/affirm

that I will be faithful and bear true allegiance to the Federal Republic of

Nigeria; that as the Chairman of

.....

Local Government. I will discharge my duties to the best of my ability, faithfully and in accordance with the provisions of the Constitution of the Federal Republic of Nigeria, the Kwara State Local Government Law and the law and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of the Federal Republic of Nigeria, that I will strive to preserve the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution

of the Federal Republic of Nigeria; that I will exercise the authority vested in me as Chairman so as not to impede or prejudice the authority lawfully vested in the President of the Federal Republic of Nigeria so as not to endanger the continuance of the Federal Government in Nigeria; that I will not allow my personal interest to influence my official conduct or my official decisions; that I will to the best of my ability, preserve, protect and defend the Constitution of the Federal Republic of

Nigeria; that I will abide by the Code of Conduct contained in the Fifth Schedule of the Constitution of Federal Republic of Nigeria; that in all circumstances, I will do right to all manner of people according to law, without fear or favour, affection or ill-will; that I will not directly or indirectly communicate or reveal to any person, any matter which shall be brought under my consideration or shall become known to me as Chairman of

.....

Local Government except as may be required for the due discharge of my duties as Chairman; and that I will devote myself to the service and well-being of the people of Nigeria.

So help me God.

Oath of Office of Vice-Chairman of a Local Government

I, do solemnly

swear/affirm

that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; that as the ViceChairman of Local Government. I will

discharge my duties to the best of my ability, faithfully and in accordance with the provisions of the Constitution of the Federal Republic of Nigeria, the Kwara State Local Government Law and the law and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of the Federal Republic of Nigeria; that I will strive to preserve the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria; that I will not allow my personal interest to influence my official conduct or my official decisions; that I will to the best of my ability, preserve, protect and defend the Constitution of the Federal Republic of Nigeria; that I will abide by the Code of Conduct contained in the Fifth Schedule of the Constitution of Federal Republic of Nigeria; that in all circumstances, I will do right to all manner of people according to law, without fear or favour, affection or ill-will; that I will not directly or indirectly communicate or reveal to any person, any matter which shall be brought under my consideration or shall become known to me as Vice-Chairman of Local Government except as may be required for the due

discharge of my duties.

So help me God.

Oath of Office of Council Speaker

I, do solemnly swear/affirm

that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; that as the Council Speaker of

Local Government Legislative Council, I will discharge my duties to the best of my ability, faithfully and in accordance with the provisions of the Constitution of the Federal Republic of Nigeria, the Kwara State Local Government Law and the law and always in the interest of the sovereignty, integrity, solidarity, well-being and

prosperity of the Federal Republic of Nigeria; that I will strive to preserve the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria; that I will exercise the authority vested in me as Council Speaker so as not to impede or prejudice the authority lawfully vested in the President of the Federal Republic of Nigeria, so as not to endanger the continuance of the Federal Government in Nigeria; that I will not allow my personal interest to influence my official conduct or my official decisions; that I will to the best of my ability, preserve, protect and defend the Constitution of the Federal Republic of Nigeria; that I will abide by the Code of Conduct contained in the Fifth Schedule of the Constitution of Federal Republic of Nigeria; that in all circumstances, I will do right to all manner of people according to law, without fear or favour, affection or ill-will; that I will not directly or indirectly communicate or reveal to any person, any matter which shall be brought under my consideration or shall become known to me as Council Speaker of..... Local Government Legislative Council except as may be required for the due discharge of my duties as Council Leader; and that I will devote myself to the service and well-being of the people of Nigeria.

So help me God,

Oath of Office of Deputy Council Speaker

I, do solemnly

swear/affirm

that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; that as the Deputy Council Speaker of Local Government Legislative Council, I will discharge my duties to the best of my ability, faithfully and in accordance with the provisions of the Constitution of the Federal Republic of Nigeria, the Kwara State Local Government Law and the law and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of the Federal Republic of Nigeria; that I will strive to preserve the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria, that I will not allow my personal interest to influence my official conduct or my official decisions; that I will to the best of my ability, preserve, protect and defend the Constitution of the Federal Republic of Nigeria; that I will abide by the Code of Conduct contained in the Fifth Schedule of the Constitution of Federal Republic of Nigeria; that in all circum-stances. I will do right to all manner of people according to law, without fear or favour, affection or ill-will; that I will not directly or indirectly communicate or reveal to any person, any matter which shall be brought under my consideration or shall become known to me as Deputy Council Speaker ofLocal Government Legislative Council except as may be required for the due discharge of my duties.

So help me God.

Oath of Office of Member of a Local Government Council

I, do solemnly swear/affirm

that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; that as a Member of Local Government Council, I will perform my functions honestly to the best of my

ability, faithfully and in accordance with the provisions of the Constitution of the Federal Republic of Nigeria, the Kwara State Local Government Law, rules of the Local Government Council and the law; and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of the Federal Republic of Nigeria; that I will strive to preserve the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria; and that I will preserve, protect and defend the Constitution of the Federal Republic of Nigeria; and that I will abide by the Code of Conduct contained in the Fifth Schedule of the Constitution of the Federal Republic of Nigeria.

So help me God.

Oath of Office of Supervisor/Secretary of a Local Government

I, do solemnly swear/affirm

that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; that as the Supervisor/Secretary of Local Government I will discharge my duties to the best of my ability, faithfully and in accordance with the provisions of the Constitution of the Federal Republic of Nigeria, the Kwara State Local Government Law, and the law and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of the Federal Republic of Nigeria; that I will strive to preserve the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria; that I will not allow my personal interest to influence my official conduct or my official decisions; that I will to the best of my ability, preserve, protect and defend the Constitution of the Federal Republic of Nigeria; that I will abide by the Code of Conduct contained in the Fifth Schedule of the Constitution of Federal Republic of Nigeria; that in all

circumstances, I will do right to all manner of people according to law, without fear or favour, affection or ill-will; that I will not directly or indirectly communicate or reveal to any person, any matter which shall be brought under my consideration or shall become known to me as Supervisor/Secretary of

Local Government except as may be required for the due discharge of my duties.

So help me God.

CHAPTER K33

KWARA STATE LOCAL GOVERNMENT LAW

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
