

S.I. 10 of 1985

RULES OF PROCEDURE OF THE LEGAL PRACTITIONERS
DISCIPLINARY COMMITTEE

Commencement : 1st June 1985

In exercise of the powers conferred upon him by the Legal Practitioners Act, 1975, Schedule 2 Clause 2 (1) the Chief Justice of Nigeria hereby makes the following rules of procedure :—

ORDER 1

Title, Application and Definition

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| <p>1. These Rules may be cited as the Legal Practitioners Disciplinary Committee Rules, 1985 and shall come into operation on the 1st day of June 1985.</p> <p>2. In these Rules words and expressions shall have the meaning given to them in the Legal Practitioners Act 1975 and unless the context otherwise requires the following words and expressions shall have the following meanings :—</p> <p>“Act” Means Legal Practitioners Act 1975.</p> <p>“The Chairman” .. Means the Chairman of the Legal Practitioners Disciplinary Committee.</p> <p>“The Secretary” .. Means the Secretary of the Legal Practitioners Disciplinary Committee.</p> <p>“The Committee” .. Means the Disciplinary Committee.</p> <p>“The Panel” Means a division of the Committee to hear complaints pursuant to Section 9 (1) of the Legal Practitioners Act 1975.</p> <p>“Members” Means Members of the Disciplinary Committee.</p> <p>“Legal Practitioner” .. Means a Legal Practitioner under the Legal Practitioners Act 1975.</p> <p>“Prima Facie Case” .. Has the same meaning as assigned to it in criminal proceedings.</p> | <p>Title and Commencement.</p> |
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ORDER 2

Form and Commencement of Proceedings

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| <p>1. Every disciplinary proceedings against a Legal Practitioner under the Act shall be commenced by a complaint in writing to the Secretary against the Legal Practitioner.</p> <p>2. The Complaint shall :—</p> <p>(a) contain the name and address of the complainant and of the Legal Practitioner,</p> <p>(b) State briefly and clearly the complaint(s).</p> <p>3. Where the complainant is an illiterate person, the Secretary shall record the particulars himself in a register kept for that purpose together with the date and time that the complaint was made.</p> | <p>Commencement by written complaint contents of complaint.</p> |
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ORDER 3

The Complaint

Secretary to forward complaints and investigate, summon meeting, publish in Gazette and keep Record Book.

1. The Secretary shall :—

(a) promptly forward a copy of the complaint to the Legal Practitioner and ask for his comments in writing within twenty-one (21) days of the receipt of the Complaint.

(b) obtain further written statements from the parties if he considers it necessary to clarify any issue ;

(c) obtain written statements from other persons discovered to have been interested or concerned in the matter or believed to be in a position to assist in the consideration and determination of the issue(s) ;

(d) refer the file to the Chairman who shall order a meeting of the Disciplinary Committee to be summoned within twenty-eight (28) days of the receipt of the file ;

(e) summon a meeting of the Disciplinary Committee on the orders of the Chairman or on a written request of not less than six (6) members of the Committee ;

(f) determine who shall be additional parties to the proceedings and summon them in such capacities ;

(g) publish any direction of the Committee in the Federal Government Gazette pursuant to Schedule 2 (2) (g) to the Act ; and

(h) maintain a RECORD BOOK in which all proceedings of the Committee shall be entered.

Service of Complaint and other processes.

2. Service of a copy of the Complaint and other processes on the Legal Practitioner or other parties or persons shall be effected either by Registered Post or by personal service.

Further proceedings may proceed in the absence of reply by Legal Practitioner.

3. Where it is proved that copy of the Complaint has been served on the Legal Practitioner and he fails to forward his comments in writing within twenty-one (21) days of the receipt of the same, the Disciplinary Committee may continue with the further action on the matter notwithstanding, but shall notify the Legal Practitioner of its intention to proceed further with the matter.

ORDER 4

Preliminary Investigation

Committee to conduct Preliminary Investigation.

1. The Disciplinary Committee shall meet on the appointed date with liberty to adjourn to a further date or dates to conduct a preliminary investigation into the Complaint.

2. The Disciplinary Committee shall strike out or dismiss the complaint if no *prima facie* case is made out or proceed to trial if a *prima facie* case is made out.

ORDER 5

The Trial

Secretary to summon parties and witnesses, etc.

1. Where a *prima facie* case is made the Secretary shall summon the parties to attend before the Disciplinary Committee giving full particulars as to date, place, time and liberty to appear with counsel.

2. The Committee shall appoint a legal practitioner to prosecute the Complaint.

3. The Disciplinary Committee shall ask the Legal Practitioner or his Counsel on the hearing date if he objects to any member on the Panel and if he does he shall be asked to state his grounds and a ruling shall be made on same.

4. If on the date fixed for trial, the complainant appears but the Legal Practitioner fails to appear and the Disciplinary Committee is satisfied that he has been duly notified to appear, then the complainant may proceed to prove his allegation against the Legal Practitioner and decision given by the Disciplinary Committee.

5. If on the date fixed for the trial the Legal Practitioner appears but the complainant is absent, then the Disciplinary Committee shall proceed to trial with the matter and gives its decision one way or the other, and in appropriate cases strike out the complaint or even adjourn the trial till another date.

6. If on the date fixed for trial both the Legal Practitioner and the Complainant are absent, the matter may be struck off the list of the matters before the Disciplinary Committee, but without prejudice, however, to the restoration thereof, at the discretion and upon direction of the Disciplinary Committee.

7. The Disciplinary Committee may sit in two more panels of not less than three members one of whom shall preside.

ORDER 6

Proceedings at Trial

1. (a) The Disciplinary Committee shall *hear* the parties and their witnesses, consider and determine all questions of fact and Law raised before it.

Committee to decide on Statement in the file or call evidence.

(b) In hearing the parties and their witnesses the panel may proceed to take oral evidence on oath with the procedure of examination in Chief, cross examination and re-examination.

(c) The Complainant and his witnesses shall be heard first and thereafter the Legal Practitioner against whom the Complaint is made and his witnesses shall then be heard. After hearing the parties and their witnesses, addresses of parties may be received by the parties.

(d) The Disciplinary Committee may receive the oral or written addresses of the parties thereafter.

2. The Committee shall retire to consider all the facts and law before it and either record a finding of not guilty under Schedule 2 (2) (f) to the Act or give a direction under Section 10 of the Act which in either case must be in writing and signed by the sitting members.

Panel to deliver judgement in writing.

3. Where findings are not immediately delivered but adjourned sine die the Secretary shall give notice to the parties of the date, time and place that the findings will be pronounced.

Adjourned sine die.

Savings as to
rules of
evidence.

4. The Committee shall not be strictly bound by the rules of evidence as provided by the Evidence Act.

Subpoena.

5. The Committee shall have power to issue a subpoena to secure the appearance of any person and disobedience to such order shall be treated as contempt in the courts of law.

ORDER 7

Attendance of Witnesses

1. The Secretary shall summon witnesses at the request of parties or on the order of the Disciplinary Committee.

ORDER 8

Parties

Determina-
tion of
Parties.

1. The Disciplinary Committee shall determine who shall be parties to the proceedings apart from the Legal Practitioner complained against, and summon them as such.

Absence of
Party.

2. If any party fails to appear at the hearing, the Committee may upon proof of service on such party of the notice of hearing, proceed to hear and determine the complaint notwithstanding his (the Party) absence.

G. S. SOWEMIMO, C.O.N.,
Chief Justice of Nigeria,
Supreme Court of Nigeria,
Lagos, Nigeria