

A BILL

FOR

AN ACT TO REPEAL THE LEGAL PRACTITIONERS ACT CAP L11, LAWS OF THE FEDERATION OF NIGERIA, 2004 AND RE-ENACT THE LEGAL PRACTITIONERS ACT TO PROVIDE FOR REFORMS AND REGULATE THE LEGAL PROFESSION AND FOR RELATED MATTERS

Sponsors:

Hon. Onofio Akpan Luke
Hon. Shaba Ibrahim
Hon. Mohammed Omar Bio
Hon. Saidu Muhammed Mustafa
Hon. Karu Simon Elisha
Hon. Tajudeen Abbas
Hon. Dandutse M. Mohammed
Hon. Ofumelu Vincent Ekene
Hon. Chikere Kenneth Anayo
Hon. Akinjo Kolade Victor
Hon. Chukwuegbo Ofor Gregory
Hon. Olarewaju Ibrahim Kunle
Hon. Muraina Saubana Ajibola

Hon. Dederi Haruna Isa
Hon. Gbande Iorkyaan Richard
Hon. Hassan Abubakar N alaraba
Hon. Dogara Yakubu
Hon. Abubakar Yerima Idiris
Hon. Ayuba Badamasi
Hon. Nkern-Abonta Uzoma
Hon. Egbona Alex
Hon. Benson Babajimi Adegoke
Hon. Obinna Chidoka
Hon. Mutu Nicholas Ebomo
Hon. Akiolu Moshood Kayode
Hon Vincent Ofumelu

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows-

PART A - GENERAL

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1.-(1) There shall be a Body Corporate with perpetual succession and a common seal made up of Legal Practitioners of the highest distinction in the legal profession in Nigeria to be known as the Body of Benchers.

(2) The powers of the Body of Benchers shall include-

(a) Call to the Bar of eligible candidates;

(b) Taking all measures (whether by making regulations pursuant to the powers conferred on it by this section or otherwise howsoever) which appear to it to be necessary or expedient for maintaining at all times the traditional values and wellbeing of the legal profession; and

(c) The exercise of disciplinary jurisdiction over members of the legal profession.

(3) The Body of Benchers shall be made up of the following members-

(a) The Chief Justice of Nigeria;

(b) All the Justices of the Supreme Court;

(c) The President of the Court of Appeal;

(d) Life Benchers;

Body of Benchers

- 1 (e) The Attorney General of the Federation;
- 2 (f) The President of the Nigerian Bar Association;
- 3 (g) The Presiding Justices of the Court of Appeal Divisions;
- 4 (h) The Chairman of the Council of Legal Education;
- 5 (i) The Chief Judge of the Federal High Court;
- 6 (j) The President of the National Industrial Court;
- 7 (k) The Chief Judge of the High Court of the Federal Capital Territory,
- 8 Abuja;
- 9 (l) The Chief Judges of the States of the Federation;
- 10 (m) The Attorneys General of the States of the Federation;
- 11 (n) President of the Senate (where he is a lawyer);
- 12 (o) Speaker of the House of Representatives (where he is a lawyer);
- 13 (p) The Chairman of the Senate Committee on Judiciary (where he is a
- 14 lawyer);
- 15 (q) The Chairman of the House Committee on Judiciary (Where he is a
- 16 lawyer);
- 17 (r) 30 (Thirty) Legal Practitioners nominated by the National
- 18 Executive Committee of the Nigerian Bar Association with a minimum of 15
- 19 years' post call; Five (5) of whom shall be Law Teachers;
- 20 (s) Such number of persons, not exceeding 10 (ten), who appear to the
- 21 Body of Benchers to be eminent members of the Legal Profession in Nigeria of
- 22 not less than 15 (fifteen) years post call standing, nominated by the Chairman,
- 23 Body of Benchers.
- 24 (4) The Body of Benchers shall make regulations-
- 25 (a) providing for a modification in the membership of the Body of
- 26 Benchers as set out in subsection (3) of this section and the qualifications for
- 27 and conditions applicable to such membership;
- 28 (b) providing for the tenure of office of Benchers including the
- 29 conferment of life membership on any Benchers;
- 30 (c) providing for the appointment of persons of distinction in any

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country as honorary members of the Body of Benchers and the conditions
applicable to such appointment;

(d) providing for the composition and quorum of the Benchers for
the purpose of the exercise of any of the functions conferred on the Benchers
under this Act and for determining in connection thereto of any matter
which, in the opinion of the Benchers, requires to be determined; and

(e) providing, either generally or in respect of any particular case,
for the discharge of the functions conferred on the Benchers under this Act.

(5) Any Benchers may in such manner and subject to such procedure
as may be prescribed be removed from office for misconduct or on such
other ground as the Benchers may, in their discretion determine.

(6) The Benchers shall meet at such times, at the Benchers Hall
and/or places that may be convenient for them and may, in such manner as
they think fit, prescribe the procedure for their meetings.

(7) The validity of any proceedings of the Body of Benchers shall
not be affected by any vacancy in the membership of the Body or by any
defect in the appointment of a member or by any irregularity in such
proceedings.

(8) The disciplinary powers conferred on the Body of Benchers
(under subsection (2)(c) of section 1 shall be exercised in such manner as
may be prescribed by rules made by the Body of Benchers.

2.-(1) Any member of the Body of Benchers whose membership is
by virtue of office ceases to be a Benchers immediately he leaves the office
entitling him to be a member of the Body of Benchers.

(2) Other Members remain in office for 3 years in the first instance,
but may be re-appointed for another term of 3 years only.

(3) Present and Past Chief Justices of Nigeria are Life Benchers.

(4) A Member who serves in the Body consistently,
conscientiously and meritoriously for a period of 5 consecutive years

Members' Tenure

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1 becomes eligible to be appointed a Life Bencher, provided there is a vacancy.

2 (5) The Body of Benchers may make rules providing, among other
3 items, for the-

4 (a) Appointment of a Chairman and other officers and for succession
5 to the offices;

6 (b) Removal of a Bencher for misconduct;

7 (c) Convening of meetings;

8 (d) Licensing of Legal Practitioners;

9 (e) Discipline of Legal Practitioners;

10 (f) Tenure and quorum of Legal Practitioners' Disciplinary
11 Committee;

12 (g) Appointment of Honorary Benchers from other jurisdictions;

13 (h) Composition and quorum for specific assignments.

14 (6) The quorum of the Body of Benchers for general business is 30.

15 (7) The validity of any proceedings of the Body of Benchers shall not
16 be vitiated by any vacancy in its membership or any defect in the appointment
17 of a member.

Office of the
Secretary and
Secretariat for
the Body of
Benchers

18 3.-(1) There shall be established for the Body, the office of a Secretary
19 who shall have a career service and shall be appointed by the Body of
20 Benchers.

21 *Secretary*

Functions and
Qualification

22 (2) The Secretary shall be-

23 (i) The head of the Secretariat and shall be responsible for the
24 execution of policies and the day to day running of the affairs of the Body;

25 (ii) A Legal Practitioner with a career service of not less than 10 years
26 post call experience;

27 (iii) The Chief Accounting Officer, shall keep all financial records and
28 render Financial Accounting Returns to the Accountant General of the
29 Federation and to the Body of Benchers;

30 (iv) Responsible for the administration of the Secretariat, keeping of

1 the books and records of the Body and perform such other duties and
2 functions as the Chairman may from time to time direct;

3 (v) Subject to the supervision and control of the Chairman and the
4 Body;

5 (vi) Prudent in collection and expenditure of all revenue;

6 (vii) Responsible for preparing and defending the Annual budget
7 of the Body;

8 (viii) In charge of all the Committees of the Body;

9 (ix) Responsible for Issuance of Notice of Meetings of the Body of
10 Benchers and Committee Meetings;

11 (x) Responsible for supervising and overseeing the arrangements
12 for Call to Bar ceremonies and Law dinners;

13 (xi) Responsible for carrying out and implementing the
14 Resolutions passed by the Body from time to time and also be responsible
15 for carrying out and executing such other instructions and directives as may
16 be given to him by the Body or its Chairman; and

17 (xii) Maintain a record of the roll of Legal Practitioners in Nigeria.

18 (3) (a) The Body shall have powers to appoint such number of
19 persons as it deems necessary as staff of the Body;

Staff of the
Body

20 (b) The scheme of service obtainable in the judiciary and public
21 service shall be applicable to the staff;

22 (c) The Body of Benchers may make staff regulations relating
23 generally to the conditions of service of the employees of the Body and
24 without prejudice to the generality of the foregoing such regulations may
25 provide for the appointment, promotion and disciplinary control (including
26 dismissal) of any employee.

27 4.-(1) The Body shall be duly funded and operate within normal
28 budgetary allocation as may be made to it by the Federal Government
29 through the National Judicial Council.

Financial
Provision

30 (2) The Body of Benchers may accept gifts of money or movable or

Power to accept
gifts

1 immovable property upon such terms and condition as may be prescribed by
2 the Body.

3 (3) The Body of Benchers shall not accept any gift if the conditions
4 attached thereto by the person or organization making the gift is the acceptance
5 thereof are inconsistent with or inimical to the functions of the Body of
6 Benchers.

7 (4) The Body of Benchers may, subject to any trust created in respect
8 of any property, invest its funds including any of its surplus funds in any
9 securities as may be approved by the Body of Benchers.

Composition
and Proceedings
of Bar Council

10 5.-(1) There shall be a body to be known as the General Council of the
11 Bar (hereinafter in this Act referred to as "the Bar Council") which shall be
12 charged with the general management of the affairs of the Nigerian Bar
13 Association (subject to any limitations for the time being provided by the
14 constitution of the association) and with any functions conferred on the
15 council by this Act or that constitution.

16 (2) The Bar Council shall consist of-

17 (a) the Attorney-General of the Federation, who shall be the
18 president of the council;

19 (b) the Attorneys-General of the States; and

20 (c) twenty members of the association.

21 (3) The persons mentioned in paragraph (c) of subsection (2) of this
22 section shall-

23 (a) be elected to serve on the Bar Council at elections in which all
24 members of the association are entitled to vote in such manner as may be
25 provided by the constitution of the association; and

26 (b) hold office for such period as may be determined by or under that
27 constitution, and not less than seven of those persons shall be legal
28 practitioners of not less than ten years standing.

29 (4) The quorum of the Bar Council shall be eight, and the council may
30 make standing orders regulating the procedure of the council and, subject to

1 the provisions of any such orders, may regulate its own proceedings; and no
2 proceedings of the council shall be invalidated by any vacancy in the
3 membership of the council, or by the fact that any person took part in the
4 proceedings who was not entitled to do so.

5 6.-(1) All Courts shall accord to the officers listed in subsection (2)
6 the privileges listed in subsection (3).

Inner Bar and
Docket Priority

7 (2) The officers are the Attorney General of the Federation,
8 Attorneys General of States, Senior Advocates of Nigeria, Life Benchers,
9 President of the Nigerian Bar Association, Solicitor General of the
10 Federation and Solicitors General of the States.

11 (3) The privileges are-

12 (a) The privilege to sit in the Inner Bar or front rows of the seats
13 available in Courts for Legal Practitioners;

14 (b) Without prejudice to the priority of criminal and human rights
15 cases, the privilege to mention their cases out of turn.

16 7.-(1) A person is entitled to practice as a Legal Practitioner only if
17 his name is on the Roll of the Legal Practitioners kept at the Supreme Court
18 of Nigeria and he has met all the conditions for practice set out in this Act and
19 any rules made by the Body of Benchers.

Practice as a
Legal Practitioner

20 (2) For the purposes of this Act and any other enactment relating to
21 the entitlement of any person to practice law in Nigeria, the terms 'practice
22 of law' and the 'provision of legal services' shall include the provision of
23 advice on, and/or the application of, legal principles and judgment to the
24 circumstances of any person who requires the knowledge and skill of a
25 person trained in the law.

26 (3) For the purposes of this section:

27 (a) 'Person' includes the plural as well as the singular and denotes
28 an individual or any legal or commercial entity;

29 (b) "Adjudicative body" includes a court, a mediator, an arbitrator
30 or a legislative body, administrative agency or other body acting in an

1 adjudicative capacity. A legislative body, administrative agency or other body
2 acts in an adjudicative capacity when a neutral official, after the presentation of
3 evidence or legal argument by a party or parties, will render a binding legal
4 judgment directly affecting a party's interests in a particular matter.

5 (4) The practice of law and the provision of legal services:

6 (a) in Nigeria;

7 (b) in relation to matters of Nigerian law; or

8 (c) in relation to disputes or transactions with substantial nexus to
9 Nigeria, shall be carried on only by persons entitled to practice law in Nigeria.

10 (5) A person is presumed to be practicing law or providing legal
11 services when engaging in any of the following conduct on behalf of another:

12 (a) giving advice or counsel to persons as to their legal rights or
13 responsibilities or to those of others;

14 (b) selecting, drafting, or completing legal documents or agreements
15 that affect the legal rights of a person;

16 (c) representing a person before an adjudicative body, including, but
17 not limited to, preparing or filing documents or conducting discovery; or

18 (d) negotiating legal rights or responsibilities on behalf of a person.

19 (6) Notwithstanding the provisions above, the following are
20 permitted whether they constitute the practice of law or not:

21 (a) Pro se representation;

22 (b) Serving as arbitrator, mediator, conciliator or expert determiner;

23 and

24 (c) trainee law students working under the direct supervision of
25 persons entitled to practice law in Nigeria in strict compliance with the Rules of
26 Professional Conduct.

27 8. A candidate is eligible to be called to the Bar if the candidate
28 satisfies the Body of Benchers that-

29 (1) The Council of Legal Education has issued a Qualifying
30 Certificate to the candidate;

(2) The candidate is of good character; and

(3) The candidate has satisfied all prescribed conditions by the
Body of Benchers.

9.-The Body of Benchers shall issue to every person called to the
Bar a Certificate.

Certificate of
Call and Enrolment

10. The Chief Registrar of the Supreme Court shall enrol every
person who presents to him a Certificate of Call to the Bar issued to that
person.

11. (1) Every person called to the Nigerian Bar shall undergo a
mandatory pupillage for one year.

Pupilages

(2) Any person who has not undertaken the mandatory one year
pupillage shall not be entitled to commence practice as a Legal Practitioner.

(3) The Body of Benchers shall make regulations and set up the
criteria for the conduct of pupillage for new entrants to the Bar.

(4) The Body of Benchers shall develop and maintain a pupillage
Handbook which shall among others deal with the structure and duration of
the pupillage programme, fair treatment and selection of pupils, duties,
training and responsibilities of pupil supervisors, support and advise for
pupils, complaints procedures and remuneration of the pupil.

(5) The Body of Benchers shall have a division responsible for
pupillage programme and shall have qualified Legal Practitioners as pupil
supervisors. Participation and contribution as pupil supervisor will be one of
the criteria for conferment of legal practitioners' privileges under this Act.

(6) The commencement of this section shall be upon issuance of
appropriate rules by the Body of Benchers.

12. It shall be the responsibility of the Body of Benchers to set
standards for law offices of Legal Practitioners in Nigeria.

Inspection and
Accreditation

13.-(1) Subject to the Regulations from time to time made by the
Body of Benchers, a person whose name is on the Roll shall be entitled to
practice as a legal practitioner provided that before offering any form of

Practising
Licence

1 legal service, he obtains a practicing licence from the Body of Benchers
2 certifying that he is entitled to practice as a legal practitioner according to the
3 provisions of this Section.

4 (2) The practicing licence shall be issued or renewed at intervals
5 prescribed under the regulations made from time to time by the Body of
6 Benchers.

7 (3) The practicing licence shall be issued or renewed by the Body of
8 Benchers upon being satisfied that the applicant has:

9 (a) Obtained the required number of credits under a mandatory
10 continuing legal education scheme administered or approved by the Nigerian
11 Bar Association;

12 (b) Paid annual practicing fees stipulated in this Act for the year the
13 application is made; and

14 (c) Satisfied the Body of Benchers that he is a person of good
15 character.

16 (4) It shall be unlawful for any person without a valid licence:

17 (a) to act in anyway or to present himself or herself before any court,
18 Tribunal or Arbitrator as a legal practitioner;

19 (b) in any way as a legal practitioner or hold himself out as such when
20 he is not, including preparing and or signing or filing any Contract,
21 memorandum, deed, will, lease, assignment, power of attorney, mortgage, title
22 deed, notice, warrant, bond, legal opinion, affidavit or any other document
23 whatsoever.

Stamp and
Seal

24 14.-(1) Every document of the type referred to in subsection (4) of
25 section 13 signed by a legal practitioner in his or her capacity as such, and
26 which purports to affect the rights, interests, estate or liability of any person
27 shall be evidenced by affixing a stamp and seal to be issued to individual Legal
28 Practitioners by the Body of Benchers.

29 (2) The Body of Benchers shall constitute a standing committee to
30 issue and renew licences, stamps and seals and implement the Regulations

made pursuant to Section 13 of the LPA.

15. The Chief Justice of Nigeria may, after consultation with the
Body of Benchers, by regulations provide for the enrolment of the names of
persons who are authorised by law to practise as members of the legal
profession in any country where, in his opinion, persons whose names are on
the Roll are afforded special facilities for practising as members of that
profession; and, without prejudice to the generality of the power conferred
by the foregoing provisions of this section. The regulations may require
persons seeking enrolment by virtue of the regulations to pass such
examinations and to pay such fees as may be specified by or under the
regulations.

Rules to allow
practice by Foreign
Lawyers

16. It shall be the duty of the Chief Registrar of the Supreme Court
to continue to maintain the Roll of legal practitioners kept in the Supreme
Court.

Roll of Legal
Practitioners

17. This Act repeals the Legal Practitioners Act, CAP 11, Laws of
the Federation of Nigeria, 2004, Revised Edition.

Repeal and
Savings

18.-(1) In this Act the following terms have the meanings
respectively assigned to them, unless the context requires otherwise:

Interpretation

"Attorney-General" means Attorney-General of the Federation and
Attorneys General of States;

"Bar Council" means the General Council of the Bar;

"Client" includes any person to whom a Legal Practitioner provides Legal
services;

"Foreign lawyer" means a person entitled to practise law in a foreign
jurisdiction;

"Former Act" means the Legal Practitioners Act 2004 as amended;

"functions" includes duties and powers;

"him" includes female gender and vice versa;

"instrument", in relation to immovable property, means any document
which confers, transfers, limits and charges or extinguishes any interest in

1 the property or which purports to do so;
2 "Legal Practice"
3 "legal practitioner" means a person whose name is on the Roll of Legal
4 Practitioners kept at the Supreme Court of Nigeria;
5 "NBA" Referencing to NBA, Nigerian Bar Association and Association
6 includes Incorporated Trustee of the Nigerian Bar Association or any other
7 Body incorporated for the governance and management of the Legal
8 Profession;
9 "Prescribed" means by regulations made by the Body of Benchers;
10 "the Roll" means the Roll of legal practitioners maintained under Section 16;
11 "SAN" means a legal practitioner who has been elevated to the rank of Senior
12 Advocate of Nigeria;
13 "Solicitor-General" means the Solicitor-General of the Federation or of a State;
14 "theft" means stealing and includes fraudulent conversion or misappropriation.

Citation

15 19.-(1) This Bill may be cited as the Legal Practitioners Bill, 2021.

16 FIRST SCHEDULE

17 COMMITTEES OF THE BODY OF BENCHERS

18 1.-(a) The Body of Benchers may establish such number of
19 Committees from time to time for the purpose of carrying out its statutory
20 duties. The Body shall determine the term of reference, regulations and mode
21 of appointment, tenure, quorum and manner of meetings for each Committee;

22 (b) For the time being, the Body shall have the following Committees:

23 (i) Legal Practitioners Licensing Committee:

24 The Licensing Committee shall amongst other things be charged with the
25 responsibility of issuing and renewing licenses which may include issuing
26 stamp and seals to all eligible Lawyers who wish to practice law in Nigeria.

27 (ii) Legal Practitioners Disciplinary Committee:

28 The function of the Committee shall include the duty of considering and
29 determining any case where it is alleged that a person who is a member of the
30 legal profession has misbehaved in his capacity as such or should for any other

1 reason be the subject of proceedings under this Act.

2 (iii) Rules Committee:

3 The function shall be to make and ~~the~~ **for the Body of Benchers.**

4 (iv) Screening Committee:

5 The Committee shall, amongst other things ~~be charged with the~~
6 responsibility of screening aspirants to the Bar ~~to ensure that they are fit and~~
7 proper persons to be admitted into the Nigerian Bar.

8 (v) Finance Committee:

9 The Committee shall amongst other things be responsible for managing the
10 finances of the Body of Benchers as contributed by statutory members.

11 (vi) Publicity Committee:

12 The function of the Committee shall be to project the image of the Body of
13 Benchers through such processes including but not limited to publications,
14 website management, etc.

15 (vii) Benchers Appointment Committee:

16 The Committee shall amongst other functions, be responsible for the
17 appointment of Benchers and Life Benchers to ensure that only persons with
18 proven integrity are appointed as Benchers and only deserving Benchers are
19 conferred with the status of Life membership.

20 (viii) Ethics and Compliance Committee:

21 The Committee shall be responsible amongst other things, for providing the
22 framework for ethical conducts and behaviour of members of the Body of
23 Benchers, particularly during Meetings, Call to Bar ceremonies and such
24 other official engagements by the Body of Benchers

25 (ix) Mentoring and Pupilage Committee:

26 The Committee shall be responsible amongst other things for developing an
27 effective mentoring and pupilage programme for the Body of Benchers,
28 identifying necessary programmes as well as recommending regulations
29 where needed.

30 (x) Recruitment, Promotion and Discipline Committee:

1 The function of the Committee includes the recruitment of senior staff for the
2 Body of Benchers as well as promotion and discipline of staff within the
3 organization.

4 (xi) Elders Committee:

5 The Elders Committee comprises of Past Chairmen of the Body of Benchers
6 and shall be responsible amongst other things to advise the Body of Benchers
7 on matters which affects the entire Legal Profession aimed at having a
8 harmonious and respected Profession.

9 (xii) Legal Practitioners Privileges Committee:

10 The Committee shall amongst other things be responsible for the conferment
11 on any deserving Legal Practitioner the Rank of Senior Advocate of Nigeria.

12 ITEMA - Legal Practitioners Licensing Committee:

13 (1) There shall be a committee of the Body of Benchers to be known
14 as the Legal Practitioners Licensing Committee (in the Act referred to as "the
15 Licensing Committee") which shall be charged with the duty of issuing and
16 renewal of licence to eligible applicants into the Nigerian Bar.

17 (2) The Licensing Committee shall consist of;

18 (i) The Vice Chairman, Body of Benchers as Chairman;

19 (ii) The President, Nigerian Bar Association;

20 (iii) Three (3) Life Benchers;

21 (iv) Two (2) Benchers nominated by the National Executive
22 Committee of Nigerian Bar Association;

23 (v) Secretary of the Body of Benchers, who shall serve as the
24 Secretary of the Committee.

25 ITEM B - The Rules Committee:

26 (1) There shall be a Committee of the Body of Benchers to be known
27 as The Rules Committee, which shall be charged with the duty of making and
28 reviewing rules of the Body of Benchers from time to time.

29 (2) The Committee shall consist of:

30 (i) The Vice Chairman of the Body of Benchers as the Chairman;

- 1 (ii) The President of the Nigerian Bar Association;
2 (iii) Five (5) Benchers;
3 (iv) The Secretary of the Body of Benchers as Secretary of the
4 Committee.

5 ITEM C - Legal Practitioners Disciplinary Committee:

6 (1) There shall be a Committee of the Body of Benchers to be
7 known as the Legal Practitioners Disciplinary Committee (in this Act
8 referred to as "the Disciplinary Committee") which shall be charged with the
9 duty of considering and determining any case where it is alleged that a
10 person who is a member of the legal profession has misconducted himself in
11 his capacity as such or should for any other reason be the subject of
12 proceedings under this Act.

13 (2) The Disciplinary Committee shall consist of-

14 (a) a Chairman who shall not be either the Chief Justice of Nigeria
15 or a Justice of the Supreme Court;

16 (b) 2 (two) Justices of the Court of Appeal one of whom shall be the
17 President and the other a Presiding Justice;

18 (c) 2 (two) Chief Judges;

19 (d) 2 (two) Attorneys-General, who shall be either the Attorney-
20 General of the Federation and the Attorney- General of a State or two State
21 Attorneys-General;

22 (e) 4 (four) members of the Association who are Benchers and not
23 connected with either the investigation of a complaint or the decision by the
24 Association to present a complaint against a legal practitioner for
25 determination by the Disciplinary Committee; and

26 (f) Such additional number of members of the Association as the
27 Body of Benchers may deem fit to appoint for the purpose of the effective
28 conduct of the business of the Disciplinary Committee.

29 (3) The quorum of the Disciplinary Committee shall be three, but
30 no decision or proceeding of the Disciplinary Committee will be rendered

1 invalid on the ground of quorum other than those set out in the Interpretation Act.

2 **(4)(i)** The Body of Benchers shall make rules for the purposes of any
3 proceedings and as to the procedure to be followed and the rules of evidence to
4 be observed in proceedings before the Disciplinary Committee;

5 **(ii)** The rules shall in particular provide-

6 **(a)** For securing that notice of the proceedings shall be given, at such
7 time and in such manner as may be specified by the rules, to the person against
8 whom the proceedings are brought;

9 **(b)** For determining who, in addition to the person aforesaid, shall be a
10 party to the proceedings;

11 **(c)** For securing that any party to the proceedings shall, if he so
12 requires, be entitled to be heard by the Disciplinary Committee;

13 **(d)** For enabling any party to the proceeding to be represented by a
14 legal practitioner;

15 **(e)** The costs of proceedings before the Disciplinary Committee;

16 **(f)** For requiring, in a case where it is alleged that the person against
17 whom the proceedings are brought is guilty of infamous conduct in any
18 professional respect, that where the Disciplinary Committee adjudges that the
19 allegation has not been proved it shall record a finding that the person is not
20 guilty of such conduct in respect of the matters to which the allegation relates;

21 **(g)** For publishing in the Federal gazette notice of any direction of the
22 Disciplinary Committee which has taken effect providing that a person's name
23 shall be struck off the roll or that a person shall be suspended from practice

24 **(5)(i)** A person appointed by the Body of Benchers to be a member of
25 the Disciplinary Committee shall unless he previously resigns, hold office for
26 such term, not exceeding three years, as may be specified in his instrument of
27 appointment;

28 **(ii)** A person ceasing to be a member of the Disciplinary Committee
29 shall be eligible for reappointment as a member of the Committee for another
30 term of three years.

(6) The Disciplinary Committee may act notwithstanding any vacancy in its membership and no proceedings of the Disciplinary Committee shall be invalidated by any irregularity in the appointment of a member thereof, or by reason of the fact that any person who was not entitled to do so took part in the proceedings, or by virtue of any variation in the composition of the membership of the panel in the course of proceedings.

(7) The Disciplinary Committee may empanel its members to sit in divisions.

~~(8)~~ Any document authorized or required by this Act to be served on the Disciplinary Committee shall be served on the Secretary, Body of Benchers.

ITEM D - Penalties for unprofessional conduct, etc.

(1) Where-

(a) A person who is a member of the legal profession is judged by the Disciplinary Committee to be guilty of infamous conduct in any professional respect; or

(b) A person who is a member of the legal profession is convicted, by any court in Nigeria having power to award imprisonment, of an offence (whether or not an offence punishable with imprisonment) which in the opinion of the Disciplinary Committee is incompatible with the status of a legal practitioner; or

(c) The Disciplinary Committee is satisfied that the name of any person has been fraudulently enrolled, the Disciplinary Committee, may, if it thinks fit, give a direction-

(i) Ordering the Registrar to strike that person's name off the Roll;

(ii) Suspending that person from practice by ordering him not to engage in practice as a legal practitioner for such period as may be specified in the direction; or

(iii) Admonishing that person,
and any such direction may, where appropriate, include provision requiring

1 the refund of moneys paid or the handing over of documents or any other thing
2 as the circumstances of the case may require.

3 (2) Where a person whose name is on the Roll is judged by the
4 Disciplinary Committee to be guilty of misconduct not amounting to infamous
5 conduct which, in the opinion of the Disciplinary Committee, is incompatible
6 with the status of a legal practitioner, the Disciplinary Committee may, if it
7 thinks fit, give such a direction as is authorized by Paragraph 1 (c) (ii) or (iii) of
8 Item D of Schedule 1; and any such direction may, where appropriate, include
9 provision requiring the refund of moneys paid or the handing over of
10 documents or any other thing, as the circumstances of the case may require.

11 (3) The Disciplinary Committee may, if it thinks fit, defer or further
12 defer its decision as to the giving of a direction under Paragraphs 1 and 2 of
13 Item D of Schedule 1 until a subsequent meeting of the Committee.

14 (4) It shall be the duty of the Bar Council to make rules from time to
15 time on professional conduct in the legal profession and cause such rules to be
16 published in the Federal Government Gazette and distributed to all the
17 branches of the Association.

18 (5) For the purposes of paragraph 1 of Item D of Schedule 1, a person
19 shall not be treated as convicted as mentioned in Paragraph 1(b) of Item D of
20 Schedule 1 unless the conviction stands at a time when no appeal or further
21 appeal is pending or may (without extension of time) be brought in connection
22 with the conviction.

23 (6) When the Disciplinary Committee gives a direction under
24 Paragraph 1 or Paragraph 2 of Item D of Schedule 1, the Disciplinary
25 Committee shall cause notice of the direction to be served on the person to
26 whom it relates and submit to the Body of Benchers a report on its findings
27 which resulted in the issuance of the notice.

28 (7) The person to whom such a Direction relates may, at any time
29 within 28 days from the date of service on him of notice of the direction, appeal
30 against the Direction to the Supreme Court; and the Disciplinary Committee

1 may appear as respondent to the appeal and, for the purpose of enabling
2 Directions to be given as to the costs of the appeal and of proceedings before
3 the Disciplinary Committee, shall be deemed to be a party thereto whether
4 or not it appears on the hearing of the appeal.

5 (8) A Direction of the Disciplinary Committee under Paragraph 1
6 of Paragraph 2 of Item D of Schedule 1 shall take immediate effect.

7 (9) Where a Direction is given under Paragraph 1 or 2 of Item D of
8 Schedule 1 for the refund of moneys paid or the handing over of documents
9 or any other thing and within 28 days of the date of the direction (or where an
10 appeal is brought, on the dismissal of the appeal) and the legal practitioner
11 fails to comply with the direction, the Disciplinary Committee may deal
12 with the case as one involving misconduct by the legal practitioner in his
13 professional capacity.

14 (10) where a Direction given under paragraph 1 or 2 of Item D of
15 Schedule 1 and such a Direction is affirmed by the Supreme Court, such
16 Direction of the Supreme Court shall be published by the Body of Benchers
17 in the Federal Government Gazette and copies shall be issued to the Chief
18 Justice of Nigerian, President of the Court of Appeal, Chief Judge of the
19 Federal High Court, President of the National Industrial Court, Chief Judges
20 of States, Attorney General of the Federation, Attorneys General of States,
21 Nigerian Bar Association, Inspector General of Police, Nigerian Law
22 School and other relevant bodies or agencies.

23 ITEM E- Disciplinary jurisdiction of the Supreme Court:

24 (1) Where it appears to the Supreme Court that a person whose
25 name is on the Roll has been guilty of infamous conduct in any professional
26 respect with regard to any matter of which the court or any other court of
27 record in Nigeria is or has been seized, the Supreme Court may if it thinks fit
28 after hearing any representations made and evidence adduced by or on
29 behalf of that person and such other persons as the court considers
30 appropriate, give such a direction as is mentioned in Paragraph 1 of Item D

1 of Schedule 1, and the direction shall take effect forthwith; and except in the
2 case of an admonition the court shall cause notice of the direction to be
3 published in the Federal Government Gazette.

4 (2) Where it appears to the Chief Justice that a legal practitioner
5 should be suspended from practice, either with a view to the institution against
6 him of proceedings under this Act before the Disciplinary Committee or while
7 any such proceedings are pending, the Chief Justice may if he thinks fit, after
8 affording the practitioner in question an opportunity of making representations
9 in the matter, give such direction as is authorized by paragraph 1 (ii) of Item D
10 of Schedule 1 and in deciding whether to give such a direction in consequence
11 of the conviction of a legal practitioner, the Chief Justice shall be entitled to
12 disregard the provisions of Paragraph 5 of Item D of Schedule 1.

13 ITEM F - Restoration of names to Roll, etc.

14 (1) Where either before or after the commencement of this Act the
15 name of any person has been struck off the Roll or a person has been or is
16 deemed to have been suspended from practice, he may, subject to the
17 provisions of Paragraph 2 of Item F of Schedule 1, make an application for the
18 restoration of his name to the Roll or the cancellation of the suspension-

19 (a) If the striking off or suspension was ordered by the Chief Justice or
20 the Supreme Court, to that Court; and

21 (b) In any other case, to the Disciplinary Committee.

22 (2) A direction under Paragraph 1 of Item B of Schedule 1 or
23 Paragraph 1 of the disciplinary jurisdiction of the Supreme Court of this Act
24 may prohibit an application under Paragraph 1 of this Item until the expiration
25 of the period specified in the direction; and where such an application is duly
26 made to the Supreme Court or the Disciplinary Committee, the court or
27 Disciplinary Committee may direct that no further application shall be made
28 under Paragraph 1 of this Item until the expiration of the period specified in the
29 direction under this subsection.

SECOND SCHEDULE

ITEMA - The Legal Practitioners Privileges Committee:

1. There shall be the Legal Practitioners Privileges Committee of the Body of Benchers which shall consist of:

(i) The Chief Justice of Nigeria as the Chairman;

(ii) The Justice of the Supreme Court next in seniority to the Chief Justice;

(iii) The President of the Court of Appeal;

(iv) The Attorney-General of the Federation;

(v) The President of the NBA;

(vi) 2 (Two) past Presidents of the NBA;

(vii) The Chief Judge of the Federal High Court;

(viii) 6 (Six) Chief Judges of the High Courts of States appointed by the Chief Justice of Nigeria in rotation from among states constituting each of the six geographical zones;

(ix) 6 (Six) Senior Advocates of Nigeria nominated by the National Executive Committee of the NBA; and

(x) 2 (Two) Life Benchers selected by the Chairman of the Body of Benchers

2. The members of the Privileges Committee appointed under Paragraph 1 (vi), (viii) and (ix) above shall hold office for a term of 2 years, renewable only once.

3. The Privileges Committee may act, proceed or function even if there are vacancies in its membership.

4. Quorum for Privileges Committee proceedings is 9.

5. The Privileges Committee may by instrument confer on any deserving Legal Practitioner the rank of Senior Advocate of Nigeria.

6. Eligibility for Rank of SAN

A candidate for a rank of SAN must be a Legal Practitioner with at least 15

1 years' post-call experience, who has achieved distinction in the Legal
2 Profession.

3 7. The Legal Practitioners' Privileges Committee shall, with the
4 approval of the Body of Benchers make rules as to the privileges to be accorded
5 to Senior Advocates of Nigeria, as to the functions of a legal practitioner, which
6 are not to be performed by a Senior Advocate of Nigeria, as to the mode of
7 appearance before courts by a Senior Advocate of Nigeria, and generally, but
8 without prejudice to the foregoing, for ensuring the dignity of the rank of
9 Senior Advocate of Nigeria.

10 8. The Privileges Committee with the approval of the Body of
11 Benchers shall make, retain or review rules and criteria for conferment of the
12 rank of SAN, but may stipulate clear conditions for withdrawal of the rank, and
13 those conditions must stipulate prior disciplinary proceedings against any
14 erring Senior Advocate of Nigeria.

15 **ITEM B - Legal Practitioners Remuneration Committee**

16 1. There shall be the Legal Practitioners Remuneration Committee
17 which shall consist of:

- 18 (i) Attorney-General of the Federation as Chairman,
19 (ii) 6 (Six) States Attorneys-General,
20 (iii) NBA Presidents (Past and Present),
21 (iv) 6 (Six) NBA members nominated by the NBA National Executive
22 Committee.

23 2. Quorum for Remuneration Committee proceedings shall be the
24 Chairman and 8 members-

25 (a) The Committee shall have power to make orders regulating
26 generally the charges of legal practitioners and, without prejudice to the
27 generality of that power, any such order may include provision as to all or any
28 of the following matters, that is to say-

29 (i) The maximum charges which may be made in respect of any
30 transaction or activity of a description specified by the order;

(ii) The ascertainment of the charges appropriate for any transaction or activity by reference to such consideration as may be so specified;

(iii) The taking by practitioners of security for the payment of their charges and the allowance of interest with respect to the security; and

(iv) Agreements between practitioners and clients with respect to charges.

(b) Until the first order made in pursuance of this section comes into force, nothing in this section shall be construed as affecting the law in force in any part of Nigeria with respect to the remuneration of Legal Practitioners.

3.-(a) Subject to the provisions of this Act, a Legal Practitioner shall be entitled to recover his charges by action in any Court of competent jurisdiction;

(b) Subject as aforesaid, a legal practitioner shall not be entitled to begin an action to recover his charges unless-

(i) a bill for the charges containing particulars of the principal items included in the bill and signed by him, or in the case of a firm, by one of the partners or in the name of the firm, has been served on the client personally or left for him at his last address as known to the Practitioner or sent by post addressed to the client at that address; and

(ii) the period of 30 days beginning with the date of delivery of the bill has expired.

(c) In any case in which a Legal Practitioner satisfies the court, on an application made *ex parte* or if the court so directs after giving the prescribed notice-

(i) that he has delivered a bill of charges to a client;

(ii) that on the face of it the charges appear to be proper in the circumstances; and

(iii) that there are circumstances indicating that the client is about

1 to do some act which would probably prevent or delay the payment to the
2 Practitioner of the charges, the court may direct that the Practitioner be
3 authorized to bring and prosecute an action to recover the charges unless the
4 client gives such security for the payment of the charges as may be specified in
5 the direction.

6 (d) The Court may, if it thinks fit, on the application of the client-

7 (i) order a Legal Practitioner to deliver his bill of charges to the client;

8 (ii) make an order for the delivery up of, or otherwise in relation to,
9 any documents in the control of the Practitioner which belong to or were
10 received by him from or on behalf of the client, and without prejudice to the
11 generality of the powers of the Court to punish for contempt or to the provisions
12 of this Act relating to the discipline of Legal Practitioners, the court may punish
13 for contempt any practitioner who refuses or fails to comply with an order
14 under this subsection.

15 (e) The value of any consideration received by any person for
16 anything done by a Legal Practitioner in his capacity as a Legal Practitioner
17 shall, in so far as the value exceeds the minimum charges to which by virtue of
18 this Act the practitioner is entitled in respect of that thing, be recoverable from
19 any person who received the consideration or from the Practitioner by the
20 person from whom the consideration moved either directly or indirectly.

21 ITEM C - Clients' Accounts:

22 I.-(a) Subject to paragraph (d) of this Item, the Bar Council may from
23 time to time as the Council considers expedient, make rules-

24 (i) As to the opening and keeping by Legal Practitioners of accounts at
25 banks for clients' moneys; and

26 (ii) As to the keeping by Legal Practitioners of records containing
27 particulars and information as to moneys received, held or paid by them for or
28 on account of their client; and

29 (iii) As to the opening and keeping by a legal practitioner who is the
30 sole trustee, or who is a co-trustee only with one or more of his partners, clerks

1 or servants, of an account at a bank for moneys of any trust of which he is the
2 sole trustee or such a co-trustee as aforesaid; and

3 (iv) As to the keeping by such a practitioner as is mentioned in
4 paragraph (c) of this subsection, of records containing particulars and
5 information as to moneys received, held or paid by him for or on account of
6 any such trust as is so mentioned; and

7 (v) Empowering the Bar Council to take such action as it thinks
8 necessary to enable it to ascertain whether the rules are being complied with.

9 ~~(b) Rules made under paragraph (a) of this section shall not come~~
10 ~~into force until they are approved by order of the Attorney-General, either~~
11 ~~without modification or with such modifications as he thinks fit; but before~~
12 ~~approving any such rules with modifications the Attorney-General shall~~
13 ~~afford the Bar Council an opportunity of making representations with~~
14 ~~respect to the proposed modifications and shall consider any representations~~
15 ~~made in pursuance of this subsection;~~

16 (c) If it appears to the Attorney-General that any rules should be
17 made, revoked or altered in exercise of the powers conferred on the Bar
18 Council by this section, he shall make a recommendation in that behalf to the
19 Bar Council; and if within the period of six months beginning with the date
20 of the recommendation the Council has not acted in accordance with the
21 recommendation, the Attorney-General may, within the period of twelve
22 months beginning with that date, make rules giving effect to the
23 recommendation;

24 (d) Rules under this section shall not require the keeping of account
25 or records-

26 (i) by a Legal Practitioner in respect of moneys received, held or
27 paid by him as a member of the public service of the Federation or a State; or

28 (ii) in such other circumstances as may be specified by the rules.

29 (e) For the purposes of this section, "trustee" includes personal
30 representatives, and in relation to a personal representative any reference to

1 a trust shall be construed as a reference to the deceased's estate.

2 2.-(a) A bank at which a Legal Practitioner keeps an account for
3 clients' moneys shall not, in respect of any liability of the practitioner to the
4 bank which does not arise in connection with that account, have or obtain any
5 recourse or right, whether by way of set-off, counter-claim, charge or
6 otherwise, against moneys standing to the credit of that account;

7 (b) A bank shall not, in connection with any transaction in respect of
8 an account of a Legal Practitioner kept for clients' moneys with that or with any
9 other bank (other than an account kept by him as trustee for a specified
10 beneficiary) incur any liability, or be under any obligation to make any inquiry,
11 or be deemed to have any knowledge of any right of any person to any money
12 paid or credited to the account, which it would not incur or be deemed to have in
13 the case of an account kept by a person entitled absolutely to all the money paid
14 or credited to the account;

15 (c) The Body of Benchers shall have powers to issue and enforce
16 guidelines with respect to the operation of Client Account.

17 ITEM D - Unauthorized Practice of Law:

18 1. A person commits an offence punishable with a minimum of 3
19 (Three) years imprisonment or a fine of N5,000,000 (Five Million Naira) or
20 both if; not being a Legal Practitioner, he does any of the following:

21 (a) practices law, or offers himself out as practicing law;

22 (b) assumes, takes or uses (in the context of law business) the title of
23 legal practitioner, or any addition, appellation, appendage, description, label,
24 name, prefix, or suffix implying or suggesting that he is a legal practitioner;

25 (c) pretends to be a legal practitioner, or that he is qualified or
26 recognized to act as a Legal Practitioner;

27 (d) does anything, or makes any omission, with the intention of
28 implying that he is a Legal Practitioner; or

29 (e) prepares for, or in expectation of reward or consideration, any
30 document or instrument relating to movable or immovable property, goods or

1 services, probate or letters of administration, or court proceedings.

2 2.-(a) Subject to the provisions of this Item, if any, person other
3 than a Legal Practitioner-

4 (i) Practices, or holds himself out to practice, as a Legal
5 Practitioner;

6 (ii) Takes or uses the title of Legal Practitioner;

7 (iii) Willfully takes or uses any name, title, addition or description
8 falsely implying or otherwise pretends, that he is a legal practitioner or is
9 qualified or recognized by law to act as a legal practitioner; or

10 (iv) Prepares in expectation of reward any instrument relating to
11 immovable property, or relating to or with a view to the grant of probate or
12 letters of administration, or relating to or with a view to proceedings in any
13 court of record in Nigeria,

14 shall be guilty of an offence and liable, in the case of an offence under
15 paragraph 2 (i) of this Item or a second or subsequent offence under
16 paragraph 2(iv) of this Item, to a fine of an amount not less than N5, 000, 000
17 (Five Million Naira) or imprisonment for a term not less than 3 (Three) years
18 or both.

19 (b) Nothing in paragraph 1 of this Item shall prevent a person from
20 being dealt with for contempt of court, but no proceedings for an offence
21 under this section shall be brought or continued against a person in respect of
22 any act if he has been dealt with for contempt of Court in respect of that act;

23 (c) Nothing in paragraph 2(iv) of this Item shall be construed as
24 making it an offence for any person to prepare an instrument-

25 (i) In the course of his activities as a pupil of a Legal Practitioner;

26 (ii) Relating only to property in which he has or claims an interest
27 (including an interest as a personal representative or as a person entitled to
28 any part of the estate of a deceased person);

29 (iii) Relating only to proceedings to which he is a party, or prepared
30 with a view to proceedings to which he may be a party;

1 (iv) For the purpose of only recording information or expert opinion
2 intended for use in, or with a view to, any proceeding;

3 (v) Which is, or is intended to be, a will or other testamentary
4 instrument;

5 (vi) Of such a class or description as the Attorney- General may by
6 order determine.

7 (d) Where an offence under this Act which has been committed by a
8 body corporate is proved to have been committed with the consent or
9 connivance of, or to be attributable to any neglect on the part of any Legal
10 Practitioner, director, manager, secretary or other similar officer of the body
11 corporate, he, as well as the body corporate shall be deemed to be guilty of that
12 offence and shall be liable to be proceeded against and punished accordingly;

13 (e) It is hereby declared that any agreement to transfer, either directly
14 or indirectly, any money or thing in consideration of any act which constitutes
15 an offence under this section is void; and any money or thing so transferred, or
16 the value of the thing, shall be recoverable by the transferor from the transferee
17 or from any other person by whom the offence was committed, whether or not
18 any proceedings have been brought in respect of the offence or the time for
19 bringing such proceedings has expired.

20 3. Any agreement to transfer, either directly or indirectly, any money
21 or thing in consideration of any act which constitutes an offence under this Item
22 of this schedule is void; and any money or thing so transferred, or the value of
23 the thing, is recoverable by the transferor from the transferee or from any other
24 person by whom the offence was committed, whether or not any proceedings
25 have been brought in respect of the offence or the time for bringing proceedings
26 has expired.

27 4. Any document or instrument prepared contrary to paragraph 1 of
28 this Item is void.

EXPLANATORY MEMORANDUM

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