

A BILL

FOR

AN ACT TO AMEND THE ADVERTISING PRACTITIONERS (REGISTRATION, ETC) ACT CAP. A7, LFN, 1988 TO ENSURE SMOOTH OPERATION OF THE COUNCIL; AND FOR RELATED MATTERS

Sponsored by Hon. Adeyemi Akeem Adeniyi

[] Commencement

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

1 1. The Advertising Practitioners (Registration, ETC) Act no. 55, Amendment of
2 Cap A7, LFN, 1988 (herein referred to as "the Principal Act") is amended as the Principal Act
3 set out below.

4 2. Section 1 of the Principal Act is amended by substituting the Amendment of
5 existing section 1 for a new section 1 to read as follows; Section 1

6 1. *Establishment of the Advertising Practitioners Council of*
7 *Nigeria, etc.:*

8 There is hereby establish a body to be known as Advertising Regulatory and
9 Practitioners (Registration) Council of Nigeria (In this Act referred to as
10 "the Council") which shall be charged with the general duty to:

- 11 (a) Regulate any form of advertisement in Nigeria;
- 12 (b) Establish code to guide advertisement practice in Nigeria;
- 13 (c) determine who are advertising Practitioners;
- 14 (d) determine what standards of knowledge and skill are to be
- 15 attained by persons seeking to become registered as members of the
- 16 advertising profession;
- 17 (e) review the standards determined pursuant to subsection (b) of
- 18 this section;

19 (f) secure in accordance with the provisions of this Act, the
20 establishment and maintenance of register of persons entitled to practice as

1 advertising practitioners and the publication of lists of those persons;
2 (g) regulate and control any act or practice of any form of advertising
3 all sectors of Nigeria's economy in accordance with the provisions of this Act;
4 (h) Conduct examinations in the profession and award certificates or
5 Diplomas to successful candidates as and when appropriate and for such
6 purpose the Council shall prescribe fees to be paid in respect thereof;
7 (i) Perform any other functions as are necessary for the full discharge
8 of all or any of the functions conferred on Council, under or pursuant to this
9 Act.

10 2. No person or organization shall practice or engage in any Act of
11 Advertising unless such person or organization is certified by the council and
12 the Act of Advertisement in accordance with the provisions of this Act.

Amendment
of Section 2

13 3.-(1) Section 2 of the Principal Act is amended by substituting the
14 existing section 2 for a new section 2 to read as follows;

15 2. *Establishment of the Governing Board:*

16 There is established a governing board for the council, which shall be
17 appointed by the President in the manner specified below:

18 (a) a Chairman who shall be a distinguished fellow of the profession;

19 (b) one person, not below the rank of Director from the Ministry
20 overseeing the council;

21 (c) two persons from the Association of Advertising Practitioners of
22 Nigeria (in this Act referred to as the Association");

23 (d) three persons from members of the public to represent public
24 interest.

25 (e) The provisions set out in the first Schedule to this Act shall have
26 effect with respect to the qualification, tenure of office of the members of the
27 Governing Board and other related matter.

28 4. Section 8 of the Principal Act is amended by substituting the
29 existing section 8 for a new section 8 and to read as follows;

1 (8) *Appointment of Registrar and other staff of the Council:*

2 (1) The President shall, on the recommendation of the supervising
3 Minister appoints for the Council, a registrar who shall:

4 (a) be the Chief executive and accounting officer of the
5 Commission;

6 (b) be responsible for the day to day administration of the council;

7 (c) be the Secretary to the Governing board; and

8 (d) shall hold office for a period of four years and may be re-
9 appointed for another term of four years and more.

10 (2) The Council Shall:

11 (a) employ such number of employees as may in its opinion, be
12 expedient and necessary for the proper and efficient performance of its
13 functions;

14 (b) determine the terms and conditions of service including
15 disciplinary measures on the employees of the Council;

16 (c) fix a competitive remuneration, allowances and benefits for its
17 employees.

18 (3) The board may delegate to the Registrar, generally or
19 specifically, the power to appoint such categories of staff of the council as
20 the council may specify.

21 5. Section 18 of the Principal Act is amended by increasing the fine
22 attached to the offence thereof.

Amendment of
Section 18

23 18. Prohibition of a person falsely professing to be a registered
24 person Any person, not being registered in any register established under
25 section 11 of this Act, who holds himself out to be so registered or uses any
26 name, title, description or symbol calculated to lead any person to infer that
27 he is so registered, shall be guilty of an offence and liable on conviction for a
28 first offence to a fine of Five Hundred thousand naira or to imprisonment for
29 a term of six months or to both such fine and imprisonment, and on
30 conviction for a second or any subsequent offence to a fine of one million

1 naira or imprisonment for a term more than three years.

2 *Qualification and Tenure of Office of Members*

Amendment of
First Schedule

3 6. The First Schedule to the Principal Act is amended by substituting
4 the existing First Schedule for a new First Schedule to read as follows for a new
5 to read as follows;

6 1. (1) A person, other than a person appointed under section 2 (b) of
7 this Act, shall not be a member of the Council unless he is a citizen of Nigeria
8 and is registered as a member of the profession.

9 (2) The Chairman of the Board shall hold office for a period not
10 exceeding three years beginning with the date of his appointment and shall be
11 eligible to be re-appointed as for one more term only.

12 (3) A person who has ceased to be chairman of the Board may be
13 eligible to become a member of the Council

14 (4) Subject to the provisions of this paragraph, a member of the Board
15 other than a public officer shall hold office for a period not exceeding three
16 years beginning with the date of his appointment or election, as the case may
17 be.

18 (5) Any member of the Board may by notice to the Board, resign his
19 membership.

20 (6) Subject to section 2 of this Act, a person who has ceased to be a
21 member of the Board shall be eligible for re-appointment

22 *Proceedings of the Council*

23 2. Subject to the provisions of this Act and section 27 of the
24 Interpretation Act (which provides for decisions of a body to be taken by a
25 majority of the members of the body and for the Chairman to have a second or
26 casting vote) the Board may take standing orders regulating the proceedings of
27 the Board or of any committee thereof or elect a temporary Vice-Chairman in
28 the absence of the Chairman for the conduct of the affairs of the council.

29 3. The quorum of the board shall be five and the quorum of any
30 committee of the Council shall be as determined by the board.

1 4. At any time while the office of the Chairman is vacant or the
2 Chairman is, in the opinion of the Board temporarily or permanently unable
3 to perform the functions of his office, the Vice-Chairman shall perform
4 those functions and references in this Schedule to the Chairman shall be
5 construed accordingly.

6 5.-(1) Subject to the provisions of any applicable standing orders,
7 the Council shall meet quarterly whenever summoned by the Chairman and
8 if the Chairman is required to do so by notice given to him quarterly in case
9 of emergency.

10 (2) At any meeting of the Board, the Chairman or in his absence,
11 the Vice-Chairman shall preside, but if both are absent the members present
12 at the meeting shall appoint one of their number to preside at that meeting.

13 (3) Where the Board wishes to obtain the advice of any person on a
14 particular matter, the Board may co-opt such person as a member for such
15 period as it thinks fit, but a person who is a member by virtue of this sub-
16 paragraph shall not be entitled to vote at any meeting of the Board and shall
17 not count towards a quorum.

18 (4) Notwithstanding anything to the contrary, the first meeting of
19 the Board shall be summoned by the Minister who may give such directions
20 as to the procedure to be followed at that meeting as he may deem fit.

21 *Committees*

22 6.-(1) The board may appoint one or more committees to carry out,
23 on behalf of the Council, such of its functions as the Council may determine.

24 (2) A committee appointed under this paragraph shall consist of the
25 number of persons determined by the Board and not more than one-third of
26 those persons who are not members of the Board.

27 (3) A person other than a member of the Board shall hold office on a
28 committee in accordance with the term of the letter by which he is appointed.

29 (4) A decision of a committee of the Board shall be of no effect until
30 it is confirmed by the Board.

1 *Miscellaneous*

2 7.-(1) The fixing of the seal of the Board shall be authenticated by the
3 signature of the Registrar or of other member authorized generally or specially
4 by the Registrar to act for that purpose.

5 (2) Any contract or instrument which, if made or executed by a person
6 not being a body corporate, would not be required to be under seal may be made
7 or executed on behalf of the Council by any person generally or specially
8 authorized by the Council for that purpose.

9 7. Second Schedule to the Principal Act is amended by substituting
10 the existing Second Schedule for new Second Schedule to read as follows;

11 SECOND SCHEDULE

12 Supplementary Provisions relating to the Disciplinary Committee; the
13 Investigating panel and the Standard Panel

14 *The Disciplinary Committee*

15 1.-(1) The Board shall make rules as to the procedure to be followed
16 and the rules of evidence to be observed in proceedings before the Disciplinary
17 Committee.

18 (2) The rules shall in particular provide:

19 (a) for securing that notice of proceedings shall be given at such time,
20 and in such manner as may be specified by the rules, to the person who is the
21 subject of the proceedings;

22 (b) for determining who, in addition to the person aforesaid, shall be a
23 party to the proceedings;

24 (c) for securing that any party to the proceedings shall, if he so
25 requires, be entitled to be heard by the Disciplinary Committee;

26 (d) for enabling any party to the proceedings to be represented by a
27 legal practitioner;

28 (e) subject to the provisions of section 25 (2) (d) of this Act, as to the
29 costs of proceedings before the Disciplinary Committee;

30 (f) for requiring in a case where it is alleged that the person who is the

1 subject of the proceedings is guilty of infamous conduct in any professional
2 respect, that where the Disciplinary Committee judges that the allegation
3 has not been proved, it shall record a finding that the person is not guilty of
4 such conduct in respect of the matter to which the allegation relates;

5 (g) for publishing in the Federal Gazette of notice of any direction
6 of the Disciplinary Committee which has taken effect, providing that, a
7 person's name shall be struck off from the register.

8 2.-(1) For the purpose of advising the Disciplinary Committee on
9 questions of law arising in proceedings before it, there shall in such
10 proceedings be an assessor to the Disciplinary Committee who shall be
11 appointed by the Council, shall be a legal practitioner of not less than seven
12 years' experience.

13 (2) The legal adviser shall make rules as to the functions of
14 assessors appointed under this paragraph, and in particular such rules shall
15 contain provisions for securing:

16 (a) that where an assessor advises the Disciplinary Committee on
17 any question of law as to evidence, procedure or any other matter specified
18 by the rules, he shall do so in the presence of every party or person
19 representing a party to the proceedings who appears thereat or, if the advice
20 is tendered while the Disciplinary Committee is deliberating in private, that
21 every such party or persons aforesaid shall be informed as to what advice the
22 assessor has tendered;

23 (b) that every party or persons as aforesaid shall be informed if in
24 any case the Disciplinary Committee does not accept the advice of the
25 assessor on such a question as aforesaid.

26 (3) An assessor may be appointed under this paragraph either
27 generally or for any particular proceedings or class of proceedings, and shall
28 hold and vacate office in accordance with the terms of the instrument by
29 which he is appointed.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

The Investigating panel

3. The quorum of the Investigating panel shall be three.

4. The Investigating Panel may, at any of its meetings attended by not less than five members of the Investigating Panel, make standing orders with respect to the Investigating Panel and subject to the provision of any such standing orders, the Investigating Panel may regulate its own procedure.

5. No member of the Investigating Panel shall sit as a member of the Disciplinary Committee.

6. A person ceasing to be a member of the Disciplinary Committee, the Investigating Panel or the Standards Panel shall be eligible for re-appointment as a member of that body.

7. The Disciplinary Committee, the Investigating Panel or the Standards Panel may act notwithstanding any vacancy in the membership of any of the said bodies and the proceedings of any such bodies shall not be invalidated by any irregularity in the appointment of a member of such bodies (or subject to paragraph 1 of this Schedule) or by reason of the fact that any person who was not entitled to do so took part in the proceedings of any of such bodies.

8. The Disciplinary Committee, the Investigating Panel or the Standards Panel may each sit in two or more places.

9. Any document authorised or required by virtue of this Act to be served on the Disciplinary Committee, the Investigating Panel or the Standards Panel shall be served on the Registrar.

10. Any expenses of the Disciplinary Committee, the Investigating Panel or the Standards Panel shall be defrayed by the Council.

7. This Bill may be cited as Advertising Practitioners (Registration, Etc.) Act (Amendment) Bill, 2019.

Citation

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Advertising Practitioners (Registration ETC) Act CAPA7, LFN, 1988 to reposition it for efficient performance of its functions.