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CONTROL AND SUPERVISORY REGULATIONS 2010



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S.I. 30 of 2011

CONTROL AND SUPERVISORY REGULATIONS 2010

In exercise of the Powers conferred upon it by Section 1(2) of the Computer Professionals (Registration Council of Nigeria) Act No. 49 1993 and all other enabling powers in that behalf, the Council hereby makes the following Regulations :

[1st July 2011]

Commence-
ment.**CHAPTER I—SCOPE AND INTRODUCTORY PROVISIONS**

1. With effect from the commencement date of this Regulation, the Council shall exercise its control and supervisory powers in accordance with the provisions of the Act and these Regulations.

Council's
Control and
Supervisory
Powers.

2. The Council shall pursuant to the Act and this Regulation control, organize, and supervise persons who are subject to the Act with

Control and
Supervision
of Act,
Regulations,
etc.

(a) The provisions of the Act and Regulations ;

(b) Specific Directions of the Council pursuant to the Act, Regulations and any other direction that may be declared by the Council

Particularly, but not limited to where there are no specific control and supervisory provisions in the relevant sections of the Act, Regulations or License Conditions.

3. The Council shall exercise its control powers on its own initiative ; or In response to a written report or complaints made by a person or member of the Profession.

Commence-
ment
Processes for
Control and
Supervision.**CHAPTER II—CONTROL POWERS AND PROCEDURES GENERALLY**

4. In carrying out its control duties and all other functions ancillary thereto, the Council-

Control
powers,
principles
and
procedures
generally.

(a) Shall at all times be guided by the following principles and considerations, subject however to specific control provisions contained in the Act, Regulations and Licence-

(i) Transparency, fairness and non-discrimination ;

(ii) The need to ensure high computing professional standards and to improve on those standards ;

(iii) The need to promote and encourage provision of quality and affordable computing services in all parts of Nigeria ;

(iv) The need to control the practice of computing in the country ;

(v) The need to promote fair competition and investment in the computing profession ;

(vi) Such other principles and considerations as the Council may from time to time consider necessary and in the national interest ;

(b) Shall exercise, rely and found upon relevant provisions of Act and in particular but without any limitation whatsoever, the provisions on its Powers, processes and procedures and all other matters ancillary thereto ; and

(i) May issue directions in writing to any person ; and

(ii) May enlist and rely on the assistance of law enforcement agencies and other relevant Department, Ministries and Agencies of the Federal Government of Nigeria.

Council's
Power to
register
computer
Profes-
sionals.

5. The Council in exercising its power of control shall direct that every person, organization or institution engaged in the practice of computing, provisions of I. T. Professional Services, use and sales of Computer in Nigeria must register with the Council.

Council's
Power to
grant
license to
members :
Corporate
and
Individual.

6. The Council shall grant Licence to practice computing to registered members of the Council.

Council's
Power to
revoke
Licence.

7. The Council may determine or revoke the Licence granted to such member where such Licence holder contravenes the provisions of the Act, this Regulation or Licence condition.

Offences
and
Penalties.

8. The Council shall direct that any person, organization or institution engaged in the practice of computing, provisions of I. T. Professional Services, use and sales of Computer in Nigeria without registering and obtaining Licence from the Council has committed an offence.

(a) Any person guilty of an offence under this section is liable :

(i) On summary conviction to a fine not exceeding ₦50,000 ;

(ii) An institution or organization found guilty on a summary conviction is liable to a fine not exceeding ₦100,000 ;

(iii) On conviction or indictment, an individual will be liable to a fine not exceeding ₦100,000 while an organization or institution will be liable to pay a fine not exceeding ₦500,000 or to an imprisonment term not exceeding 2 years or to both fine and imprisonment term ;

(b) Where an offence under this section which has been committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributed to any neglect on the part of any Director,

Manager, Secretary or any other similar officer of the body corporate or any person purporting to act in any such capacity, he, as well as the body corporate, shall be deemed to have committed that offence and shall be liable to be proceeded against and punished accordingly.

9. Without prejudice to the specific provisions of the Act, Regulations or any licence conditions, the Council may, in the exercise of its power to control computing profession in the country; pursuant to this Regulations and Act, institute civil proceedings in court against any person, organisation or institution for remedies that may include but not limited to injunctive relief, recovery of the administrative fine, specific performance or pecuniary awards or damages.

Civil
Proceedings.

10. In exercising its power to control computing profession in the country; pursuant to section 1 subsection (2) and other relevant provisions of the Act,

Council's
Power to
seal off or
seize and
detain
Equipments
and
Machines.

(a) The council shall have the power of entry and inspection of institutions or organization where sale or use of computing facilities and or the provision of professionals services in computing takes place, through its authorized officials or appointed inspectors ;

(b) May demand for their licence to operate and or certificate of registration with the Council ;

(c) May demand the testing or operation or use howsoever of any computing machines or equipments and computer accessories by the person in whose custody the machines or equipments are ; and

(d) May seal off or seize and detained in the Council custody for such periods and on such terms as the Council considers necessary to carry out and conclude the relevant inspection of such institutions and organizations.

(i) Any such Computer or Computing devices or equipment ;

(ii) Any building or premises ; or

(iii) Any book, record, document or other information storage system.

11.—(a) The Council may seize and detain or seal off any building or premises or any of the items specified in subsection (a) of this section in the following circumstances—

Letter of
authority
pursuant to
Section 1,
subsection
(2) of the
Act.

(i) Where such constitute part of an unlawful or unauthorized operation ; or

(ii) Where such is relevant and required for the prosecution in Court of a person under the Act or Regulation ; or

(iii) Where such person contravenes any of the provisions of the Act or this Regulation ; or

(iv) It is in the national interest to so seize and detain or seal off the building or premises or any of the aforementioned items ; or

(v) Such other circumstances that are expressly provided for under the Act ;

(b) In seizing and detaining or sealing off any building or premises or any of the items specified in subsection (a) of this section, pursuant to the Act or this Regulation, the Council shall—

(i) Obtain a warrant from a Magistrate or Judge ;

(ii) Provide to the owner or his agent, a writing inventory in evidence of the seizure of the seized Computers, Computing equipments or Devices, Facilities, Books, Records, Document or other information storage system provided that there shall be no need for the issuance of such receipt(s) where the items is sealed off but remain in the custody of the owner or his agent.

Penalties
for
obstructing
appointed
Officers
and
Inspectors
of the
Council.

12.—(a) In exercising its powers of control pursuant to section 1 subsection (2) of the Act, the Council may issue letters of authority to its officials or appointed inspectors.

CHAPTER III—SUPERVISORY POWERS AND PROCEDURES

Council's
Supervisory
Powers.

13.—(a) In carrying out its supervisory duties and all other functions ancillary thereto, the Council—

Shall at all times be guided by the following principles and considerations, subject however to supervisory provisions contained in the Act and this Regulations—

(i) The need to streamline computer training programmes in the country and ensure quality, as well as compliance with international standards ;

(ii) The need to ensure qualitative and standardize computer education in Nigeria ;

(iii) The need to increase level of computer literacy awareness and proper use of computer, computational machinery and techniques related thereto ;

(iv) The need to encourage accelerated development and transformation of computer education in Nigeria ;

(v) To create enabling environment that will encourage and sustain Information Technology practice in the country ;

(vi) To encourage competence in the profession and to ensure integrity in the practice of the profession through strict adherence to the code of conduct and practice of the profession ;

(vii) To actively encourage research in the advancement of computer science and technology ;

(viii) Such other principles and considerations as the Council may from time to time consider necessary and in the national interest ;

(b) Shall exercise and rely and found upon relevant provisions of the Act and in particular but without limitation whatsoever, the provisions on its power, processes and procedures and all other matters ancillary thereto ; and

(c) May issue directions in writing to any person ; and

(d) May enlist and rely on the assistance of law enforcement agencies and other relevant Departments, Ministries and Agencies of the Federal Government of Nigeria.

14. Without prejudice to the specific provisions of the Act, Regulation or any Licence condition, the Council may, in the exercise of its supervisory powers pursuant to this Regulations and the Act, institute civil proceedings in court against any person, Organisation or Institution that has contravened any provisions of the Act or this Regulation for remedies that may include injunctive relief, recovery of administrative fines, specific performance or pecuniary award or damages.

Civil
Proceedings.

15. The Council may from time to time, for the purposes of protecting consumers and ensuring ethical conduct and promoting qualitative standard in the practice of computing in Nigeria, direct that all computing machines, equipment and accessories imported into the country must be inspected and approved by the Council before it can be used in the country.

Council's
Powers to
inspect and
approve
imported
Computer
Machines
and
Accessories.

16. The Council shall subject to the provision of section 9 of the Act, demand that all computer institutions and organizations operating in the country register with and obtain licence from the Council in order to legally operate in Nigeria, failure of such Institution or Organisation to register with the Council and obtain such licence shall constitute a contravention under the Act and this Regulation.

Council's
Power to
grant
Licence.

17.—(a) The Council shall grant Licence to practice computing to registered members of the Council ;

Council's
Power to
revoke
Licence.

(b) The Council may determine or revoke the licence granted where such licence holder contravenes the provisions of the Act, this Regulation or licence condition.

18. The Council shall conduct professional examinations in computing and award certificate to that effect.

Council's
Power to
conduct
Examinations
and award
Certificates.

Power to
Accredit
Institutions.

19.—(a) In carrying out its supervisory functions pursuant to the provision of the Act, the Council shall carry out accreditation of institutions in computer science and other information technology related courses and programmes, and also evaluate certificates awarded by such institutions.

(b) The Council shall from time to time publish in the *gazette*, the list of such accredited institutions.

Council's
Power to
issue
Directives.

20. In exercising its supervisory powers pursuant to section 1 subsection (2) of the Act, the Council—

(a) May issue direction to computer training institutions and organizations engaged in the provision of I. T. Professional Services to abide by the provisions of the Act, this Regulation or any licence condition.

(b) May direct that Computer Professionals (Registration Council of Nigeria) certificate and membership should form part of criteria used to employ people into Information Technology departments of all government Agencies, Departments, Parastatals, Ministries and offices.

(c) May direct that all government projects and contracts based on Information Technology should be awarded only to duly registered members of the Council.

(d) May demand that all computer institutions and organizations engaged in the provision of I. T. Professional Services in the country must obtain licence to practice computing in Nigeria and require that such licence, renewable annually, must be displayed in conspicuous part of their offices, failure to abide by this rule shall constitute a contravention of the Act and this regulation.

(e) May demand that person to be employed as lecturer into any department where Computer Science and other Information Technology related courses is offered, in all higher institutions of learning in Nigeria (either government or privately owned) must be a registered members of the Council.

(f) May design and implement a scheme for the categorization and registration of all Information Technology training institutions in Nigeria.

(g) May direct that only institutions accredited and registered with the Council can award Certificate in Computer Science and other related disciplines throughout the country.

(h) May demand that all members of the professional must comply with the code of conduct and ethic of the profession, failure to comply shall constitute a contravention under the Act and this regulations.

(i) May demand that where any registered member (either corporate or individual) of the Council changes address, the new address must be communicated to the Council in writing within 7 (seven) days of such change, failure to comply with the provision of this section shall constitute a contravention under the Act and this Regulation.

21. Without prejudice to the provisions of the Act, Regulations or any licence condition, the failure by a member of the Council to meet such minimum standards of quality of service as the Council may from time to time specify and publish pursuant to the provisions of the Act shall constitute contravention pursuant to and under this regulation.

Quality of Service.

22. Without prejudice to such other enforcement measures as are or may be contained in the Act, Regulations or any licence condition, contravention of the provisions contained in this Regulation shall attract administrative sanction/fine, to be imposed by the Council taking into consideration the provision of the Act, Regulations, etc

Administrative sanctions for contravention of the Act, Regulations, etc.

23. Without prejudice to the specific provisions of the Act, Regulations or any licence condition, the Council may, in the exercise of its supervisory powers pursuant to this Regulations and the Act, institute civil proceedings in court against any person, Computer Training Institution or Organisation for remedies that may include injunctive relief, recovery of administrative fines, specific performance or pecuniary awards or damages.

Council's Power to institute Civil Proceedings.

CHAPTER IV—ADMINISTRATIVE FINES

24.—(a) Without prejudice to the specific enforcement provisions contained in the Act, Regulations or relevant licence conditions, the Council may at its discretion, but subject to subsection (b) and (c) of this section impose administrative fines for supervisory purposes, pursuant to the Act and this Regulations, particularly but not limited to instances where specific enforcement sanctions have not been provide for in the Act, Regulations or licence.

Imposition of Administrative Fines Generally.

(b) In imposing administrative fines as sanction, the Council shall be guided generally by the following factors and considerations ;

(i) The severity of the contravention and the need to impose such fines or the amount thereof as would act as deterrent both to the contravening person and other persons ;

(ii) The need to be non-discriminatory and transparent in the imposition of sanctions on different persons for similar offences committed in identical circumstances ;

(iii) The prevalence of the contravention in the industry generally and the likelihood of repetition by the contravening person and other persons ;

(iv) The duration of the contravention ;

(v) The circumstances of the contravention, and in particular but not limited to a consideration of whether or not the contravention was deliberately, recklessly or negligently committed by the contravening person, organization or institution ;

(vi) Records of previous similar contravention by the contravening person ;
 (vii) Records of previous contraventions generally by the contravening person, organization, or institution ;

(viii) Attitude and conduct of the contravening prior to and leading up to the act of contravention and consequent upon the contravention ;

(ix) Danger to life and property consequent upon the contravention ;

(x) Effect of contravention on relevant service provision generally ;

(xi) Any gain (financial or otherwise) made by the contravening person directly or indirectly consequent upon the contravention ;

(xii) The degree of harm caused or increased cost incurred by consumers or other Information Technology sector participants ;

(xiii) Size and annual turnover of the contravening person or organization ;

(xiv) The extent to which any contravention was caused by a third party or any relevant circumstances beyond the control of the contravening person, organization or institution ;

(xv) The absence, ineffective, or repeat failure of internal mechanism or procedures intended to prevent contravention by the contravening person, organization or institution ;

(xvi) Possible mitigating circumstances such as, but not limited to-

(a) Whether or not the contravention was of a minor nature and the consequences and effect thereof were equally minor in nature ;

(b) Whether the contravening person, organization or institution took immediate step to remedy the contravention soon after knowing of the contravention ;

(xvii) Such other factors as the Council may in specific circumstances consider relevant and necessary.

(c) The Council shall be guided in determining the specific administrative fine and the amount payable by a contravening person, organization or institution by the factors and considerations specified in subsection (b) of this section.

Specific
Administrative
Fines.

25.—(a) Without derogating from the general provisions of sections 23 and 24 this regulation, the Council may impose administrative fine in the amount it deems fit.

(b) Any administrative fine imposed by the Council pursuant to the Act, regulations or licence shall become due and payable by the contravening person, organization or institution within 14 (fourteen) days from the date of the receipt of the notification document issued by the Council to the contravening person, organization, or institution thereof.

(c) Payment of an administrative fine by a contravening person, organization

or institution shall be without prejudice to the Council's power to impose any other enforcement sanctions under the Act, Regulations or licence.

CHAPTER V—DETERMINATION OF LICENSE

26.—(a) Without prejudice to any other provisions of the Act, Regulations or licence conditions and notwithstanding any contrary provision in any licence contained, the Council may at any time revoke any licence by giving 3 (three) months notice in writing to such licensee in any of the following circumstances :

Revocation
of Licence.

(i) If the licensee is in default of payment of the amount of the annual subscription where the default continues for more than 2 (two) years.

(ii) If the licensee fails to ensure that its computer machineries and equipment is the type approved by the Council.

(iii) If the licensee makes any statement of a material nature in the course of applying for membership of the Council which subject is consequently established to be false or misleading howsoever.

(iv) If the licensee disregard or disobey the directives of the Council as may be given from time to time.

(b) Without derogation from the provisions of subsection (a) of this section, the Council may, as an alternative to licence revocation pursuant to the Act, Regulations or licence condition but solely at its discretion and wherever applicable—

(i) Impose administrative fines ;

(ii) Require that the licensee make such changes in its management and operations as the Council may consider necessary and within such time as the Council may specify ; or

Provided that where the Council determines that a members licence shall be revoked the Council may also impose administrative fines.

(c) The licence fees that have been paid in respect of a licence that has been revoked pursuant to subsection (a) of this section shall not be refunded whether in part or whole consequent upon such revocation.

(d) The original copy of any licence that has been determined howsoever shall be returned to the Council by such member within 14 (fourteen) days of the effective date of the licence determination.

(e) Such member whose licence is determined shall also return his/her seat back to the Council within 14 (fourteen) days of the effective date of the licence determination.

CHAPTER VI—DEFINITIONS AND SHORT TITLE

Definitions.

27.—(a) In this Regulations—

"Act" means the Computer Professionals (Registration Council of Nigeria) Act No. 49 of 1993, CAP C22 LFN 2004 ;

"Council" means Computer Professionals (Registration Council of Nigeria) established under section 1 of the Act ;

"Contravention" means, as the context require, non-compliance with or infringement of any of the provisions of the Act, Regulations or licence ;

"Control" refers to the powers of the Council to co-ordinate and organise activities of computer practitioners in Nigeria ;

"Enforcement" means and includes all required acts for ensuring compliance with or sanctioning the infringement of any of the provisions of the Act, Regulations or license condition including but not limited to administrative actions by the Council, licence, suspension or revocation and, criminal or civil prosecution of contravening persons before the courts ;

"Fees" includes annual subscriptions ;

"Licence" means any licence that has been granted by the Council to computer/information technology practitioners in order to legally practice in Nigeria ;

"Licencee" refers to members of the profession that has been granted licence to practice computing in the country by the Council ;

"Member" means a registered fellow, member, associate, affiliate, corporate member or student member ;

"Profession" means the profession of using computerized machinery and other techniques related thereto ;

"Regulations" means any regulation or guideline that has been published by the Council pursuant to the Act ;

"Relevant Authority" means Nigerian Police Force, National Intelligence Agency, State Security Services, Economic and Financial Crimes Commission, National Drug Law Enforcement Agency and any other organization and agency as the Council may from time to time specify and publish.

"Supervisory power" refers to the powers of the Council to regulate and supervise activities of members of the computing profession in Nigeria.

(b) All definitions in the Act shall have the same meaning and intendment in this Regulation as the Act.