

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 SUCH OTHER MATTERS CONNECTED THEREWITH (SB.815)

Sponsored by: Senator Michael Opeyemi Bamidele (Ekiti Central Senatorial District)

() **Commencement**

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

PART A-GENERAL

BODY OF BENCHERS

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
- (e) The Attorney General of the Federation;
- (f) The President of the Nigerian Bar Association;
- (g) The Presiding Justices of the Court of Appeal Divisions;
- (h) The Chairman of the Council of Legal Education;

- (i) The Chief Judge of the Federal High Court;
- (j) The President of the National Industrial Court;
- (k) The Chief Judge of the High Court of the Federal Capital Territory, Abuja;
- (l) The Chief Judges of the States of the Federation;
- (m) The Attorneys General of the States of the Federation;
- (n) President of the Senate (where he is a lawyer);
- (o) Speaker of the House of Representatives (where he is a lawyer);
- (p) The Chairman of the Senate Committee on Judiciary (where he is a lawyer);
- (q) The Chairman of the House Committee on Judiciary (Where he is a lawyer);
- (r) 30 (Thirty) Legal Practitioners nominated by the National Executive Committee of the Nigerian Bar Association with a minimum of 15 years' post call; Five (5) of whom shall be Law Teachers;
- (s) Such number of persons, not exceeding 10 (ten), who appear to the Body of Benchers to be eminent members of the Legal Profession in Nigeria of not less than 15 (fifteen) years post call standing, nominated by the Chairman, Body of Benchers.

(4) The Body of Benchers shall make regulations-

- (a) providing for a modification in the membership of the Body of Benchers as set out in subsection (3) of this section and the qualifications for and conditions applicable to such membership;
- (b) providing for the tenure of office of Benchers including the conferment of life membership on any Bencher;
- (c) providing for the appointment of persons of distinction in any 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 Bencher 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.

Members' Tenure

2. (1) Any member of the Body of Benchers whose membership is by virtue of office ceases to be a Bencher 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 becomes eligible to be appointed a Life Bencher, provided there is a vacancy.

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

- (a) Appointment of a Chairman and other officers and for succession to the offices;
- (b) Removal of a Bencher for misconduct;
- (c) Convening of meetings;
- (d) Licensing of Legal Practitioners;
- (e) Discipline of Legal Practitioners;
- (f) Tenure and quorum of Legal Practitioners' Disciplinary Committee;
- (g) Appointment of Honorary Benchers from other jurisdictions;
- (h) Composition and quorum for specific assignments.

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

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

OFFICE OF THE SECRETARY AND SECRETARIAT FOR THE BODY OF BENCHERS

Secretary: Functions and Qualification

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

(2) The Secretary shall be:

- (a) The head of the Secretariat and shall be responsible for the execution of policies and the day to day running of the affairs of the Body;
- (b) A Legal Practitioner with a career service of not less than 10 years post call experience;
- (c) The Chief Accounting Officer, shall keep all financial records and render Financial Accounting Returns to the Accountant General of the Federation and to the Body of Benchers;
- (d) Responsible for the administration of the Secretariat, keeping of the books and records of the Body and perform such other duties and functions as the Chairman may from time to time direct;
- (e) Subject to the supervision and control of the Chairman and the Body;
- (f) Prudent in collection and expenditure of all revenue;
- (g) Responsible for preparing and defending the Annual budget of the Body;
- (h) In charge of all the Committees of the Body;
- (i) Responsible for Issuance of Notice of Meetings of the Body of Benchers and Committee Meetings;
- (j) Responsible for supervising and overseeing the arrangements for Call to Bar ceremonies and Law dinners;
- (k) Responsible for carrying out and implementing the Resolutions passed by the Body from

time to time and also be responsible for carrying out and executing such other instructions and directives as may be given to him by the Body or its Chairman; and

- (l) Maintain a record of the roll of Legal Practitioners in Nigeria.

Staff of the Body

4. (1) The Body shall have powers to appoint such number of persons as it deems necessary as staff of the Body.

(2) The scheme of service obtainable in the judiciary and public service shall be applicable to the staff.

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

Financial Provision

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

Power to accept gifts

(2) The Body of Benchers may accept gifts of money or movable or immoveable property upon such terms and condition as may be prescribed by the Body.

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

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

Composition and Proceedings of Bar Council

6. (1) There shall be a body to be known as the General Council of the Bar (hereinafter in this Act referred to as "the Bar Council") which shall be charged with the general management of the affairs of the Nigerian Bar Association (subject to any limitations for the time being provided by the constitution

of the association) and with any functions conferred on the council by this Act or that constitution.

(2) The Bar Council shall consist of-

- (a) the Attorney-General of the Federation, who shall be the president of the council;
- (b) the Attorneys-General of the States; and
- (c) twenty members of the association.

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

- (a) be elected to serve on the Bar Council at elections in which all members of the association are entitled to vote in such manner as may be provided by the constitution of the association; and
- (b) hold office for such period as may be determined by or under that constitution, and not less than seven of those persons shall be legal practitioners of not less than ten years standing.

(4) The quorum of the Bar Council shall be eight, and the council may make standing orders regulating the procedure of the council and, subject to the provisions of any such orders, may regulate its own proceedings; and no proceedings of the council shall be invalidated by any vacancy in the membership of the council, or by the fact that any person took part in the proceedings who was not entitled to do so.

Inner Bar and Docket Priority

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

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

(3) The privileges are:

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

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

Practice as a Legal Practitioner

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

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

(3) For the purposes of this section:

- (a) Person' includes the plural as well as the singular and denotes an individual or any legal or commercial entity;
- (b) "Adjudicative body" includes a court, a mediator, an arbitrator or a legislative body, administrative agency or other body acting in an adjudicative capacity. A legislative body, administrative agency or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party's interests in a particular matter.

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

- (a) in Nigeria;
- (b) in relation to matters of Nigerian law; or
- (c) in relation to disputes or transactions with substantial nexus to Nigeria, shall be carried on only by persons entitled to practice law in Nigeria.

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

- (a) giving advice or counsel to persons as to their legal rights or responsibilities or to those of others;
 - (b) selecting, drafting, or completing legal documents or agreements that affect the legal rights of a person;
 - (c) representing a person before an adjudicative body, including, but not limited to, preparing or filing documents or conducting discovery; or
 - (d) negotiating legal rights or responsibilities on behalf of a person.
- (6) Notwithstanding the provisions above, the following are permitted whether they constitute the practice of law or not:
- (a) Pro se representation;
 - (b) Serving as arbitrator, mediator, conciliator or expert determiner; and
 - (c) trainee law students working under the direct supervision of persons entitled to practice law in Nigeria in strict compliance with the Rules of Professional Conduct.

Eligibility for the Bar

9. A candidate is eligible to be called to the Bar if the candidate satisfies the Body of Benchers that:
- (a) The Council of Legal Education has issued a Qualifying Certificate to the candidate;
 - (b) The candidate is of good character; and
 - (c) The candidate has satisfied all prescribed conditions by the Body of Benchers.

Certificate of Call and Enrolment

10. The Body of Benchers shall issue to every person called to the Bar a Certificate.
11. 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.

Pupilages

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

(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.

Inspection and Accreditation

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

Practicing Licence:

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

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

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

- (a) Obtained the required number of credits under a mandatory continuing legal education scheme administered or approved by the Nigerian Bar Association;
 - (b) Paid annual practicing fees stipulated in this Act for the year the application is made; and
 - (c) Satisfied the Body of Benchers that he is a person of good character;
- (4) It shall be unlawful for any person without a valid licence:
- (a) to act in anyway or to present himself or herself before any court, Tribunal or Arbitrator as a legal practitioner;
 - (b) in any way as a legal practitioner or hold himself out as such when he is not , including preparing and or signing or filing any Contract, memorandum, deed, will, lease, assignment, power of attorney, mortgage, title deed, notice, warrant, bond, legal opinion, affidavit or any other document whatsoever.

Stamp and Seal

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

(2) The Body of Benchers shall constitute a standing committee to issue and renew licences, stamps and seals and implement the Regulations made pursuant to Section 13 of the LPA.

Foreign Lawyers Rules to Allow Practice by Foreign Lawyers

16. 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.

Roll of Legal Practitioners

17. 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.

Repeal and Savings

18. This Act repeals the Legal Practitioners Act, CAPL11, Laws of the Federation of Nigeria, 2004, Revised Edition.

Interpretation

19. In this Act the following terms have the meanings respectively assigned to them, unless the context requires otherwise:

“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 the property or which purports to do so;

“Legal Practice”

“legal practitioner” means a person whose name is on the Roll of Legal Practitioners kept at the Supreme Court of Nigeria;

“NBA” referencing to NBA, Nigerian Bar Association and Association includes Incorporated Trustee of the Nigerian Bar Association or any other Body incorporated for the governance and management of the Legal Profession;

“Prescribed” means by regulations made by the Body of Benchers;

“the Roll” means the Roll of legal practitioners maintained under Section 16;

“SAN” means a legal practitioner who has been elevated to the rank of Senior Advocate of Nigeria;

“Solicitor-General” means the Solicitor-General of the Federation or of a State;

“theft” means stealing and includes fraudulent conversion or misappropriation.

Citation

21. (1) This Bill may be cited as the Legal Practitioners Act, 2021.

First Schedule

Committees of the Body of Benchers

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

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

(A) Legal Practitioners Licensing Committee: The Licensing Committee shall amongst other things be charged with the responsibility of issuing and renewing licenses which may include issuing stamp and seals to all eligible Lawyers who wish to practice law in Nigeria.

(B) Legal Practitioners Disciplinary Committee: The function of the Committee shall include the duty of considering and determining any case where it is alleged that a person who is a member of the legal profession has misbehaved in his capacity as such or should for any other reason be the subject of proceedings under this Act.

(c) Rules Committee: The function shall be to make and review Rules for the Body of Benchers.

(D) Screening Committee: The Committee shall, amongst other things be charged with the responsibility of screening aspirants to the Bar to ensure that they are fit and proper persons to be admitted into the Nigerian Bar.

(E) Finance Committee: The Committee shall amongst other things be responsible for managing the finances of the Body of Benchers as contributed by statutory members.

(F) Publicity Committee: The function of the Committee shall be to project the image of the Body of Benchers through such processes including but not limited to publications, website management, etc.

(G) Benchers Appointment Committee: The Committee shall amongst other functions, be responsible for the appointment of Benchers and Life Benchers to ensure that only persons with proven integrity are appointed as Benchers and only deserving Benchers are conferred with the status of Life membership.

(H) Ethics and Compliance Committee: The Committee shall be responsible amongst other things, for providing the framework for ethical conducts and behaviour of members of the Body of Benchers, particularly during Meetings, Call to Bar ceremonies and such other official engagements by the Body of Benchers.

(I) Mentoring and Pupilage Committee: The Committee shall be responsible amongst other things for developing an effective mentoring and pupilage programme for the Body of Benchers, identifying necessary programmes as well as recommending regulations where needed.

(J) Recruitment, Promotion and Discipline Committee: The function of the Committee includes the recruitment of senior staff for the Body of Benchers as well as promotion and discipline of staff within the organization.

(K) Elders Committee: The Elders Committee comprises of Past Chairmen of the Body of Benchers and shall be responsible amongst other things to advice the Body of Benchers on matters which affects the entire Legal Profession aimed at having a harmonious and respected Profession.

(L) Legal Practitioners Privileges Committee: The Committee shall amongst other things be responsible for the conferment on any deserving Legal Practitioner the Rank of Senior Advocate of Nigeria.

ITEM A: Legal Practitioners Licensing Committee

(1) There shall be a committee of the Body of Benchers to be known as the Legal Practitioners Licensing Committee (in the Bill referred to as “the Licensing Committee”) which shall be

charged with the duty of issuing and renewal of licence to eligible applicants into the Nigerian Bar.

(2) The Licensing Committee shall consist of:

- (a) The Vice Chairman, Body of Benchers as Chairman;
- (b) The President, Nigerian Bar Association;
- (c) Three (3) Life Benchers;
- (d) Two (2) Benchers nominated by the National Executive Committee of Nigerian Bar Association; and
- (e) Secretary of the Body of Benchers, who shall serve as the Secretary of the Committee.

ITEM B: The Rules Committee

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

(2) The Committee shall consist of:

- (a) The Vice Chairman of the Body of Benchers as the Chairman;
- (b) The President of the Nigerian Bar Association;
- (c) Five (5) Benchers; and
- (d) The Secretary of the Body of Benchers as Secretary of the Committee.

ITEM C: Legal Practitioners Disciplinary Committee

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

(2) The Disciplinary Committee shall consist of:

- (a) a Chairman who shall not be either the Chief Justice of Nigeria or a Justice of the

Supreme Court;

- (b) Two (2) Justices of the Court of Appeal one of whom shall be the President and the other a Presiding Justice;
 - (c) Two (2) Chief Judges;
 - (d) Two (2) Attorneys-General, who shall be either the Attorney-General of the Federation and the Attorney-General of a State or two State Attorneys-General; and
 - (e) Four (4) members of the Association who are Benchers and not connected with either the investigation of a complaint or the decision by the Association to present a complaint against a legal practitioner for determination by the Disciplinary Committee.
 - (f) Such additional number of members of the Association as the Body of Benchers may deem fit to appoint for the purpose of the effective conduct of the business of the Disciplinary Committee.
- (3) The quorum of the Disciplinary Committee shall be three, but no decision or proceeding of the Disciplinary Committee will be rendered invalid on the ground of quorum other than as set out in the Interpretation Act.
- (4) (a) The Body of Benchers shall make rules for the purposes of any proceedings and as to the procedure to be followed and the rules of evidence to be observed in proceedings before the Disciplinary Committee.
- (b) The rules shall in particular provide:
- i. For securing that notice of the proceedings shall be given, at such time and in such manner as may be specified by the rules, to the person against whom the proceedings are brought;
 - ii. For determining who, in addition to the person aforesaid, shall be a party to the proceedings;
 - iii. For securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the Disciplinary Committee;
 - iv. For enabling any party to the proceeding to be represented by a legal practitioner;

- v. The costs of proceedings before the Disciplinary Committee;
 - vi. For requiring, in a case where it is alleged that the person against whom the proceedings are brought is guilty of infamous conduct in any professional respect, that where the Disciplinary Committee adjudges that the allegation has not been proved it shall record a finding that the person is not guilty of such conduct in respect of the matters to which the allegation relates;
 - vii. For publishing in the Federal gazette notice of any direction of the Disciplinary Committee which has taken effect providing that a person's name shall be struck off the roll or that a person shall be suspended from practice.
- (5) (a) A person appointed by the Body of Benchers to be a member of the Disciplinary Committee shall unless he previously resigns, hold office for such term, not exceeding three years, as may be specified in his instrument of appointment.
- (b) A person ceasing to be a member of the Disciplinary Committee shall be eligible for reappointment as a member of the Committee for another 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 Bill to be served on the Disciplinary Committee shall be served on the Secretary, Body of Benchers.

PENALTIES FOR UNPROFESSIONAL CONDUCT ETC.

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; or

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

- (2) Where a person whose name is on the Roll is judged by the Disciplinary Committee to be guilty of misconduct not amounting to infamous conduct which, in the opinion of the Disciplinary Committee, is incompatible with the status of a legal practitioner, the Disciplinary Committee may, if it thinks fit, give such a direction as is authorized by Paragraph 1 (c) (ii) or (iii) of Item D of Schedule 1; and any such direction may, where appropriate, include provision requiring the refund of moneys paid or the handing over of documents or any other thing, as the circumstances of the case may require.
- (3) The Disciplinary Committee may, if it thinks fit, defer or further defer its decision as to the giving of a direction under Paragraphs 1 and 2 of Item D of Schedule 1 until a subsequent meeting of the Committee.
- (4) It shall be the duty of the Bar Council to make rules from time to time on professional conduct in the legal profession and cause such rules to be published in the Federal Government Gazette and distributed to all the branches of the Association.
- (5) For the purposes of paragraph 1 of Item D of Schedule 1, a person shall not be treated as convicted as mentioned in Paragraph 1(b) of Item D of Schedule 1 unless the conviction stands at a time when no appeal or further appeal is pending or may (without extension of time) be brought in connection with the conviction.
- (6) When the Disciplinary Committee gives a direction under Paragraph 1 or Paragraph 2 of Item D of Schedule 1, the Disciplinary Committee shall cause notice of the direction to be served on the person to whom it relates and submit to the Body of Benchers a report on its findings which resulted in the issuance of the notice.

- (7) The person to whom such a Direction relates may, at any time within 28 days from the date of service on him of notice of the direction, appeal against the Direction to the Supreme Court; and the Disciplinary Committee may appear as respondent to the appeal and, for the purpose of enabling Directions to be given as to the costs of the appeal and of proceedings before the Disciplinary Committee, shall be deemed to be a party thereto whether or not it appears on the hearing of the appeal.
- (8) A Direction of the Disciplinary Committee under Paragraph 1 or Paragraph 2 of Item D of Schedule 1 shall take immediate effect.
- (9) Where a Direction is given under Paragraph 1 or 2 of Item D of Schedule 1 for the refund of moneys paid or the handing over of documents or any other thing and within 28 days of the date of the direction (or where an appeal is brought, on the dismissal of the appeal) and the legal practitioner fails to comply with the direction, the Disciplinary Committee may deal with the case as one involving misconduct by the legal practitioner in his professional capacity.
- (10) where a Direction given under paragraph 1 or 2 of Item D of Schedule 1 and such a Direction is affirmed by the Supreme Court, such Direction of the Supreme Court shall be published by the Body of Benchers in the Federal Government Gazzette and copies shall be issued to the Chief Justice of Nigerian, President of the Court of Appeal, Chief Judge of the Federal High Court, President of the National Industrial Court, Chief Judges of States, Attorney General of the Federation, Attorneys General of States, Nigerian Bar Association, Inspector General of Police, Nigerian Law School and other relevant bodies or agencies.

ITEM E: Disciplinary jurisdiction of the Supreme Court

- (1) Where it appears to the Supreme Court that a person whose name is on the Roll has been guilty of infamous conduct in any professional respect with regard to any matter of which the court or any other court of record in Nigeria is or has been seized, the Supreme Court may if it thinks fit, after hearing any representations made and evidence adduced by or on behalf of that person and such other persons as the court considers appropriate, give such a direction as is mentioned in Paragraph 1 of Item D of Schedule 1, and the direction shall take effect forthwith; and except in the case of an admonition the court shall cause notice of the direction to be published in the Federal Government *Gazette*.
- (2) Where it appears to the Chief Justice that a legal practitioner should be suspended from practice, either with a view to the institution against him of proceedings under this Act before the Disciplinary Committee or while any such proceedings are pending, the Chief Justice may if he thinks fit, after affording the practitioner in question an opportunity of making representations in the matter, give such direction as is authorized by paragraph 1 (ii) of Item D of Schedule 1 and in deciding whether to give such a direction in consequence of the conviction of a legal practitioner, the Chief Justice shall be entitled to disregard the provisions of Paragraph 5 of Item D of Schedule 1.

ITEM F: Restoration of Names to Roll, Etc.

- (1) Where either before or after the commencement of this Act the name of any person has been struck off the Roll or a person has been or is deemed to have been suspended from practice, he may, subject to the provisions of Paragraph 2 of Item F of Schedule 1, make an application for the restoration of his name to the Roll or the cancellation of the suspension-
 - (a) If the striking off or suspension was ordered by the Chief Justice or the Supreme Court, to that Court; and
 - (b) In any other case, to the Disciplinary Committee.
- (2) A direction under Paragraph 1 of Item B of Schedule 1 or Paragraph 1 of the disciplinary jurisdiction of the Supreme Court of this Act may prohibit an application under Paragraph 1 of this Item until the expiration of the period specified in the direction; and where such an application is duly made to the Supreme Court or the Disciplinary Committee, the court or Disciplinary Committee may direct that no further application shall be made under Paragraph 1 of this Item until the expiration of the period specified in the direction under this subsection.

SECOND SCHEDULE

ITEM A: The Legal Practitioners Privileges Committee:

1. There shall be the Legal Practitioners Privileges Committee of the Body of Benchers which shall consist of:
 - (a) The Chief Justice of Nigeria as the Chairman;
 - (b) The Justice of the Supreme Court next in seniority to the Chief Justice;
 - (c) The President of the Court of Appeal;
 - (d) The Attorney-General of the Federation;
 - (e) The President of the NBA;
 - (f) Two (2) past Presidents of the NBA;
 - (g) The Chief Judge of the Federal High Court;
 - (h) Six) (6) 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;

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

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

2. The members of the Privileges Committee appointed under Paragraph 1 (f), (h) and (i) 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 years' post-call experience, who has achieved distinction in the Legal Profession.

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

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

ITEM B: Legal Practitioners Remuneration Committee

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

(a) Attorney-General of the Federation as Chairman;

(b) Six (6) States Attorneys-General;

- (c) NBA Presidents (Past and Present);
- (d) Six (6) NBA members nominated by the NBA National Executive Committee.

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

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

- i. The maximum charges which may be made in respect of any 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; and
- 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 to do some act which would probably prevent or delay the payment to the Practitioner of the charges, the court may direct that the Practitioner be authorized to bring and prosecute an action to recover the charges unless the client gives such security for the payment of the charges as may be specified in the direction.
- (d) The Court may, if it thinks fit, on the application of the client:
- i. order a Legal Practitioner to deliver his bill of charges to the client;
 - ii. make an order for the delivery up of, or otherwise in relation to, any documents in the control of the Practitioner which belong to or were received by him from or on behalf of the client, and without prejudice to the generality of the powers of the Court to punish for contempt or to the provisions of this Act relating to the discipline of Legal Practitioners, the court may punish for contempt any practitioner who refuses or fails to comply with an order under this subsection.
- (e) The value of any consideration received by any person for anything done by a Legal Practitioner in his capacity as a Legal Practitioner shall, in so far as the value exceeds the minimum charges to which by virtue of this Act the practitioner is entitled in respect of that thing, be recoverable from any person who received the consideration or from the Practitioner by the person from whom the consideration moved either directly or indirectly.

ITEM C: Clients' Accounts

1. (a) Subject to paragraph (d) of this Item, the Bar Council may from time to time as the Council considers expedient, make rules:
 - i. As to the opening and keeping by Legal Practitioners of accounts at banks for clients' moneys; and
 - ii. As to the keeping by Legal Practitioners of records containing particulars and information as to moneys received, held or paid by them for or on account of their client; and
 - iii. As to the opening and keeping by a legal practitioner who is the sole trustee, or who is a co-trustee only with one or more of his partners, clerks or servants, of an account at a bank for moneys of any trust of which he is the sole trustee or such a co-trustee as aforesaid; and

- iv. As to the keeping by such a practitioner as is mentioned in paragraph (c) of this subsection, of records containing particulars and information as to moneys received, held or paid by him for or on account of any such trust as is so mentioned; and
- v. Empowering the Bar Council to take such action as it thinks necessary to enable it to ascertain whether the rules are being complied with.

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

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

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

- i. by a Legal Practitioner in respect of moneys received, held or paid by him as a member of the public service of the Federation or a State; or
- ii. in such other circumstances as may be specified by the rules.

(e) For the purposes of this section, "trustee" includes personal representatives, and in relation to a personal representative any reference to a trust shall be construed as a reference to the deceased's estate.

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

(b) A bank shall not, in connection with any transaction in respect of an account of a Legal Practitioner kept for clients' moneys with that or with any other bank (other than an account

kept by him as trustee for a specified beneficiary) incur any liability, or be under any obligation to make any inquiry, or be deemed to have any knowledge of any right of any person to any money paid or credited to the account, which it would not incur or be deemed to have in the case of an account kept by a person entitled absolutely to all the money paid or credited to the account.

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

ITEM D: Unauthorized Practice of Law

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

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

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

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

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

(e) prepares for, or in expectation of reward or consideration, any document or instrument relating to movable or immovable property, goods or services, probate or letters of administration, or court proceedings.

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

i. Practices, or holds himself out to practice, as a Legal Practitioner; or

ii. Takes or uses the title of Legal Practitioner;

iii. Willfully takes or uses any name, title, addition or description falsely implying or otherwise pretends, that he is a legal practitioner or is qualified or recognized by law

to act as a legal practitioner;

- iv. Prepares in expectation of reward any instrument relating to immovable property, or relating to or with a view to the grant of probate or letters of administration, or relating to or with a view to proceedings in any court of record in Nigeria,

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

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

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

- i. In the course of his activities as a pupil of a Legal Practitioner;
- ii. Relating only to property in which he has or claims an interest (including an interest as a personal representative or as a person entitled to any part of the estate of a deceased person);
- iii. Relating only to proceedings to which he is a party, or prepared with a view to proceedings to which he may be a party;
- iv. For the purpose of only recording information or expert opinion intended for use in, or with a view to, any proceeding;
- v. Which is, or is intended to be, a will or other testamentary instrument;
- vi. Of such a class or description as the Attorney- General may by order determine.

- (d) Where an offence under this Bill which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any Legal Practitioner, director, manager, secretary or other similar officer of the body corporate, he, as well as the body corporate shall be deemed to be

guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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

3. Any agreement to transfer; either directly or indirectly, any money or thing in consideration of any act which constitutes an offence under this Item of this schedule is void; and any money or thing so transferred, or the value of the thing, is recoverable by the transferor from the transferee or from any other person by whom the offence was committed, whether or not any proceedings have been brought in respect of the offence or the time for bringing proceedings has expired.
4. Any document or instrument prepared contrary to paragraph 1 of this Item is void.