

The following Bills, which will in due course be presented to Parliament for enactment, are published for general information :—

## LEGAL PRACTITIONERS BILL

### EXPLANATORY MEMORANDUM

This Bill completes the re-organisation of the legal profession, the first part of which is dealt with in the Legal Education Act, 1962. But, whereas the Legal Education Act deals with the establishment of a national Law School under a Council of Legal Education which controls the system of legal education of future Nigerian lawyers and prescribes the qualifications for admission to the Bar, the present Bill seeks to establish a General Council of the Bar with powers to regulate the conduct of legal practitioners in their practice of the law.

The main features of the Bill are the provisions relating to the establishment of a General Council of the Bar (Section 1); a disciplinary body, consisting of an Investigating Panel and a Disciplinary Tribunal which will have power to admonish a legal practitioner, to suspend him from practice, or to order the Chief Registrar of the Federal Supreme Court to strike his name off the Roll in well defined circumstances. There is a right of appeal to the Federal Supreme Court; (Sections 6 and 7). There is also a Remuneration Committee, which is charged with the duty to provide regulations establishing a tariff of fees payable by clients to practitioners for different categories of professional services rendered to them, thus removing the existing element of arbitrariness in this matter (Sections 10-13).

There are other provisions safeguarding clients' interests, *e.g.* the requirement in Sections 15 and 16 that all practitioners must keep separate accounts and records of their clients' moneys which they must also bank. There are very far reaching penalties prescribed in Section 17 for non-compliance.

T. O. ELIAS,  
*Attorney-General of the Federation  
and Minister of Justice*

## LEGAL PRACTITIONERS BILL

## ARRANGEMENT OF CLAUSES

*The General Council of the Bar**Clause*

1. Establishment of bar council.

*Practice as a legal practitioner*

2. Entitlement to practise.
3. Enrolment.
4. Right of audience, and precedence.
5. Liability for negligence.

*Professional discipline*

6. Establishment of disciplinary tribunal and investigating panel.
7. Penalties for unprofessional conduct, etc.
8. Disciplinary jurisdiction of Federal Supreme Court.
9. Restoration of names to roll, etc.

*Remuneration of practitioners*

10. Scales of charges.
11. Recovery of charges, etc.
12. Applications for taxation of charges.
13. Taxation.
14. Supplementary provisions as to remuneration.

*Safeguards for clients, etc.*

15. Accounts and records for clients' moneys.
16. Special provisions as to client accounts with banks.

*General*

17. Offences.
18. Miscellaneous supplementary provisions.
19. Interpretation, etc.
20. Short title, extent, commencement and repeals, etc.

## SCHEDULES :

First Schedule—Table of precedence.

Second Schedule—Supplementary provisions as to the disciplinary tribunal and investigating panel.

Third Schedule—Repeals, etc.

# A BILL

FOR

AN ACT TO REGULATE THE LEGAL PROFESSION ; AND FOR CONNECTED PURPOSES.

BE IT ENACTED by the Legislature of the Federation of Nigeria in this present Parliament assembled and by the authority of the same as follows :—

[*See. s. 20 (2)*]

Commence-  
ment.

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## *The General Council of the Bar*

Establish-  
ment of bar  
council.

1.—(1) There shall be a body, to be known as the General Council of the Bar (and hereafter 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, who shall be the president of the council ;  
and  
15 (b) the Attorneys-General of the Regions ; and  
(c) twenty members of the association.

(3) The persons mentioned in paragraph (c) above 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  
20 (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  
30 took part in the proceedings who was not entitled to do so.

## *Practice as a legal practitioner*

2.—(1) Subject to the provisions of this Act, a person shall be entitled to practise as a barrister and solicitor if, and only if, his name is on the roll.

Entitlement  
to practise.

(2) The Chief Justice may, after consultation with the bar council, make rules as to the functions of a legal practitioner which are not to be performed by a person who is of counsel to Her Majesty, and until the first rules made in pursuance of this subsection come into force such a person shall not be entitled to engage in practice as a member of the legal profession otherwise than as a barrister ; but nothing in this subsection shall be construed as precluding such a person from entering  
40 into, or continuing in, partnership with a legal practitioner who is not of counsel to Her Majesty.

## (3) If—

(a) an application under this subsection is made to the Chief Justice by or on behalf of any person appearing to him to be entitled to practise as an advocate in any country where the legal system is similar to that of Nigeria ; and

(b) the Chief Justice is of the opinion that it is expedient to permit that person to practise as a barrister for the purposes of proceedings described in the application,

the Chief Justice may by warrant under his hand authorise that person, on payment to the registrar of such fee not exceeding twenty-five pounds as may be specified in the warrant, to practise as a barrister for the purposes of those proceedings and of any appeal brought in connection with those proceedings.

(4) A person for the time being exercising the functions of any of the following offices, that is to say—

(a) the office of the Attorney-General, Solicitor-General or Director of Public Prosecutions of the Federation or a Region ;

(b) such offices in the public service of the Federation or a Region as the Attorney-General of the Federation or the Region, as the case may be, may by order specify,

shall be entitled to practise as a barrister and solicitor for the purposes of that office.

(5) A certificate signed by, or by a person authorised either generally or specially in that behalf by, any of the persons mentioned in paragraph (a) of the last foregoing subsection stating that a particular individual is exercising the functions of a particular office shall, without prejudice to any other means of proof, be conclusive proof for the purposes of that subsection that the individual is exercising the functions of that office ; and any document purporting to be a certificate under this subsection shall be admitted in evidence and, until the contrary is proved, be deemed to be such a certificate.

## Enrolment.

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

(a) he is a citizen of Nigeria ; and

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

(c) he satisfies the Chief Justice 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.

(3) The Attorney-General may, after consultation with the bar council, 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 subsection, the regulations may—

(a) 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 ;

5 (b) provide for the cancellation of enrolments having effect by virtue of the regulations where, in the opinion of the Attorney-General, the facilities aforesaid are altered or withdrawn.

10 (4) Except in pursuance of a direction given under the following provisions of this Act by the Federal Supreme Court or by the tribunal established under those provisions, a person whose name has been struck off the roll in pursuance of a direction given either before or after the passing of this Act by that court or in pursuance of a direction of the tribunal shall not be entitled to have his name enrolled again.

15 (5) If, on the date when this subsection comes into force, the name of any person (other than a citizen of Nigeria) is on or deemed to be included in the roll and that person is on that date not ordinarily resident in Nigeria, his name shall by virtue of this subsection cease to be enrolled ; and the registrar shall amend the roll accordingly.

20 4.—(1) Subject to the provisions of the next following subsection and of any enactment in force in any part of Nigeria prohibiting or restricting the right of any person to be represented by a legal practitioner in proceedings before the Sharia Court of Appeal or the Court of Resolution of Northern Nigeria or any native or customary court, a legal practitioner shall have the right of audience in all courts of law sitting in Nigeria.

Right of audience, and precedence.

25 (2) After the thirty-first day of July, one thousand nine hundred and sixty-three, no legal practitioner (other than such a person as is mentioned in subsection (4) of section two of this Act) shall be accorded the right of audience in any court in Nigeria in any year unless he has paid to the registrar in respect of that year a practising fee of ten guineas in the case of a person of counsel to Her Majesty, or five guineas in the case of a person of five years or more standing as a legal practitioner at the beginning of that year, and of three guineas in any other case ; and it shall be the duty of the registrar—

35 (a) to issue to each person by whom a practising fee is paid in respect of any year a receipt for the fee in the prescribed form ; and

40 (b) as soon as reasonably practicable after the end of January in each year, and thereafter from time to time during the year as he considers appropriate, to cause to be printed in the prescribed form and put on sale a list or supplementary list of the legal practitioners by whom the practising fee has been paid in respect of that year ; and

(c) to pay over to the association as soon as may be after the end of each year a sum equal to three-quarters of the aggregate amount of the practising fees received by him in pursuance of this subsection during that year ;

45 and a receipt purporting to be issued and a list purporting to be printed in pursuance of this subsection in respect of any year shall be evidence that the person named in the receipt or, as the case may be, that any person named in the list has paid to the registrar the practising fee in respect of that year.

(3) Legal practitioners appearing before any court, tribunal or person exercising jurisdiction conferred by law to hear and determine any matter (including an arbitrator) shall take precedence among themselves according to the table of precedence set out in the First Schedule to this Act.

Liability for negligence.

5.—(1) Subject to the provisions of this section, a person shall not be immune from liability for damage attributable to his negligence while acting in his capacity as a legal practitioner, and any provision purporting to exclude or limit that liability in any contract shall be void.

(2) Nothing in the foregoing subsection shall be construed as preventing the exclusion or limitation of the liability aforesaid in any case where a legal practitioner gives his services without reward either by way of fees, disbursements or otherwise.

(3) Nothing in subsection (1) of this section shall affect the application to a legal practitioner of the rule of law exempting barristers from the liability aforesaid in so far as that rule applies to the conduct of proceedings in the face of any court, tribunal or other body.

#### *Professional discipline*

Establishment of disciplinary tribunal and investigating panel.

6.—(1) There shall be a tribunal, to be known as the Legal Practitioners Disciplinary Tribunal (and hereafter in this Act referred to as "the tribunal"), which shall be charged with the duty of considering and determining any case referred to it by the panel established by the following provisions of this section, and any other case of which the tribunal has cognisance under the following provisions of this Act.

(2) The tribunal shall consist of—

- (a) one judge of the High Court of each territory appointed by the Chief Justice of that court ;
- (b) the Attorneys-General of the Federation and the Regions ; and
- (c) fifteen legal practitioners, of not less than five years standing appointed by the association.

(3) There shall be a body, to be known as the Legal Practitioners Investigating Panel (and hereafter in this Act referred to as "the panel"), which shall be charged with the duty of conducting a preliminary investigation into 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 before the tribunal, and of deciding whether the case should be referred to the tribunal.

(4) The panel shall consist of the Attorneys-General of the Federation and the Regions and ten legal practitioners of not less than five years standing appointed by the association.

(5) The provisions of the Second Schedule to this Act shall, so far as applicable to the tribunal and the panel respectively, have effect with respect to those bodies.

(6) Any expenses of the tribunal and the panel approved by the Minister of the government of the Federation responsible for justice shall be defrayed out of moneys provided by Parliament ; and the Minister of the government of the Federation responsible for finance may make regulations as to the custody of, and the making of payments from, any such moneys held by or on behalf of the tribunal or the panel.

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Penalties for  
unprofes-  
sional  
conduct.

7.—(1) Where—

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

5 (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 tribunal is incompatible with the status of a legal practitioner ; or

10 (c) the tribunal is satisfied that the name of any person has been fraudulently enrolled,  
the tribunal may, if it thinks fit, give a direction—

(i) ordering the registrar to strike that person's name off the roll ; or

15 (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.

20 (2) The tribunal may, if it thinks fit, defer or further defer its decision as to the giving of a direction under the foregoing subsection until a subsequent meeting of the tribunal ; but no person shall be a member of the tribunal for the purposes of reaching a decision which has been deferred or further deferred unless he was present as a member of the tribunal when the decision was deferred.

25 (3) It shall be the duty of the bar council to prepare, and from time to time revise, a statement as to the kind of conduct which the council considers to be infamous conduct in a professional respect, and the registrar shall send to each person whose name is on the roll and whose address is shown in the records of the Federal Supreme Court relating to legal practitioners, by post to that address, a copy of the statement as for the time being revised ; but the fact that any matters are not  
30 mentioned in such a statement shall not preclude the Federal Supreme Court or the tribunal from adjudging a person to be guilty of infamous conduct in a professional respect by reference to such matters.

35 (4) For the purposes of subsection (1) of this section a person shall not be treated as convicted as mentioned in paragraph (b) of that subsection 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.

40 (5) When the tribunal gives a direction under subsection (1) of this section, the tribunal shall cause notice of the direction to be served on the person to whom it relates.

45 (6) 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 Federal Supreme Court ; and the tribunal 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 tribunal, shall be deemed to be a party thereto whether or not it appears on the hearing of the appeal.

(7) A direction of the tribunal under subsection (1) 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.

Disciplinary  
jurisdiction  
of Federal  
Supreme  
Court.

8.—(1) Where it appears to the Federal 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 seised, the Federal 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 subsection (1) of the last foregoing section, 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 Gazette of the Federation.

(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 Federal Supreme Court or the tribunal 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 a direction as is authorised by paragraph (ii) of subsection (1) of the last foregoing section ; 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 subsection (4) of that section.

(3) Where—

(a) a person serves on the panel—

(i) an affidavit made by him stating that he believes there are grounds on which proceedings before the tribunal should be taken against some other person whose name is stated in the affidavit, and specifying those grounds ; and

(ii) a statement of an address in Nigeria at which a notice under the following paragraph may be served ; and

(b) within the period of three months from the date of service of the affidavit, no notice from the panel addressed to him is delivered to that address stating that the case has been referred to the tribunal, he may at any time before the expiration of the period of six months from the date aforesaid, after giving to the panel and that other person the prescribed notices, apply to the Federal Supreme Court for an order requiring the panel to refer the case to the tribunal ; and the panel shall be the respondent to the application.

Restoration  
of names to  
roll, etc.

9.—(1) Where either before or after the passing 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 the following subsection, make an application for the restoration of his name to the roll or the cancellation of the suspension—

5 (a) if the striking off or suspension was ordered by the Chief Justice or the Federal Supreme Court, to that court; and

(b) in any other case, to the tribunal.

10 (2) A direction under subsection (1) of section seven of this Act or subsection (1) of the last foregoing section may prohibit an application under the foregoing subsection until the expiration of the period specified in the direction; and where such an application is duly made to the Federal Supreme Court or the tribunal, the court or tribunal may direct that no further application shall be made under the foregoing subsection until the expiration of the period specified in the direction under this subsection.

15 *Remuneration of practitioners*

10.—(1) There shall be a committee, to be called the Legal Practitioners Remuneration Committee, which shall consist of—

Scales of charges.

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

20 (b) the Attorneys-General of the Regions; and

(c) the chairman of the association and two other members of the association.

25 (2) The quorum of the committee shall be three, of whom one shall be the chairman of the committee or some other member of the committee nominated by him to act as chairman of the committee on the occasion in question.

30 (3) 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—

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

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

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

(d) agreements between practitioners and clients with respect to charges.

40 (4) The committee shall not make an order under this section unless they have served a copy of the proposed order on the chairman of the association and have considered any representations in writing made to the committee by the association within the period of three months beginning with the date of service of the copy; and if either House of Parliament, on any of the twenty days on which it sits next  
45 after the day on which an order under this section comes into force, resolves that the order be annulled it shall, except in relation to anything previously done by virtue of the order, cease to have effect on the day next following the date of the resolution and be deemed never to have had effect.

(5) 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.

(6) Nothing in this section shall apply to the fee marked on a brief to appear in any proceedings which is delivered to a person of counsel to Her Majesty.

Recovery of charges, etc.

11.—(1) 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.

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

(a) 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

(b) the period of one month beginning with the date of delivery of the bill has expired.

(3) In any case in which a legal practitioner satisfies the court, on an application made either *ex parte* or if the court so directs after giving the prescribed notice,—

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

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

(c) 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,

then, notwithstanding that the period mentioned in paragraph (b) of the last foregoing subsection has not expired, the court may direct that the practitioner be authorised to bring and prosecute an action to recover the charges unless before judgment in the action the client gives such security for the payment of the charges as may be specified in the direction.

(4) The court may, if it thinks fit, on the application of a client—

(a) order a legal practitioner to deliver his bill of charges to the client;

(b) 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.

- 5 (5) 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 maximum 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  
10 moved either directly or indirectly.

- 12.—(1) Except where a direction providing for the giving of security is given under subsection (3) of the last foregoing section and security is not given in accordance with the direction, the court shall,  
15 on an application made by a client within the period of one month from the date on which a bill of charges was delivered to him, order that the bill shall be taxed and that no action to recover the charges shall be begun until the taxation is completed.

Applications  
for taxation  
of charges.

- (2) Subject to the provisions of the next following subsection, the court may if it thinks fit, on an application made after the expiration  
20 of the period aforesaid by the legal practitioner or (except as aforesaid) by the client in question—

- (a) order that the bill shall be taxed ;  
(b) order that until the taxation is completed no action to recover the charges mentioned in the bill shall be begun and any such action  
25 already begun shall be stayed ;

and an order under this subsection may be made on such terms (other than terms as to the costs of the taxation) as the court may determine.

- (3) No order shall be made under the last foregoing subsection—  
(a) in any case, after the period of twelve months from the date on  
30 which the bill in question was paid ;  
(b) except in a case where the court determines that there are special reasons for making such an order, if twelve months have expired since the date of the delivery of the bill or if judgment has been given in an action to recover the charges in question ;  
35 and an order made by virtue of paragraph (b) of this subsection may contain terms as to the costs of the taxation.

- 13.—(1) The taxation of bills of charges shall be in accordance with the provisions of any order in force under section ten of this Act ;  
40 and where no such order is in force or any item falling to be taxed is not dealt with by the order, the charges to be allowed on taxation of the item shall not exceed such as are reasonable having regard to the skill, labour and responsibility involved and to all the circumstances of the case.

Taxation.

- (2) If at the time and place appointed in pursuance of rules of court  
45 for the taxation of a bill one of the parties appears and any other party does not, the taxing officer shall proceed to tax the bill unless for special reasons he determines to adjourn or further adjourn the taxation so as to afford an absent party an opportunity to be present ; and where he does so determine he may also determine by whom any costs of the  
50 adjournment or further adjournment shall be payable.

(3) Where on the taxation of a bill it appears to the taxing officer that there are circumstances of the case which make it appropriate to refer the taxation to the court, he shall so refer it; and the court may either—

(a) proceed itself to tax the bill and notify to the taxing officer the amount to be declared and stated in his certificate in pursuance of the next following subsection; or

(b) refer the taxation back to the taxing officer with its directions in the matter.

(4) On the completion of the taxation of a bill, the taxing officer shall forthwith declare the amount due in respect of the bill and shall file in the records of the court a certificate signed by him stating that amount; and any party to the taxation shall be entitled on demand to have issued to him free of charge an office copy of the certificate.

(5) If any party to the taxation is dissatisfied with a determination under subsection (2) of this section or the amount stated in a certificate filed in pursuance of this section (other than a certificate stating the amount notified by the court under subsection (3) of this section), he may, within twenty-one days from the date of the determination or filing, appeal to the court.

(6) The certificate of the taxing officer in respect of a bill of charges, or where the certificate is varied on appeal the certificate as so varied, shall be conclusive as to the amount of the charges payable in respect of the bill; but nothing in this subsection shall be construed as relieving a legal practitioner of any obligation to prove that a client is liable to pay a bill of charges, or as precluding a client from disproving that he is so liable.

(7) Subject to the provisions of any order made by virtue of subsection (3) of the last foregoing section, if the amount stated in a certificate under this section relating to a bill of costs, or in such a certificate as varied on appeal, is less than the amount of the bill before taxation and the difference is equal to one-sixth or more of the amount of the bill before taxation, the costs of the taxation shall be payable by the legal practitioner, and in any other case those costs shall be payable by the client.

14.—(1) Without prejudice to the provisions of section nineteen of this Act, in the four last foregoing sections and this section (hereafter in this section referred to as “the remuneration provisions”) the following expressions have the following meanings unless the context otherwise requires, that is to say—

“bill of charges” means such a bill as is mentioned in paragraph (a) of subsection (2) of section eleven of this Act;

“charges” means any charges (whether by way of fees, disbursements, expenses or otherwise) in respect of anything done by a legal practitioner in his capacity as a legal practitioner;

“client” means the person or any of the persons alleged to be liable to pay the charges of a legal practitioner;

“the court” means the High Court of the territory in which the legal practitioner in question usually carries on his practice or usually resides or in which the client in question usually resides or has his principal place of business or, in the case of a practitioner authorised to practise by warrant, the High Court of the territory in which the proceedings specified in the application for the warrant were begun;

"taxation" means taxation by the proper officer of the court, and cognate expressions shall be construed accordingly.

(2) For the purposes of the remuneration provisions, a bill of charges is delivered if it is served on or left for or sent to the client as mentioned in subsection (2) of section eleven of this Act and, in relation to a bill of charges, "deliver" and cognate expressions shall be construed accordingly.

(3) The remuneration provisions shall apply to a firm consisting of legal practitioners in partnership as they apply to a legal practitioner.

(4) For the purposes of the remuneration provisions, a person shall be deemed to be a legal practitioner in relation to any charges if he was a legal practitioner when he performed the services to which the charges relate.

*Safeguards for clients, etc.*

15 15.—(1) Subject to subsection (4) of this section, the bar council shall, within the period of six months beginning with the coming into force of this section, and may from time to time thereafter as the council considers expedient, make rules—

Accounts  
and records  
for clients'  
moneys.

(a) as to the opening and keeping by legal practitioners of accounts at banks for clients' money; and

(b) 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 clients; and

(c) 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

(d) as to the keeping by such a practitioner as is mentioned in the last foregoing paragraph 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

(e) empowering the bar council to take such action as it thinks necessary to enable it to ascertain whether the rules are being complied with.

(2) Rules made under the foregoing subsection 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.

(3) 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.

(4) Rules under this section shall not require the keeping of accounts or records—

(a) 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 Region; or

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

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

Special provisions as to client accounts with banks.

16.—(1) 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.

(2) 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 under 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.

#### General

Offences.

17.—(1) Subject to the provisions of this section, if any person other than a legal practitioner—

(a) practises, or holds himself out to practise, as a legal practitioner; or

(b) takes or uses the title of legal practitioner; or

(c) wilfully takes or uses any name, title, addition or description falsely implying, or otherwise pretends, that he is a legal practitioner or is qualified or recognised by law to act as a legal practitioner; or

(d) prepares for or 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,

he shall be guilty of an offence and liable, in the case of an offence under paragraph (a) of this subsection or a second or subsequent offence under paragraph (d) of this subsection, to a fine of an amount not exceeding one hundred pounds or imprisonment for a term not exceeding two years or both, and in any other case to a fine of an amount not exceeding fifty pounds.

In this subsection "instrument", in relation to immovable property, means any document which confers, transfers, limits, charges or extinguishes any interest in the property or which purports so to do, and "immovable property" includes unextracted minerals.

(2) Nothing in the foregoing subsection 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.

(3) Nothing in paragraph (d) of subsection (1) of this section shall be construed as making it an offence for any person to prepare an instrument—

- 5 (a) in the course of his activities as a pupil of a legal practitioner, or of his employment as a clerk or servant of a legal practitioner ;
- (b) 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) ;
- 10 (c) relating only to proceedings to which he is a party, or prepared with a view to proceedings to which he may be a party ;
- (d) for the purpose only of recording information or expert opinion intended for use in, or with a view to, any proceedings ;
- (e) which is, or is intended to be, a will or other testamentary instrument ;
- 15 (f) of such a class or description as the Attorney-General may by order determine.

(4) Where an offence under this Act 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 director, manager, secretary or 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 be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) No proceedings for an offence under this section shall be begun after the expiration of the period of three years beginning with the date of the offence.

(6) 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.

35 18.—(1) It shall be the duty of the registrar to continue to maintain the roll of court kept immediately before the passing of this Act in pursuance of rule 5 of Order XVI of the Supreme Court (Civil Procedure) Rules ; and in this Act "the roll" means the roll maintained in pursuance of this subsection.

Miscellaneous supplementary provisions.

40 (2) Subject to the provisions of subsection (5) of section three of this Act, any name which, immediately before the repeal by this Act of section ten of the Legal Practitioners Act, was deemed by virtue of that section to be included in the roll shall be inserted in the roll and shall be deemed to have been so inserted on the date on which it was entered or

45 last entered on the old roll within the meaning of that section.

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(3) The association shall pay any sums received by it by virtue of section four of this Act into a separate fund which shall be used for the purposes of the association ; and it shall be the duty of the association—

- 50 (a) to keep proper accounts in respect of the fund and proper records in relation to the accounts ; and

(b) to cause the accounts to be audited in each year by an auditor approved, as respects that year, by the Minister of the government of the Federation responsible for finance ; and

(c) to cause a copy of the accounts and of the auditor's report thereon to be sent to the registrar and to each person by whom a practising fee has been paid in respect of the year in question in pursuance of the said section four. 5

(4) In calculating for the purposes of this Act the period of a person's standing as a legal practitioner, there shall be taken into account any period before the passing of this Act during which he was entitled by law to practise as a barrister and solicitor in any part of Nigeria. 10

(5) Except as otherwise provided by or under this Act, any document authorised or required to be served by or under this Act may, without prejudice to any other means of service, be served by post in a registered letter. 15

(6) Any application to a court or judge in pursuance of this Act shall be made in the prescribed manner.

Interpretation, etc.

19.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say— 20

“the association” means the Nigerian Bar Association ;

“the Attorney-General” means the Attorney-General of the Federation ;

“the bar council” has the meaning assigned to it by section one of this Act ; 25

“the chairman of the association” means the person for the time being holding office as chairman of the association in accordance with the constitution of the association ;

“the Chief Justice” means the Chief Justice of the Federation ;

“legal practitioner” means a person entitled in accordance with the provisions of this Act to practise as a barrister or as a barrister and solicitor, either generally or for the purposes of any particular office or proceedings ; 30

“the panel” has the meaning assigned to it by section six of this Act ;

“prescribed” means prescribed by rules of court ; 35

“public service of the Federation” has the same meaning as in the Constitution of the Federation ;

“qualifying certificate” has the same meaning as in the Legal Education Act, 1962 ;

“the registrar” means the Chief Registrar of the Federal Supreme Court ; 40

“the roll” has the meaning assigned to it by subsection (1) of the last foregoing section, and cognate expressions shall be construed accordingly ;

“rules of court” means rules of court made by the Federal Supreme Court ; 45

“territory” has the same meaning as in the Constitution of the Federation ;

“the tribunal” has the meaning assigned to it by section six of this Act ; 50

“warrant” means a warrant issued by the Chief Justice under section two of this Act.

(2) Any reference in this Act to any enactment is a reference to that enactment as amended by or under any other enactment.

5 (3) Any power conferred by this Act to make an order or regulations shall include power to make different provision by the order or regulations for different circumstances.

20.—(1) This Act may be cited as the Legal Practitioners Act, 1962, and shall apply throughout the Federation.

Short title,  
extent,  
commence-  
ment and  
repeals, etc.

10 (2) The provisions of this Act shall come into force on such day as the Attorney-General may by order appoint, and different days may be appointed for the purposes of different provisions.

15 (3) The enactments specified in the first and second columns of Part I of the Third Schedule to this Act are hereby repealed to the extent shown in the third column of that Part; and the enactment specified in Part II of that Schedule shall have effect subject to the amendment there specified (being an amendment consequential on the passing of this Act).

## SCHEDULES

Section 4.

## FIRST SCHEDULE

## Table of precedence

1. The Attorney-General of the Federation.
2. The Attorneys-General of the Regions in order of seniority as counsel to Her Majesty and thereafter in order of seniority of enrolment. 5
3. Counsel to Her Majesty in order of seniority.
4. Persons authorised to practise as legal practitioners by virtue of paragraph (b) of subsection (4) of section two of this Act.
5. Persons whose names are on the roll in order of seniority of enrolment. 10
6. Persons not of counsel to Her Majesty authorised to practise by warrant.

For the purposes of this table, orders of seniority shall be ascertained by reference to the date of the relevant letters patent, appointment, first enrolment or warrant (the earlier the date, the greater the seniority) and, in the case of persons taking seniority within the same category from the same date, in such manner as the Chief Justice may direct. 15

Section 6.

## SECOND SCHEDULE

Supplementary provisions as to the disciplinary tribunal and investigating panel 20

*The tribunal*

1. The quorum of the tribunal shall be five of whom a judge of a High Court shall be one.
- 2.—(1) The Chief Justice shall make rules as to the selection of members of the tribunal 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 tribunal. 25
- (2) The rules shall in particular provide—
  - (a) 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; 30
  - (b) for determining who, in addition to the person aforesaid, shall be a party to the proceedings;
  - (c) for securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the tribunal; 35
  - (d) for enabling any party to the proceedings to be represented by a legal practitioner;
  - (e) subject to the provisions of subsection (6) of section seven of this Act, as to the costs of proceedings before the tribunal; 40
  - (f) 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 tribunal 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 ;

5 (g) for publishing in the Gazette of the Federation notice of any direction of the tribunal 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.

10 3. For the purposes of any proceedings before the tribunal, any member of the tribunal may administer oaths and any party to the proceedings may sue out of the registry of the Federal Supreme Court writs of subpoena ad testificandum and duces tecum ; but no person appearing before the tribunal shall be compelled—

(a) to make any statement before the tribunal tending to incriminate himself ; or

15 (b) to produce any document under such a writ which he could not be compelled to produce at the trial of an action.

20 4. It shall be the duty of the registrar to afford to the tribunal such facilities, whether by way of accommodation, secretarial assistance or otherwise, as the tribunal may reasonably require for the purpose of its functions.

#### *The panel*

5. The quorum of the panel shall be three of whom an Attorney-General shall be one.

25 6.—(1) The panel may, at any meeting of the panel attended by not less than seven members of the panel including not less than two Attorneys-General, make standing orders with respect to the panel.

(2) Subject to the provisions of any such standing orders, the panel may regulate its own procedure.

#### *Miscellaneous*

30 7.—(1) A person appointed by the association to be a member of the tribunal or the panel shall, unless he previously resigns, hold office for such term, not exceeding three years, as may be specified in his instrument of appointment.

35 (2) A person ceasing to be a member of the tribunal or the panel shall be eligible for reappointment as a member of that body.

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

40 8. The Attorney-General of the Federation or a Region may, if he thinks fit, direct the Solicitor-General of the Federation or, as the case may be, of the Region to act in his place as a member of the tribunal or the panel for the purposes of any case ; and references to an Attorney-General in this Schedule or section six of this Act shall be construed  
45 accordingly.

9. The tribunal or the panel may act notwithstanding any vacancy in its membership ; and the proceedings of either body shall not be invalidated by any irregularity in the appointment of a member of that body, or (subject to subparagraph (3) of paragraph 7 above) by reason

of the fact that any person who was not entitled to do so took part in the proceedings of that body.

10. The tribunal and the panel may each sit in two or more divisions.

11. Any document authorised or required by this Act to be served on the tribunal or the panel shall be served on the registrar.

5

Section 20.

## THIRD SCHEDULE

## PART I

## Repeals

<i>Chapter or number</i>	<i>Short title</i>	<i>Extent of repeal</i>
Cap. 80	The High Court of Lagos Act.	Section eighty.
Cap. 100	The Law Officers Act.	Sections two and three. In section five, from the beginning to the words "or solicitors and".
Cap. 101	The Legal Practitioners Act.	The whole Act.
Cap. 191	The Stamp Duties Act.	In the Schedule, the entry beginning "Admission", except in its application to a notary public, and the entry beginning "Licence to act temporarily as a solicitor".
No. 54 of 1958.	The Queen's Counsel Act, 1958.	The whole Act.
No. 12 of 1960.	The Federal Supreme Court Act, 1960.	In section fourteen, in subsection (1), the words from "entitled by" onwards, and subsection (2).
1962, No. 12.	The Legal Education Act, 1962.	Section two.
Rules of court No. 5 of 1942.	The Military Advocates Rules, 1942.	The whole of the rules.
L.N. 1 of 1956.	The Federal Supreme Court Rules, 1956.	The whole of the rules.

## PART II

## Modification of Enactment

*The Interpretation Act (Cap. 89)*

In section three, in the definition of "legal practitioner", for the words from "means" onwards there shall be substituted the words "has the meaning assigned to that expression by the Legal Practitioners Act, 1962."

## INCOME TAX BILL

## EXPLANATORY MEMORANDUM

This Bill seeks to amend the Income Tax Management Act, 1961, the Companies Income Tax, 1961, and the Personal Income Tax (Lagos) Act, 1961, so that some inadvertent minor omissions from those Acts may be corrected and minor improvements arising from experience in the administration of those Acts can be effected.

An outline of the provisions of the Bill appears in the Arrangement of Clauses.

F. S. OKOTIE-EBOH,  
*Minister of Finance*

ARRANGEMENT OF CLAUSES

*Clause*

- |  |  |
|--|--|
| <ol style="list-style-type: none"> <li>1. Extension of tax relief for gratuities paid on Nigerianisation, etc., of employments with public bodies.</li> <li>2. Apportionment over a period of rent paid in advance and included in company profits.</li> <li>3. Extension to non-Nigerian companies of provisions for setting off tax already paid on dividends, etc.</li> </ol> | <ol style="list-style-type: none"> <li>4. Extension of income tax relief to cases of separated spouses.</li> <li>5. Collection of tax for which a deceased person was answerable.</li> <li>6. Short title, extent and commencement.</li> </ol> |
|--|--|

**A BILL**

FOR

AN ACT TO AMEND THE LAW RELATING TO INCOME TAX.

[See section 6 (2)]

Commencement.

BE IT ENACTED by the Legislature of the Federation of Nigeria in this present Parliament assembled and by the authority of the same as follows:—

- 5 1. Paragraph 6 of the Fourth Schedule to the Income Tax Management Act, 1961 (which provides that, in the case of an employee whose employment ceases after a period of less than five years, any gratuity or similar payment made to him from an approved pension or provident fund in respect of the employment shall be treated as income in so far as it exceeds a payment at the rate of one hundred and fifty pounds a year
- 10 for that period) shall, as respects a person who is not a citizen of Nigeria and who ceases to be employed by such a body corporate or unincorporate as is mentioned in that paragraph, have effect subject to the following provisions of this section, that is to say—

Extension of tax relief for gratuities paid on Nigerianisation, etc., of employments with public bodies.

1961, No. 21.

(a) if the relevant tax authority within the meaning of the Act aforesaid is satisfied that the employment in question ceased with a view to the employment of a citizen of Nigeria in the place of that person, the provisions of the said paragraph 6 shall not apply in relation to that employment ; and

(b) the relevant tax authority may if it thinks fit, in a case not falling within the foregoing paragraph, determine that those provisions shall apply in relation to that employment with the substitution for the reference to the rate aforesaid of a reference to such larger rate as may be specified in the determination.

Apportionment over a period of rent paid in advance and included in company profits.

1961, No. 22.

2. Where any payment on account of such a rent as is mentioned in paragraph (b) of section seventeen of the Companies Income Tax Act, 1961, is made before the expiration of the period to which it relates and is included for the purposes of that section in the profits of a company, then, so much of the payment as relates to any period beginning with the date on which the payment is made shall be treated for those purposes as accruing to the company proportionately from day to day over the last-mentioned period or over the five years beginning with that date, whichever is the shorter.

Extension to non-Nigerian companies of provisions for setting off tax already paid on dividends, etc.

3. Section thirty-five of the Companies Income Tax Act, 1961 (which provides for the setting off and repayment of amounts in respect of tax which has been deducted from dividends included in the assessable profits of Nigerian companies, or which is deemed to have been deducted from profits which are treated as distributed and are so included) shall apply in relation to the assessable profits of non-Nigerian companies as it applies in relation to the assessable profits of Nigerian companies ; and accordingly the word "Nigerian" in the second place where it occurs in subsection (1) and the first and third places where it occurs in subsection (2) of that section is hereby repealed.

Extension of income tax relief to cases of separated spouses.

1961, No. 23.

4.—(1) The deduction to be allowed to an individual in pursuance of paragraph (a) of section nineteen of the Personal Income Tax (Lagos) Act, 1961 (which provides for a deduction of one hundred pounds in the case of a married man who had a wife living with or maintained by him during the year preceding the year of assessment or of the amount of any alimony not exceeding one hundred pounds paid under a court order to a former spouse) shall include a deduction of the amount of any payments made by the individual during the said preceding year, in accordance with a deed of separation or an order of a court, to a spouse from whom the individual was then separated by such a deed or order, so however that the aggregate amount of any deduction allowed to the individual for any year of assessment by virtue of that paragraph as amended by this subsection shall not exceed one hundred pounds.

(2) Accordingly, for the said paragraph (a) there shall be substituted the following paragraph—

“(a) a deduction of—

(i) one hundred pounds in the case of a married man who at any time during the year preceding the year of assessment had a wife living with or maintained by him ;

(ii) the amount of any alimony paid by the individual during the said preceding year to a former spouse in accordance with an order of a court made in consequence of the dissolution of their marriage ; and

(iii) the amount of any payments made by the individual during the said preceding year, in accordance with a deed of separation or an order of a court, to a spouse from whom he was then separated by such a deed or order :

- 5 Provided that the aggregate amount of any deduction allowed to any individual for any year of assessment by virtue of sub-paragraphs (i), (ii) and (iii) of this paragraph shall not exceed one hundred pounds ;”.

5.—(1) Where an individual dies, the amount of—

- (a) any tax in respect of income of his arising before the death ; and  
10 (b) any tax for which, but for his death, he would have been answerable in respect of other income so arising,

shall be payable by the person administering the deceased's estate out of the assets of the estate.

Collection of tax for which a deceased person was answerable.

- (2) For the purpose of determining and securing payment of the amount aforesaid, the Income Tax Management Act, 1961, and the Personal Income Tax (Lagos) Act, 1961, shall apply in relation to the person administering the estate as they would have applied in relation to the deceased but for his death, and in particular (but without prejudice to the generality of the foregoing provisions of this subsection) it shall be the duty of that person to make such returns and to do such other things as would but for the death have fallen to be made or done for that purpose by the deceased.

(3) In this section, “tax” has the same meaning as in the Personal Income Tax (Lagos) Act, 1961.

- 25 6.—(1) This Act may be cited as the Income Tax Act, 1962.

(2) Sections one to four of this Act shall have effect as respects the year of assessment beginning on the first day of April, 1962 and subsequent years of assessment, and section five of this Act shall have effect as respects the year of assessment beginning on the first day of April, 1961, and subsequent years of assessment ; but nothing in this Act shall be construed as purporting to prejudice the provisions of subsection (7) of section twenty-one of the Constitution of the Federation (which prevents the conviction of any person on account of any act or omission which was not an offence when the act or omission took place).

Short title, commencement and extent.

- 35 In this subsection, “year of assessment” has the same meaning as in the Income Tax Management Act, 1961.

- (3) This Act shall apply throughout the Federation, so however that sections four and five of this Act and so much of the last foregoing subsection as relates to those sections shall apply to the Federal territory only.

(844)