

**A LAW TO MAKE PROVISIONS FOR THE
ESTABLISHMENT OF EKITI STATE ELECTRICITY
BOARD**

NO. 7 OF 2012.

EKITI STATE OF NIGERIA

**A LAW TO MAKE PROVISIONS FOR THE ESTABLISHMENT OF
THE EKITI STATE ELECTRICITY BOARD AND FOR OTHER
MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH**

ARRANGEMENT OF SECTIONS

1. Date of commencement
2. Establishment of the Board
3. Membership, remuneration and tenure of office.
4. Quorum
5. Functions of the Board
6. General Powers
7. Funds of the Board
8. Annual Estimates, accounts and audit
9. Annual Reports
10. Power of the Governor to give directives
11. Transfer to the Board of Electrical Installations
12. Power of the Board to borrow money
13. Officers of the Board
14. Power to make rules relating to retirement benefits for employees
15. Rates and scales of charges for electricity supplied by the Board
16. Purchase and resale of electricity supplied by the Board
17. Non-Liability of Board for consumers' wire, fittings, etc.
18. Entitlement to supply and preclusion of preferential treatment
19. Expenses on certain necessary alteration
20. Continuity of supply of electricity
21. Power to make regulations
22. Willful or negligent damage of electrical installations, etc.
23. Fraudulent measurement
24. Foul accumulation of earth, etc.
25. Tampering with any electrical equipment
26. Preliminary investigation in respect of land required for electrical installations

27. Restriction of execution against Board's installations
28. Exemption of agreement for the supply of electricity from Stamp Duties
Law Cap. 116.
29. Interpretations
30. Citation and commencement.

THE SCHEDULE

1. Eligibility for re-appointment
2. Power of Governor to declare office vacant
3. Proceeding not to be void for vacancy or defect in appointment
4. Co-option of persons
5. Ordinary and Special Meetings
6. Presiding and Voting
7. Appointment of Committees
8. Standing Orders

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Commencement ()

ENACTED BY THE EKITI STATE HOUSE OF ASSEMBLY AS FOLLOWS:

PART I – GENERAL

ESTABLISHMENT, CONSTITUTION AND FUNCTIONS
OF THE BOARD

- | | |
|---|--|
| <i>Incorporations</i> | 1. There shall be established for Ekiti State a Board to be known as “the Ekiti State Electricity Board.” |
| <i>Establishment
of the Board</i> | 2. The Board 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 and to acquire, hold and dispose of movable property for the purpose of its functions under this Law. |
| <i>Membership
Remuneration
and tenure of
Office</i> | 3. (1) The Board shall consist of:
(a) A Chairman, to be appointed by the Governor on full time and six others on part time basis.
(b) The General Manager
(c) An Ex-officio member to be nominated by the Bureau of Information and Public Utilities.
(d) The Permanent Secretary, Ministry of Commerce and Industries or his representative not below GL. 14;
(e) The District Manager, Power Holding Company of Nigeria, Ekiti State;
(f) The Permanent Secretary, Ministry of Local Government and Chieftaincy Affairs or his representative not below GL. 14;
(g) A representative of the Ekiti State Electricity Consumers’ Association; |

- (h) The Permanent Secretary, Department of Rural Development Agency or his representative not below GL. 14;
 - (i) A representative of the Ekiti State Chambers of Commerce, Industry and Agriculture; and
 - (j) The Permanent Secretary, Ministry of Works and Transport or his representative not below GL. 14.
- Schedule*** (2) The Chairman and other members other than Ex-Officio Members shall be appointed by the Governor and subject to the condition which are set out in the Schedule to this Law.
- Remuneration*** (3) There shall be paid to members who are not ex-officio members such remunerations and allowances as the Governor may, from time to time determine.
- Tenure in Office*** (4) Every member of the Board shall subject to the provisions of this Law and at the pleasure of the Governor hold office for such period not exceeding four years as shall be stated in his letter of appointment.
- Termination of Membership*** (5) The Governor may at any time terminate the appointment of a member notwithstanding anything contained in the instrument of his appointment.
- Resignation of Membership*** (6) Any member of the Board, other than an ex-officio member may, at any time by writing under his hand addressed to the Governor, resign his appointment.
- Quorum*** 4. Three members shall form a quorum at any meeting of the Board provided that the Chairman or the General Manager is present.
- Functions of The Board*** 5. It shall be the duty of the Board subject to the provisions of this Law:
- (a) to establish in the State Electric Power Stations;
 - (b) to generate, transmit and distribute electricity to areas not covered by the national grid system within the States;
 - (c) to control and manage any electrical installation vested in the Board under the provisions of this Law;

- (d) to establish, control, manage, extend and develop electrical installations as the Board may consider necessary for the purpose of providing electricity supply to meet the requirements of the general public, agriculture, trade and industry in various parts of the State;
- (e) to supply electricity and promote economic efficiency and uninterrupted electricity generation, distribution and supply to the public;
- (f) to provide maintenance services for electricity units, installations and appliances;
- (g) to purchase electricity including materials and equipment in bulk and sell to consumers, through the State network;

General Powers

- 6. (1) Subject to the provisions of this Law, the Board shall for the purpose of carrying out its functions under this Law, have power to carry on all activities which are necessary, advantageous or convenient.
- (2) Without prejudice to the generality of the provisions of sub-section (1) of this Section, the power of the Board shall include power:
 - (a) to construct, reconstruct, maintain and operate electrical works and all other stations, buildings and works, necessary for the discharge of its functions under this Law;
 - (b) to carry any electrical conductor through, across, over or under any street or any place laid out or intended as a street and, after giving reasonable notice in writing to the owner or occupier thereof, into, through or under any land whatsoever, making good any damage done;
 - (c) to make collaborative arrangements with the appropriate authority under and in accordance with the provisions of any law in that behalf;
 - (d) to examine from time to time any electricity undertaking in any part of the State for the purpose of determining what, if any, damage exists and the causes thereof and to do likewise

in respect of other installations by arrangement with the appropriate authority under and in that behalf;

- (e) to enter upon any land at any time for the purpose of examining, repairing or removing any conductor which is the property of the Board;
- (f) to construct public lighting or power points in any street or other public place;
- (g) to enter into the areas where the Board provides services at any time between the hours of Six O'clock in the morning and six O'clock in the evening or in cases of urgency at any other time upon any household in or upon which any service has been laid or electricity from any electrical works is supplied or flows, so as:
 - (i) to inspect any service and to ascertain whether there is any obstruction or damage to any service or meter therein and anything in connection therewith;
 - (ii) to ascertain the amount of electricity taken or used;
 - (iii) to disconnect the supply of electricity to any occupier, or to diminish, with-hold, or divert the supply of electricity to any household through or by means of any service, either wholly or in part;
- (h) to diminish, with-hold or suspend, stop, turn off or divert the supply of electricity through or by means of any service either wholly or in part in the areas where the Board provides services whenever the Board deems it necessary or proper and without prejudice to any liability of the consumer to pay any rate, rent or other sum due or to become due under this Law;
- (i) to enter into such contracts as may be necessary, advantageous or expedient for the performance of its functions under this Law including contracts for the construction or extension of electrical network or the bulk-purchase or supply of materials.

*Funds of
The Board*

7. (1) The Board shall establish and maintain a fund from which shall be defrayed all expenditure incurred by the Board.
- (2) There shall be paid or credited to the fund established in pursuance of this Section.
- (a) Such fund as may be granted to the Board by the State Government for its initial take off;
 - (b) such sums as may be appropriated from time to time to the Board by the State Government;
 - (c) all monies paid to the Board by way of grants, subsidies, donations, gifts, charges and fees;
 - (d) money raised by loan under the powers to borrow vested in the Board by this Law;
 - (e) all monies which may vest in the Board under any enactment or law; and
 - (f) all other sums or property which may in any manner become payable to or vested in the Board in respect of any matter incidental to its power or duties under this Law.

*Annual
Estimates
accounts and
audit.*

8. (1) The Board shall prepare and submit to the Commissioner for Finance and Economic Planning and the Office of the Governor, not later than the thirtieth day of October of every year, an estimate of their expenditure and income during the next succeeding financial year.
- (2) The Board shall keep proper accounts in respect of each financial year, and proper records in relation to these accounts and shall cause their accounts to be audited as soon as possible after the end of the financial year to which the accounts relate by the Auditor General or any other Person duly authorized by the Auditor General.

**Annual
Report**

9. The Board shall prepare and submit to the Governor, not later than the 31st of July of every year, a report in such form as the Governor may direct on the activities of the Board during the last preceding financial year, and shall include in the report, a copy of the audited accounts of the Board during the last preceding financial accounts of the Board for that year and the Auditor's Report on the accounts.

**Power of the
Governor to
as give directives**

10. The Governor may give the Board such general directives as to the discharge by the Board of its functions under this Law appear to the Governor to be necessary to ensure conformity by the Board with the policy of the Government, for the time being in respect of the supply and distribution of electricity in the State and the Board shall give effect to any such directive.

PART II – FINANCIAL PROVISIONS: ASSETS AND LIABILITIES OF THE BOARD

**Transfer to the
Board of
Electrical
Installations**

11. (1) All electrical installations which are used or have been constructed by or on behalf of the Government and were the property of the Government at the date of commencement of this Law shall, as from the date of commencement of this Law, vest in the Board by virtue of this Law and without further assurance, and such vesting shall extend to the whole of the electrical installation (hereinafter referred to as the transferred Electrical Installation) including all lands, works and other property, assets, powers, rights and privileges appertaining thereto or held or enjoyed in connection therewith.

(2) All liabilities and obligations of the government in respect of any transferred Electrical Installation failing to be discharged on or after the commencement of this Law, shall as from the commencement of this Law, become the liabilities and obligations of the Board.

(3) Every deed, bond, agreement, instrument and working arrangements in which the government was party to, for the construction, or otherwise, in respect of any transferred electrical installation shall, subject to the provisions of this section, and unless the circumstance otherwise requires, have effect as from the commencement of this Law as if;

(a) The Board had been a party thereto;

(b) For any reference to the Government therein there was substituted as respects anything

falling to be done or after the commencement of this Law referred to the Board.

Power of the Board to Borrow Money

12. (1) The Power of the Board to borrow money shall be exercisable with the approval of the Governor as to the amount of the loan, the sources of the borrowing and the terms of which the borrowing may be effected; and the approval given for the purpose of this sub-section may be either general or limited to a particular borrowing.

(2) Approval of the Governor for the purpose of sub-section (i) of this section may be subject to such conditions, as the Governor may specify.

Officers of the Board

13. (1) There shall be a General Manager to the Board who shall be appointed by the Governor.

(2) The General Manager shall be the Head of the General Administration division.

(3) The Board may appoint such other employees and agents as it may deem necessary for the efficient performance of the functions conferred on it under or pursuant to this Law.

Power to make rules relating to retirement benefits for employees

14 The Board may, with the approval of the Governor make rules with respect to its employees for:

(a) the pensions, gratuities and retirement allowances to be granted to pensionable employees of the Board and their dependants;

(b) the gratuities and retirement allowances to be granted to non-pensionable employees of the Board and their dependants;

(c) all matters ancillary to the matters mentioned in paragraphs (a) and (b) of this section.

PART IV – POWERS AND PROCEDURE IN RESPECT OF ELECTRICITY SUPPLY AND ELECTRICITY RATES

Rates and by scales of charges for electricity supplied by the Board

15. (1) The rates and scales of charges for electricity supplied the Board shall be such as the Board may from time to time with the approval of the Governor determine.

(2) Charges for electricity or scales may, if the Board thinks it fit, be fixed at different rates and scales for different locations.

Purchase and under resale of electricity supplied by the Board

16. No person shall resell electricity supplied by the Board save license granted by the Board upon such terms and conditions as the Board may prescribe; provided that no such license shall be required for the sale of any manufactured goods or other commodity in which electricity supplied by the Board is included.

Non-Liability of Board for consumers' wire, fittings, etc.

17. The Board shall not by virtue of making any inspection or test of a consumer's electrical wiring, appliances and apparatus in accordance with this Law or any regulations made thereunder, whether during the progress of the work or installation at the consumer's premises or after its completion, be responsible for the efficiency or safety of the consumer's wiring, fittings appliances and apparatus so inspected or tested, or for the proper execution of the work of installation, or for any damage or loss arising out of the use or misuse of apparatus by the consumer or any other person other than employee of the Board.

Entitlement to a supply and preclusion of preferential treatment

18. Except in so far as it is otherwise provided by this Law where supply of electricity is provided by the Board in any part of an area for private purpose, every person shall be entitled to a supply on the same terms on which other persons in such part of the area are entitled under similar circumstances to a corresponding supply: Provided that in the case of a new connection, electricity may be made available without detriment to existing supplies to persons or institutions in the area.

Expenses on certain necessary alteration

19. (1) If any person, department or authority is by or under any Law authorized to do any act which necessitates an alteration in any part of any sub-station or of any distribution network vested in or the property of the Board, the Board shall, on reasonable notice being given to it by such person, make such alteration and the expenses incurred hereby shall be borne by such person, department or authority.

(2) In the event of any dispute arising as to the amount of such expenses, the same may be referred by either the person or the Board to a single arbitrator to be appointed by the Governor.

Continuity

20. (1) The Board shall, as far as possible, maintain a

*of supply of
electricity*

continuity of supply of electricity throughout and to all parts of the State;

- (a) the Board shall have the right to suspend the supply of electricity for such periods as may be necessary for carrying out inspections, tests, or repairs and for the making of new connections;
- (b) the Board shall have the right to suspend or discontinue any supply where the payment of any supply where the payment of any rates, dues or charges are in arrears.

- (2) The Board shall under no circumstances be under any obligation to pay damages or compensation for loss, damage or inconvenience caused to any consumer through suspension, failure, discontinuance or interruption in whole or part of the supply of electricity howsoever caused.

*Power to
make
regulation*

- 21.** (1) The Board shall, with the approval of the Governor make regulations, for the efficient and successful implementation of the provision of this Law and without prejudice to the generality of the foregoing provisions, make regulations with respect to all or any of the following matters:

- (a) The price of or charge for, electricity supplied by meter or otherwise;
- (b) exemption from any electricity rate or charge of any tenement or class of tenements; or any person or class of persons;
- (c) the amount to be paid in respect of electricity supplied to any Government or Local Government institution whether of a public or private nature or to any such institution as aforesaid;
- (d) the amount of rent to be paid for meters;
- (e) the method and manners in which electricity may be taken from any sub-station or supply undertaking;
- (f) the price to be paid for all services or installations constructed or laid by the Board and place for the payment of the same;

- (g) the construction, laying, fitting, alteration or re-adjustment of services and of meters used therewith;
 - (h) the forms of all notices required to be given or sent under this Law and the issuing and services thereof;
 - (i) the prevention of the wrongful opening or closing of any breaker switch appertaining to any sub-station or otherwise belonging thereto;
 - (j) the prevention of the commission of any offences or nuisance in or about any of the substations, supply, installations, undertakings, plants, buildings or premises of the Board;
 - (k) The prevention of trespasses upon or damage to substations, plants, buildings or premises appertaining to any supply, undertaking or otherwise belonging thereto;
 - (l) generally for regulating the operation of substations and installations, etc. and the governance thereto and maintenance of good order thereon; and
 - (m) generally for the preservation and the conservation of the sources of electricity generation.
- (2) If any person contravenes or fails to comply with the provisions of any regulations made under the provisions of this section, or in the alternative, the Board may cut off electricity supply and in addition or in the alternative may, after such notice in writing as it may think fit, enter and cause electricity connections belonging to or used by that person which are not in accordance with the requirements of the regulation to be altered, repaired, replaced or removed and may recover the expenses reasonably incurred by it in so doing from the person in default in the manner provided for the recovery of electricity rates.
- (3) The application of any regulations made under this section may be general or may be limited as to area or time or otherwise.

PART V – OFFENCES AND PENALTIES

Willful or negligent damage of electrical installations etc.

22. (1) Any person who willfully or negligently damages an electrical installations or appliance or meter or unlawfully taps off, diverts or takes electricity from the same, or interferes with sources by which any electrical power is generated commits an offence and shall be liable on conviction to a fine not exceeding five thousand naira or to a term of imprisonment not exceeding twelve months and, in addition, to a fine not exceeding one thousand naira for each day the offence continues.
- (2) Any person who alters, or causes, or permits to be altered, any service installation without the consent of the Board commits an offence and shall be liable on conviction to a fine not exceeding five thousand naira.

Fraudulent measurement

23. Any person who alters, or causes, or permits to be altered any service with intent to avoid the accurate measurement or register of electricity by means of any meter or other instruments, or to avoid payment therefore, or willfully or negligently damages any meter or any other instrument, commits an offence and shall be liable on conviction to a fine not exceeding five thousand naira or a term of imprisonment not exceeding twelve months and any service so altered or meter so damaged shall be replaced or repaired by the Board at the expense of such person, and the cost of replacing or repairing any such service, meter or instrument shall be recovered upon the order of a Court of a competent jurisdiction in the same manner as any penalty may be recovered upon conviction.

Foul accumulation of earth, etc.

24. Any person who puts, or allows to be put or to remain; or to accumulate on any household owned by him or his servants or fails to remove or to cause to be removed, or fails to take such steps as may be necessary to prevent after notice in writing from the Board, any foul or obstructive matter, or earth or excavated materials or trees, or erected installations in such a manner or place that it may fall on or damage any electrical installation or the components thereof commits an offence and shall be liable on conviction to a fine not exceeding six months and in respect of any period during which such matter, earth, or excavated materials is allowed to remain after notice in writing from the Board requiring the same to be a penalty of five hundred naira for each day whilst the offence continues.

Tampering with any electrical equipment

25. Any person who:
- (a) tampers with any part of any electrical equipment or

(b) wrongfully taps or closes any control gear-switches, transformers and feeder-pillars belonging to the Board: Commits and offence and shall be liable on conviction to a fine not exceeding two thousand naira or to a term of imprisonment not exceeding six months.

Preliminary investigation in respect of land required for electrical installations.

- 26.** (1) Whenever it appears to the Board to be expedient for the purposes of any electrical installation, the Board may, in writing authorize any of its employees and agents together with all necessary workmen at all reasonable times, to enter on any land and:
- (a) Survey and take levels of the land;
 - (b) Dig or bore under the sub-soil; and
 - (c) Do all other acts necessary to ascertain whether the land is suitable for such purposes.

Provided that no such agent, servant or workman attached to a dwelling house, except with the consent of the occupier thereof and unless at least seven days' notice of the intended entry has been given to such occupier.

- (2) As soon as may be convenient, after any entry made under subsection (1) of this Section; the Board shall pay compensation for all damages arising out of the exercise of any power conferred by virtue of the provisions of that section.
- (3) In the case of dispute as to the amount of any compensation payable under this section, the amount may be determined by the Higher Court or a Magistrate's Court or any other Tribunal having jurisdiction in respect of the place where the land is situated.

Restriction of execution against Board's Installations

- 27.** No execution or attachment or process in any nature thereof shall be issued against any electrical installation of the Board or any other property vested in the Board.

Exemption of agreement for the supply of electricity from Stamp Duties Law, Cap. 116

- 28.** Electricity shall be deemed to be goods, wares or merchandise for the purpose of the exemption numbered (3), under the head "AGREEMENT or any MEMORANDUM of an AGREEMENT" contained in the Schedule to the Stamp Duties Law.

Interpretations

- 12.** In this Law, unless the context otherwise requires:

“Board” means the Ekiti State Electricity Board established under Section I of this Law.

“Domestic supply” means electricity from any installation used in any household for electrical services of domestic life;

“Dwelling house” means any premises used wholly or mainly for the purposes of private dwelling, with or without any garage, out-house garden, compound, yard, court; fore-court or other appurtenances belonging thereto or usually enjoyed therewith;

“Excess consumption” means:

- (a) from the general consumption rate, any amount of electricity ascertained by meter as having been used in such tenement;
- (b) in the case of a household in respect of which the general consumption rate is paid, any kilowatt or electricity ascertained by meter as having been used in such household in excess of such monthly allowances as may be prescribed.

“Financial year” means every period of twelve months commencing from first day of January and terminating on the 31st day of December;

“Government” means the Government of Ekiti State;

“Governor” means the Governor of Ekiti State;

“member” in relation to the Board includes the Chairman;

“meter” means any appliance used for measuring or ascertaining or regulating the amount of electricity taken or used from any supply by means of any service;

“non-domestic supply” means any electricity from any installation used for the purpose of, or in carrying on, any trade, business or manufacture of articles for pecuniary profit, or private consumption;

“occupier” in relation to a household means the person in occupation of the whole or any part of such tenement, but does not include a lodger;

“owner” in relation to a household includes the holder of a premises direct from the State whether under lease, license, or otherwise;

“power stations” means all generating sets and engines and all other structures or appliances used or constructed for the storage, conveyance, supply, measurement or regulation of electricity which are vested in the Board or which are thereafter acquired, used or constructed by or on behalf of the Board and are the property thereof;

“public corporation” means any such body corporate directly established by any law in force in the State as the Governor may, by notice in the State Gazette, declare to be a Public Utility Corporation for the purposes of this Law;

“public supply” means any installation used or intended to be used for or in connection with the supply of electricity to the public from any power station, and vested in the Board or erected or hereinafter erected by the Board and which is the property thereof;

“service” means all electrical fittings and other appliances excepting any means as herein defined by or through which electricity flows or is intended to flow from any power station or which are or may be used for the purpose of supplying any tenement from any electrical works and being the property of the owner or occupier of such tenement;

“State” means Ekiti State of Nigeria;

“State Electricity” means electricity from sources in the State other than such source as may be declared by any Federal Law to be sources affecting more than the State.

Citation and Commencement **30.** This Law may be cited as the Ekiti State Electricity Board Law 2012.

THE SCHEDULE

(Section 3(2))

CONSTITUTION AND PROCEEDINGS OF THE BOARD

- Eligibility for appointment* **1.** A member of the Board who has ceased to be such member shall unless removed on ground of misconduct, be eligible for re-appointment.
- Power of Government to Declare office vacant* **2.** If the Governor is satisfied that a member of the Board:
- (a) has been absent from three consecutive meetings of the Board without the permission of the Governor in the case of the Chairman, or the Chairman in the case of any other member; or
 - (b) is incapacitated by physical or mental illness; or
 - (c) is an undischarged bankrupt or made arrangement with his creditors; or
 - (d) is otherwise unable or unfit to discharge the functions of a member;
- The Governor may declare his office, as member of the Board, to be vacant and shall notify the fact in such manner as he thinks fit and upon such declaration such member shall vacate office, provided always that the powers of the Governor under Section 3(5) shall not be limited or circumscribed by any provision of the Schedule.
- Proceeding not to be void for vacancy or Defect in appointment* **3.** No act or proceedings of the Board shall be questioned on account of any vacancy in its membership or on account of the appointment of any member having been defective.
- Co-option of persons* **4.** Where, upon any special occasion, the Board desires to obtain the advice or services of any person on any particular matter, the Board may co-opt such a person to be member for such meeting or meetings as may be required and such person whilst so co-opted, shall have all the rights and privileges of a member, save that he shall not be entitled to vote on any question.
- Ordinary and Special meetings* **5.** The Board shall ordinarily meet at least once a month at such times and places as the Chairman may direct.
Provided that not less than three of the members of the Board by notice in writing signed by them, may request the Chairman to

summon a special meeting of the Board for such purposes as shall be specified in the notice or resolution as the case may be, and the Chairman shall at the earliest convenient date; summon a special meeting for the purposes set out therein.

***Presiding and
Voting*** 6.

- (1) At every meeting of the Board, the Chairman, if present, shall presides, but in his absence, the Board, subject to the provisions of paragraph 4 of this schedule may appoint one of its members present to preside.
- (2) Subject to the provisions of this schedule any question which fails to be determined by the Board at any of its meetings shall be decided by a majority of the members present and voting on the question.
- (3) The Chairman of the Board, or any other member presiding in his absence, shall have an original vote, and in the event of equality of votes, a casting vote.

***Appointment of
Committee*** 7.

- (1) The Board may, by resolution, approved by the Governor, appoint one or more Committees for the purpose of exercising and performing such functions conferred by this Law on the Board as may be therein specified.
- (2) Where a Committee has been appointed under sub-paragraph (1) of this paragraph, the Committee shall be competent to exercise or perform any of the functions specified in the resolution which is within the competence of the Board in the name and on behalf of the Board.
- (3) A Committee shall submit minutes of its proceedings to the Board at the next meeting of the Board following that of the Committee to which the minute relate.

Standing Orders 8.

Subject to the provisions of this Law, the Board may make standing orders for the purpose of regulating its own proceeding and without prejudice to the generality of the foregoing for the purpose of providing:

- (a) for the manner of transacting its business, or the business of any Executive Committee or any other Committee of the Board; and
- (b) for the custody and use of the common seal and the manner in which cheques, instruments and other documents of any description shall be signed on behalf of the Board.