

THE LEGAL PRACTITIONERS (AMENDMENT) DECREE 1971



Decree No. 54

[27th November 1971]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. The Legal Practitioners Act 1962 is hereby amended as follows—

(a) by inserting immediately after section 2 the following new sections—

Sundry
amendments
of the Legal
Practitioners
Act 1962.

1962 No. 33.

“Establish-
ment of
Body of
Benchers.

2A.—(1) There shall be a body of legal practitioners of the highest distinction in the legal profession in Nigeria to be known as “the Body of Benchers” which shall be responsible for the formal call to the Bar of persons seeking to become legal practitioners, and which shall consist of the following members, that is—

- (a) the Chief Justice of Nigeria ;
- (b) the Attorney-General of the Federation ;
- (c) the Chairman of the Council of Legal Education ;
- (d) the Chief Justices of all the States in the Federation ;
- (e) the Attorneys-General of all the States in the Federation ;
- (f) the president of the association ; and
- (g) twelve members of the association of not less than fifteen years post-call standing, who shall be nominated by the association.

(2) Except as provided under subsection (3) of this section, a Benchers shall (unless he previously vacates it) vacate his office as a Benchers if he ceases to be the holder of any office by virtue of which he was appointed a Benchers.

(3) Notwithstanding anything in subsection (2) of this section, the Chief Justice of Nigeria shall hold office as such Benchers for life.

(4) Subject to this Act, the Benchers may from time to time exercise such functions (including any determination as to any special or general condition for membership or composition of the Benchers) as may hereafter be prescribed, and do all such things as the Benchers consider expedient for the purpose of discharging those functions.

(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 to be sufficient.

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

(7) The quorum of the Benchers shall be ten.

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

(9) For the purpose of this section—

(a) "functions" includes powers and duties ; and

(b) "prescribed" means prescribed by regulations made by the Body of Benchers",

and the operation of section 11 (2) of the Interpretation Act 1964 (which deals with references in an enactment to acting appointments) is hereby excluded.

"Call to the Bar.

2B.—(1) Subject to the provisions of this section, a person shall be entitled to be called to the Bar if, and only if—

(a) he is a citizen of Nigeria ; and

(b) he produces a qualifying certificate to the Benchers ; and

(c) he satisfies the Benchers that he is of good character.

(2) The Council of Legal Education may by regulations provide that the provisions of paragraph (b) of the foregoing subsection shall not apply in such cases and on such conditions (if any) as may be specified by the regulations." ;

(b) in section 3—

(i) for subsection (1) there shall be substituted the following subsection—

"(1) Subject to the provisions of this section, a person shall be entitled to have his name enrolled if, and only if,—

(a) he has been called to the Bar by the Benchers ; and

(b) he produces a certificate of his call to the Bar to the registrar."

(ii) subsection (2) shall be omitted ; and

(iii) the existing subsections (3) to (5) shall be re-numbered as subsections (2) to (4) respectively ;

(c) in section 4, immediately after subsection (2A) there shall be inserted the following new subsection—

"(2B). All the legal practitioners in the East-Central State, the Rivers State and the South-Eastern State are hereby exempted from paying any practising fee in respect of the period commencing from 27th May 1967 and ending on 31st December 1970 ; and the foregoing provision of this subsection shall apply accordingly, but, so however, that where any person has in respect of any year commencing from 1st January 1967 duly paid the prescribed practising fee, no refund of such fee shall be made to him." ;

(d) for section 6 there shall be substituted the following section—

1964 No. 1.

"Establishment of disciplinary committee.

6.—(1) There shall be a committee to be known as the Legal Practitioners Disciplinary Committee (hereafter in this Act 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 whose name is on the roll has misbehaved in his capacity as a legal practitioner or should for any other reason be the subject of proceedings under this Act.

(2) The disciplinary committee shall consist of—

(a) the Attorney-General of the Federation, who shall be Chairman ;

(b) the Attorneys-General of the States in the Federation ;

(c) twelve legal practitioners of not less than ten years standing appointed by the Benchers on the nomination of the association.

(3) The provisions of the Second Schedule to this Act shall have effect in relation to the disciplinary committee." ;

(e) in section 7—

(i) for subsection (1) there shall be substituted the following subsections—

"(1) Where—

(a) a person whose name is on the roll is judged by the disciplinary committee to be guilty of infamous conduct in any professional respect ; or

(b) a person whose name is on the roll 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 authorised by

paragraph (c) (ii) or (iii) of subsection (1) above ; 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." ;

(ii) the existing subsections (2) to (7) shall be re-numbered as subsections (3) to (8), respectively ; and in those subsections for the words "the tribunal" wherever they occur there shall be substituted the words "the disciplinary committee" ;

(iii) in subsection (3) (as re-numbered) for the word "subsection" there shall be substituted the word "subsections" ;

(iv) in subsections (6) and (8) (as re-numbered) immediately after "subsection (1)" there shall be inserted "or subsection (2)" ;

(v) in subsection (7) (as re-numbered) for the words "the Supreme Court" there shall be substituted the words "the Appeal Committee of the Body of Benchers established under section 7A of this Act" ; and

(vi) after subsection (8), there shall be inserted a new subsection (9) as follows,—

"(9) Where a direction is given under subsection (1) or (2) of this section for the refund of moneys paid or the handing over of documents or any other thing and within twenty-eight days of the date of the direction (or where an appeal is brought, on the dismissal of the appeal) 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." ;

1969 No. 54.

(f) for section 7A, as inserted by section 1 (1)(d) of the Legal Practitioners (Amendment) Decree 1969, there shall be substituted the following section—

"Establishment of Appeal Committee of the Body of Benchers, etc.

7A.—(1) There shall be a committee to be known as the Appeal Committee of the Body of Benchers (hereafter in this Act referred to as "the appeal committee") which shall be charged with the duty of hearing appeals from any direction given by the disciplinary committee.

(2) The appeal committee shall consist of the following seven members of the Body of Benchers, as may be appointed by the Body of Benchers from time to time, that is—

(a) as Chairman, a Bencher, who is a member of the Body of Benchers other than by virtue of section 2A (1) (g) of this Act ;

(b) two judges of the High or higher court of any State ;

(c) two Attorneys-General in the Federation ; and

(d) two members of the association.

(3) On any appeal against a direction of the disciplinary committee, the appeal committee may allow or dismiss the appeal in whole or in part, and if it is of opinion that any direction given by the disciplinary committee should not have been given or

that a different direction should have been given by the disciplinary committee (whether more or less severe), the appeal committee shall revoke the direction of the disciplinary committee or, as the case may be, substitute therefor such direction as it thinks ought to have been given, being a direction which, under section 7 of this Act, could lawfully have been given by the disciplinary committee.

(4) The appeal committee shall cause notice of any direction given by it under this section to be served on the person to whom it relates.

(5) The person to whom such a direction relates may, at any time within twenty-eight days from the date of service on him of the notice of the direction, appeal against the direction to the Supreme Court; and the appeal committee may appear as respondent to the appeal and, for the purpose of enabling directions to be given by the Supreme Court as to costs of the appeal before that court and of proceedings before the disciplinary committee, the appeal committee shall be deemed to be a party to the appeal before the Supreme Court, whether or not it appears on the hearing of that appeal.

(6) A direction of the appeal committee under subsection (3) of this section shall take effect—

(a) where no appeal under this section is brought against the direction within the time limited for the appeal, on the expiration of that time;

(b) where such an appeal is brought and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal;

(c) where such an appeal is brought and is not withdrawn or struck out, as aforesaid, if and when the appeal is dismissed, and shall not take effect except in accordance with the foregoing provisions of this subsection.

(7) Subject to this Act, the Body of Benchers may make rules prescribing the procedure to be followed in the conduct of appeal before the appeal committee.”;

(g) in section 8—

(i) and in subsections (1) and (2) for the words “the last foregoing section” there shall be substituted the expression “section 7”;

(ii) and in subsection (2) thereof, for the words “the Supreme Court or the tribunal” there shall be substituted the words “the disciplinary committee” and for “subsection (4)” there shall be substituted “subsection (5)”;

(iii) subsection (3) shall be omitted;

(h) in section 9 for the words “the tribunal” wherever those words occur, there shall be substituted the words “the disciplinary committee”;

(i) in section 10 (1) (c), for the words “the chairman of the association” there shall be substituted the words “the president of the association”;

(j) in section 19—

(i) immediately before the expression “the association” there shall be inserted the following—

“ ‘the appeal committee’ means the Appeal Committee of the Body of Benchers established by section 7A of this Act ;” ;

(ii) immediately after the expression “the bar council” there shall be inserted the following—

“ ‘the Benchers’ means the Body of Benchers established by section 2A of this Act ;” ;

(iii) for the words “chairman of the association” there shall be substituted the words “president of the association”, and for the word “chairman” there shall be substituted the word “president” ;

(iv) immediately after the expression “the Chief Justice” there shall be inserted the following—

“ ‘the disciplinary committee’ has the meaning assigned to it by section 6 of this Act ;” ;

(v) the expressions “the panel” and “the tribunal” and the meanings assigned thereto shall be omitted ;

(k) in the Second Schedule—

(i) in the existing general heading, for the words “disciplinary tribunal and investigating panel” there shall be substituted the words “disciplinary committee” and for the sub-heading “The tribunal” there shall be substituted the sub-heading “The Disciplinary Committee” ;

(ii) for the existing paragraph 1 there shall be substituted the following new paragraph—

“1. The quorum of the disciplinary committee shall be five of whom three must be persons mentioned in paragraphs (a) and (b) of section 6 (2) of this Act” ;

(iii) for sub-paragraph (1) of paragraph 2, there shall be substituted the following sub-paragraph, that is,—

“(1) The Chief Justice of Nigeria 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.” ;

(iv) in paragraphs 2 (2), and 4, for the words “the tribunal” there shall be substituted the words “the disciplinary committee” ;

(v) paragraphs 5 and 6 (and the heading to those paragraphs) shall be deleted ;

(vi) in sub-paragraph (1) of paragraph 7, for the words “by the association” there shall be substituted the words “by the Benchers on the nomination of the association” ; and in sub-paragraph (2) thereof for the words “the tribunal or the panel” there shall be substituted the words “the disciplinary committee” ;

(vii) for sub-paragraph (3) of paragraph 7 there shall be substituted the following, that is—

“(3) A person may, if otherwise eligible, be a member of both the disciplinary committee and the appeal committee ; but no person who acted as a member of the disciplinary committee in any case shall act as a member of the appeal committee with respect to that case.” ;

(viii) in paragraph 8, for the words "the tribunal or the panel" there shall be substituted the words "the disciplinary committee";

(ix) for paragraph 9, there shall be substituted the following new paragraph—

"9. The disciplinary committee or the appeal committee may act notwithstanding any vacancy in its membership and no proceedings of the disciplinary committee or the appeal 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." ;

(x) in paragraph 10, for the words "tribunal and the panel may each" there shall be substituted the words "the disciplinary committee may";

(xi) in paragraph 11, for the words "tribunal or the panel" there shall be substituted the words "the disciplinary committee".

2. The following enactments are hereby repealed, that is—

(a) section 1 (2) of the Legal Practitioners (Amendment) Act 1965 ;

Consequential repeals.
1965 No. 31.

(b) section 1 (a) and (b) (ii) of the Legal Practitioners (Amendment) Decree 1968 ; and

1968 No. 9.

(c) section 1 (1) (b), (c) and (d), and section 1 (2) of the Legal Practitioners (Amendment) Decree 1969.

1969 No. 54.

3.—(1) This Decree may be cited as the Legal Practitioners (Amendment) Decree 1971 and shall apply throughout the Federation.

Citation,
extent and
transitional
provisions.

(2) Any proceedings which immediately before the commencement of this Decree were pending before the Legal Practitioners Investigating Panel or had been referred by that panel to the Legal Practitioners Disciplinary Tribunal but had not been heard or adjudicated upon by that tribunal, shall, on the commencement of this Decree, be taken over and adjudicated upon by the disciplinary committee established by virtue of this Decree.

MADE at Lagos this 27th day of November 1971.

GENERAL Y. GOWON,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

(This note is not part of the above Decree, but it is intended to explain its effect)

The Decree makes sundry amendments to the Legal Practitioners Act 1962. It establishes a Body of Benchers which is responsible for the formal call to the Bar of persons seeking to become legal practitioners. Except in certain exceptional cases, a person shall not be entitled to be enrolled as a legal practitioner in Nigeria unless he has been called to the Bar by the Benchers and he produces a certificate of his call to the registrar.

2. The Decree also establishes the Legal Practitioners Disciplinary Committee, which is charged with the duty of determining any case where it is alleged that a legal practitioner has committed any professional misconduct. That body takes over all functions hitherto performed by the Legal Practitioners Investigating Panel and the Legal Practitioners Disciplinary Tribunal, which bodies are now abolished.

3. An appeal lies from any direction given by the disciplinary committee to the Appeal Committee of the Body of Benchers established under the Decree; and a further appeal lies from the decision of the appeal committee to the Supreme Court.