

ADVERTISING PRACTITIONER'S (REGISTRATION, ETC.) ACT, CAP. A7 L.F.N. 2004

ADVERTISING PRACTITIONER'S (REGISTRATION, ETC.) ACT

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ADVERTISING PRACTITIONER'S (REGISTRATION, ETC.) ACT

An Act to establish a council for advertising practitioners and to make provisions for the control of the practice of the profession of advertising.

[Commencement.]

[27th December, 1988]

Establishment of the Advertising Practitioners Council of Nigeria, etc.

1. Establishment of the Advertising Practitioners Council of Nigeria, etc.

There is hereby established for advertising practitioners a body to be known as the Advertising Practitioners Council of Nigeria (in this Act referred to as "the Council") which shall be charged with the general duty of-

- (a) determining who are advertising practitioners;
- (b) determining what standards of knowledge and skill are to be attained by persons seeking to become registered as members of the advertising profession and reviewing those standards from time to time;
- (c) securing in accordance with the provisions of this Act, the establishment and maintenance of a register of persons entitled to practise as advertising practitioners and the publication, from time to time, of lists of those persons;
- (d) regulating and controlling the practice of advertising subject to the approval of the Minister of Health, where the advertisement relates to matters of foods, cosmetics, beverages and drugs;
- (e) conducting examinations in the profession and awarding certificates or diplomas to successful candidates as and when appropriate and for such purpose the Council shall prescribe fees to be paid in respect thereof;
- (f) performing the other functions conferred on the Council by this Act.

2. Membership of the Council

(1) The Council shall consist of-

- (a) a chairman who shall be a distinguished fellow of the profession to be appointed by the President;
- (b) seven persons to be appointed by the Minister one of whom shall be from the Ministry and others from amongst other interests in the field of advertising which in the opinion of the Minister ought to be adequately represented;
- (c) ten persons to be elected by the Association of Advertising Practitioners of Nigeria (in this Act referred to as "the Association") in the manner for the time being provided by its constitution; and
- (d) two persons to represent institutions of higher learning in Nigeria offering courses leading to an approved qualification, to be appointed by the Minister in rotation, so however that

the two persons shall not come from the same institution.

(2) The provisions set out in the First Schedule to this Act shall have effect with respect to the qualification, tenure of office of members of the Council and the other matters therein mentioned.

[First Schedule.]

3. Power of the Council

(1) Subject to subsection (2) of this section and to any directions of the Minister under this Act, the Council shall have power to do anything which in its opinion is calculated to facilitate the carrying out of its functions under this Act.

(2) The Council shall not have power to borrow or dispose of any property except with the prior consent of the Minister and shall not have power to pay remuneration (including pensions), allowances or expenses to any employee of the Council or any other person except in accordance with scales approved by the Minister.

1. Power to bestow honorary fellowship

The Council may if it deems it fit bestow an honorary fellowship on any deserving person who has distinguished himself in his calling and whose contribution is such that it is in the interest of the Council to be associated with such person.

5. Fund of the Council

(1) The Council shall establish and maintain a fund for the purposes of this Act.

(2) There shall-

(a) be paid into the fund of the Council-

(i) all fees and other moneys payable to the Council in pursuance of this Act;

(ii) such moneys as may be payable to the Council, whether in the course of the discharge of its functions or not; and

(b) be paid out of the fund of the Council-

(i) the remuneration and allowances of the Registrar and other employees of the Council;

(ii) such reasonable travelling and subsistence allowance of members of the Council in respect of the time spent on the business of the Council as the Council, may, with the approval of the Minister, determine; and

(iii) any other expenses incurred by the Council in the discharge of its functions under this Act.

6. Financial provisions

(1) The Council shall prepare and submit to the Minister not later than the 30th day of September of each year (so however that the Minister may, if he considers it necessary, extend the period in the year in which this Act comes into force) an estimate of the income and expenditure of the Council during the next succeeding year.

(2) The Council shall keep proper accounts in respect of each year and proper records in relation to those accounts and shall cause the accounts to be audited within six months after the end of the year to which the accounts relate by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

7. Directives of the Minister to the Council

The Minister may give to the Council directives of a general character or relating generally to particular matters but not to any individual person or case with regard to the exercise by the Council of its functions under this Act and it shall be the duty of the Council to comply with the directives.

8. Registrar and other staff of the Council

(1) It shall be the duty of the Council to appoint a fit and proper person to be the Registrar for the purposes of this Act.

(2) The Registrar shall, in addition to his other functions under this Act, be the Secretary to the Council and shall, on the instructions of the Chairman of the Council, convene and keep minutes of the proceedings at all meetings of the Council and committees thereof, as the case may be.

(3) The Council may appoint such other persons to be employees of the Council as the Council may determine to assist the Registrar in the exercise of his functions under this Act.

(4) The Council may, whenever the Registrar is absent, or for any other reason is unable to discharge the functions of his office, appoint an acting Registrar to discharge his functions.

(5) The Registrar and other employees of the Council shall hold office on such terms and conditions as the Council may, with the approval of the Minister, determine.

PART II

Registration

1. Preparation and maintenance of register

(1) It shall be the duty of the Registrar to prepare and maintain, in accordance with rules made by the Council under this section, a register of the names, addresses, approved qualifications and of such other particulars as may be specified of all persons who are entitled in accordance with the

provisions of this Act to be registered as fellows, full members, associates or students of the profession and who apply in the specified manner to be so registered.

(2) Subject to the provisions of this section, the Council shall make rules with respect to the form of keeping of the register and the making of entries therein, and in particular-

- (a) regulating the making of applications for registration and providing for the evidence to be produced in support of applications;
- (b) providing for the notification to the Registrar by the person to whom any registered particulars relate, of any change in those particulars;
- (c) authorising a registered person to have any qualification which is, in relation to his profession, an approved qualification or an accepted qualification under section 12 (2) of this Act, registered in relation to his name in addition to or, as he may elect in substitution for any other qualifications so registered;
- (d) specifying anything falling to be specified under the foregoing provisions of this section;
- (e) specifying the fees to be paid to the Council in respect of the entry of names on the register and authorising the Registrar to refuse to enter a name on the register until any fees specified for entry has been paid.

(3) It shall be the duty of the Registrar-

- (a) to correct, in accordance with the directions of the Council, any entry in the register which the Council directs him to correct as being in the opinion of the Council an entry which was incorrectly made;
- (b) to make, from time to time, any necessary alterations to the registered particulars or registered persons;
- (c) to remove from the register the name of any registered person who has died, has become insane or has committed an act of gross misconduct.

(4) If the Registrar-

- (a) should send by post to any registered person a registered letter addressed to him at his address on the register enquiring whether the registered particulars relating to him are correct and receives no reply to that letter within three months from the date of posting it; and
- (b) upon the expiration of the period sends in like manner to the persons in question a second letter and receives no reply to that letter within three months from the date of posting,

the Registrar may remove the particulars relating to the person in question from the register but the Council may direct the Registrar to restore to the register any particulars removed therefrom under this subsection.

10. Publication of register and lists of correction

(1) It shall be the duty of the Registrar-

(a) to cause the register to be printed, published and put on sale to members of the public not later than two years from the beginning of the year in which this Act comes into force;

(b) in each year after that in which a register is first published under paragraph (a) of this subsection, to cause to be printed, published and put on sale as aforesaid either a corrected edition of the register or a list of alterations made to each register since it was last printed; and

(c) to cause a print of each edition or the register and of each list of corrections to be deposited at the principal office to the Council, and it shall be the duty of the Council to keep each register and lists so deposited open at all reasonable times for inspection by members of the public.

(2) A document purporting to be a print of an edition of a register published under this section by authority of the Registrar in the current year or documents purporting to be prints of an edition of a register so published in the current year, shall (without prejudice to any other mode of proof) be admissible in any proceedings as evidence that any person specified in the document, or the documents read together, as being registered is so registered and that any person not so specified is not so registered.

11. Division of register

The register maintained under section 9 of this Act shall consist of three parts-

(a) one part in respect of fellows;

(b) one part in respect of full members;

(c) one part in respect of associate members.

12. Registration

(1) A person shall be entitled to be registered as a student member of the profession and being so registered to receive a certificate of registration if he satisfies the Council that he is undergoing a course of studies recognised by the Council leading to a qualification in the profession in an institution approved by the Council.

(2) A person shall be entitled to be registered as an associate member of the profession and being so registered to receive a certificate of registration if –

- (a) he holds a University Degree or Higher National Diploma in mass communication or other professional qualification recognised by the Council and he is employed in a recognised organisation where he can acquire professional experience;
- (b) he is of good character;
- (c) he has not been convicted in Nigeria or elsewhere of an offence involving fraud or dishonesty; and
- (d) he has attained the age of 21 years.
- (3) A person shall be entitled to be registered as a full member of the profession and being so registered to receive a certificate of registration if-
- (a) he fulfils the conditions for registration under subsection (2) of this section; and
- (b) he satisfies the Council that in the five years immediately preceding the date of his application, he has been in continuous active practice as an advertising practitioner either alone or in partnership with other advertising practitioners.
- (4) A person shall be entitled to be registered as a fellow of the profession and being so registered to receive a certificate of registration if –
- (a) he fulfils the conditions for registration under subsection (2) or (3) of this section; and
- (b) he satisfies the Council that in the fifteen years immediately preceding the date of his application, he has been in continuous active practice with other advertising practitioners, and has in the opinion of the Council made significant contributions to the advertising profession.
- (5) The Council may in its absolute discretion provisionally accept a qualification produced in respect of an application for registration under this section or direct that the application be received within such period as may be specified in the direction.
- (6) The Council shall, from time to time, publish in the *Federal Gazette* particulars of the qualifications for the time being accepted for registration.

PART III

Training

13. Approval of courses

- (1) The Council may approve for the purpose of section 12 of this Act-

- (a) any course of training which is intended for persons seeking to become members of the profession under this Act and which the Council considers is designed to confer on persons completing it sufficient knowledge and skill for the practice of the profession;
- (b) any institution either in Nigeria or elsewhere which the Council considers is properly organised and equipped for conducting the whole or any part of the course of training approved by the Council under this section; or
- (c) any qualification which, as a result of examination taken in conjunction with the course of training approved by the Council under this section, is granted to candidates reaching a standard at the examination indicating, in the opinion of the Council, that they have sufficient knowledge and skill to practise the profession.

(2) The Council may, if it thinks fit, withdraw any approval given under this section in respect of any course, qualification or institution but before withdrawing such an approval, the Council shall-

- (a) give notice that it proposes to do so to persons by whom the course is conducted or the qualification is granted or the institution is controlled, as the case may be;
- (b) afford each such person an opportunity of making to the Council representation with regard to the proposal; and
- (c) take into consideration any representations made in respect of the proposal in pursuance of paragraph (b) of this subsection.

(3) In respect of any period during which the approval of the Council under this section for a course, institution or qualification is withdrawn, the course, institution or qualification shall not be treated as approved under this section but the withdrawal of such an approval shall not prejudice the registration or eligibility for registration of any person who by virtue of the approval was registered or eligible for registration immediately before the approval was withdrawn.

(4) The giving or withdrawal of an approval under this section shall have effect from such date, after the execution of the instrument signifying the giving or withdrawal of the approval, as the Council may specify in the instrument, and the Council shall-

- (a) as soon as may be, publish a copy of every instrument in the *Federal Gazette*; and
- (b) not later than seven days before its publication as aforesaid send a copy of the instrument to the Minister.

14. Supervision of institution and examination leading to qualifications

(1) It shall be the duty of the Council to keep itself informed of the nature of-

(a) the instruction given at approved institutions to persons attending approved courses of training; and

(b) the examinations as a result of which approved qualifications are granted,

and for the purpose of performing that duty, the Council may appoint, either from among its own members or otherwise, persons to visit approved institutions or attend such examinations.

(2) It 'shall be the duty of a Visitor appointed under subsection (1) of this section to report to the Council on-

(a) the adequacy of the instruction given to persons attending approved courses of training at institutions visited by him;

(b) the adequacy of the examination attended by him; and

(c) any other matter relating to the institutions or examinations which the Council may, either generally or in a particular case, request him to report,

but no Visitor shall interfere with the giving of any instruction or the holding of any examination.

(3) On receiving a report made in pursuance of this section, the Council shall, as soon as may be, send a copy of the report to the person appearing to the Council to be in charge of the institution or responsible for the examinations to which the report relates requesting that person to make representations to the Council within such time as may be specified in the request not being more than one month beginning with the date of the request.

15. Power of the Council to consider matters relating to training, etc.

(1) The Council may, if it thinks fit, consider and report to the Minister upon all matters relating to the professional training and other qualifications required for admission to the profession under this Act and the conditions of practice after registration.

(2) The Minister may require the Council to advise him on any matter referred to in subsection (1) of this section.

PART IV

Privileges of Registered Persons and Offences by Unregistered Persons

16. Certificate invalid if given by unregistered person

A certificate required by any enactment from any class of persons for whom a register is maintained under this Act shall not be valid, unless the person signing it is registered in accordance with this Act.

17. Appointment not to be held by unregistered person

(1) Subject to the provisions of this Act, no person, not being registered in accordance with this Act, shall be entitled to hold any appointment in the public service of the Federation or of a State or in any public or private establishment, body or institution, if the holding of such appointment involves the performance by him in Nigeria of any act pertaining to the profession for gain.

(2) Nothing in this section or in any other provisions of this Part of this Act shall prevent a person from holding any appointment referred to in subsection (1) of this section while he is undergoing training for the purpose of becoming qualified for registration under this Act under the supervision of persons who are registered in accordance with this Act.

18. Prohibition of a person falsely professing to be a registered person

Any person, not being registered in any register established under section 11 of this Act, who holds himself out to be so registered or uses any name, title, description or symbol calculated to lead any person to infer that he is so registered, shall be guilty of an offence and liable on conviction for a first offence to a maximum time of one thousand naira or to imprisonment for a term of six months or to both such fine and imprisonment, and on conviction for a second or any subsequent offence to imprisonment for a term of not less than one year or more than three years.

19. Recovery of fees

No remuneration shall be recoverable by legal proceedings in respect of any act pertaining to the profession of a registered person when performed by a person who is prohibited from performing such act for gain.

20. Offences

(1) If any person for the purpose of procuring the registration of any name, qualification or other matter-

(a) makes a statement which he believes to be false in a material particular; or

(b) recklessly makes a statement which is false in a material particular,

he shall be guilty of an offence under this section.

(2) If the Registrar or any other person employed by the Council wilfully makes any falsification in any matter relating to any register maintained under this Act, he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be liable-

(a) on conviction in a court of inferior jurisdiction, to a fine not exceeding five hundred naira;
or

(b) on conviction in a High Court or the Federal High Court to a fine not exceeding one thousand naira or to a term of imprisonment not exceeding two years, or to both such fine and imprisonment.

(4) Where an offence under this Part of this Act which has been committed by a body corporate is proved to have been committed with the 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 punished accordingly.

21. Burden of proof

In any criminal proceedings against any person upon a charge of having performed an act which constitutes an offence if performed by an unregistered person, the person charged shall be deemed to be unregistered unless he proves the contrary.

PART V

Discipline

22. Establishment of the Disciplinary Committee and Investigating Panel

(1) There shall be established a disciplinary committee to be known as the Advertising Practitioners Disciplinary Committee (in this Act referred to as "the Disciplinary Committee") which shall be charged with the duty of considering and determining any case referred to it by the panel established by the following provision of this Act.

(2) The Disciplinary Committee shall consist of seven members of the Council at least three of whom shall be members holding office by virtue of paragraph (c) of subsection (1) of section 2 of this Act.

(3) There shall be established a body to be known as the Advertising Practitioners Investigating Panel (hereafter in this Act referred to as "the Investigating Panel") which shall be charged with the duty of-

(a) conducting preliminary investigation into any case where it is alleged that a registered person has misbehaved in his capacity as such, or should for any other reason be the subject of proceedings before the Disciplinary Committee; and

(b) deciding whether the case should be referred to the Disciplinary Committee.

(4) The Investigating Panel shall be appointed by the Council and shall consist of five members of the Council.

(5) The provisions of the Second Schedule to this Act shall, in so far as is applicable to the Disciplinary Committee and the Investigating Panel respectively, have effect with respect to those bodies.

[Second Schedule.]

23. Establishment of Advertising Standards Panel

(1) There shall be established by the Council, a panel to be known as the Advertising Standards Panel (in this Act referred to as "the Standards Panel") which shall be charged with the duty of ensuring that advertisements conform with the prevailing Laws of the Federation as well as the codes of ethics of the advertising profession.

(2) The Standards Panel shall consist of not less than three members of the Council and the following other members, that is-

(a) two representatives each of the following associations namely-

(i) the Association of Advertising Practitioners of Nigeria;

(ii) the Newspapers Proprietors Association of Nigeria;

(iii) the Consumers Association;

(iv) the Outdoor Advertising Association;

(b) three representatives of the Food and Drug Unit of the Federal Ministry of Health;

(c) two representatives each of-

(i) advertisers;

(ii) National Council of Women Societies;

(iii) the electronic media;

(iv) the Central Bank of Nigeria and other financial institutions.

(3) A member of the Standards Panel other than a member of the Council shall hold office on such terms and conditions as may be contained in his letter of appointment.

(4) A decision of the Standards Panel shall have effect except when nullified by the Council on appeal.

24. Proceedings of Disciplinary Committee

- (1) At any meeting of the Disciplinary Committee five members shall form a quorum.
- (2) The Chairman shall preside at any meeting of the Disciplinary Committee or in his absence the members present at the meeting shall appoint one of the members to preside at the meeting.
- (3) Any question proposed for decision by the Disciplinary Committee shall be determined by the majority of the members present and voting at a meeting of the Disciplinary Committee at which a quorum is present.
- (4) At all meetings of the Disciplinary Committee each member present shall have one vote on a question proposed for decision by the Disciplinary Committee, and in the event of an equality of votes, the chairman shall have, in addition to a deliberative vote, a casting vote.

25. Penalties for unprofessional conduct

(1) Where-

- (a) a person registered under this Act is convicted by any court or tribunal in Nigeria or elsewhere having power to award punishment for an offence (whether or not an offence punishable with imprisonment) which in the opinion of the Disciplinary Committee is incompatible with the status of such professional; or
- (b) a registered person is judged by the Disciplinary Committee to be guilty of infamous conduct in a professional respect; or
- (c) the Disciplinary Committee is satisfied that the name of any person has been fraudulently registered,

the Disciplinary Committee may give any of the directions mentioned in subsection (2) of this section.

(2) The Disciplinary Committee may give a direction under subsection (1) of this section-

- (a) ordering the Registrar to strike the person's name off the relevant part of the register;
- (b) suspending the person from practice for such period as may be specified in the direction;
- (c) reprimanding the person;
- (d) ordering the person to pay to the Council any costs of and incidental to the proceedings or any other sums of money whatsoever incurred by the Council; or
- (e) cautioning the person and postponing for a period not exceeding one year any further action against him on one or more conditions as to his conduct during that period,

and any such direction may, where appropriate, include provisions requiring the refund of moneys paid or the handing over of documents or any other thing, as the case may require.

(3) For the purposes of subsection (1) of this section, a person shall not be treated as convicted 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.

(4) In any inquiry under this section, any finding of fact which is shown to have been made in-

(a) any criminal proceedings in a court in Nigeria; or

(b) any civil proceedings in a court in Nigeria,

shall be conclusive evidence of the fact found.

(5) If, after due inquiry, the Disciplinary Committee is satisfied that during the period of any postponement under paragraph (e) of subsection (2) of this section, a person has not complied with the conditions imposed thereunder, the Disciplinary Committee may, if it thinks fit, impose anyone or more of the penalties mentioned in paragraphs (a), (b), (c) or (d) of that subsection.

(6) A certificate under the hand of the Chairman that any costs have been ordered to be paid by a person under

this section shall be conclusive evidence thereof.

26. Restoration of registration

(1) Where the name of a person has been struck off the register in pursuance of a direction given under section 23 of this Act, the Disciplinary Committee, may if it thinks fit, at any time direct the restoration of his name to the register.

(2) An application for the restoration of a name to a register under subsection (1) of this section shall not be made to the Disciplinary Committee before the expiration of such period from the date of the striking off (and where he has made such an application, from the date of his last application) as may be specified in the direction.

(3) There shall be payable to the Council by any person on the restoration of his name to a register in pursuance of a direction given under this section the like fees as would be payable by that person on first becoming registered on that register.

27. Striking off entries from register on grounds of fraud or error

(1) If it is proved to the satisfaction of the Disciplinary Committee that any entry made in a register had been fraudulently or incorrectly made, the Disciplinary Committee may direct that the entry shall be struck off from the register.

(2) A person may be registered in pursuance of any provisions of this Act notwithstanding that his name had been struck off in pursuance of a direction given under subsection (1) of this section, but if it was so struck off on the ground of fraud, he shall not be registered except if an application in that behalf is made to the Disciplinary Committee and on any such application the Disciplinary Committee may, if it thinks fit, direct that he shall be registered or shall not be registered until the expiration of such period as may be specified in the direction.

(3) Any reference in this Act to the striking off from or the restoration to a register of the name of a person shall be construed as including a reference to the striking off from or the restoration to the register of any other registrable particulars relating to that person.

28. Appeal to the Court of Appeal

(1) Where the Disciplinary Committee-

(a) makes a finding and imposes a penalty on a registered person under section 25 of this Act; or

(b) rejects an application for restoration of a name to a register under section 26 (1) of this Act; or

(c) directs the striking off of an entry from a register under section 27 (1) of this Act,

the Registrar shall give the person to whom the proceedings relate notice in writing thereof and such person may, within 28 days from the date of service on him of the notice, appeal to the Court of Appeal.

(2) On any appeal under this section, the Council shall be the respondent.

(3) No direction for the striking off of the name of a registered person from a register under section 25 of this Act shall take effect until the expiration of the time for appealing or if an appeal is brought, until such time as the appeal is disposed of, withdrawn or struck out for want of prosecution, as the case may be.

(4) The Court of Appeal may, on an appeal under this section-

(a) confirm, vary or set aside any finding of fact, penalty imposed or direction given by the Disciplinary Committee;

(b) confirm the rejection of the Disciplinary Committee of the application for restoration or direct the restoration of the name to the register;

(c) remit the matter to the Disciplinary Committee for further consideration; or

(d) make such other order as to costs or otherwise as may to it seem just, but no proceedings before the Disciplinary Committee shall be set aside by reason only of informality in those proceedings which did not embarrass or prejudice the appellant.

Supplementary

29. Regulations

(1) The Minister may make regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the administration thereof.

(2) Any power to make regulations, rules or orders conferred under this Act shall include-

(a) the power to make provisions for such incidental and supplementary matters as the authority making the instrument considers expedient for the purposes of the instruments; and

(b) the power to make different provisions for different circumstances.

30. Interpretation

In this Act, unless the context otherwise requires-

“Association” means the Association of Advertising Practitioners of Nigeria;

“Council” means the Advertising Practitioners Council of Nigeria established under section 1 of this Act;

“member” means a member of the Board and includes the Chairman;

“Minister” means the Minister charged with the responsibility for matters relating to information and “Ministry” shall be construed accordingly;

“profession” means the advertising profession;

“register” means the register maintained in pursuance of section 9 of this Act;

“registered” means registered as a fellow, member, associate or student member or the profession in the part of the register relating to fellows, members, associates or students, as the case may be;

“Registrar” means the Registrar appointed under section 8 of this Act.

31. Short title

This Act may be cited as the Advertising Practitioners (Registration, etc.) Act.

SCHEDULES

FIRST SCHEDULE

[Section 2 (2).]

Qualification and Tenure of Office of Members

1. (1) A person, other than a person appointed under section 2 (1) (d) of this Act, shall not be a member of the Council unless he is a citizen of Nigeria and is registered as a member of the profession.

(2) In exercise of his power under section 2 (1) (b) of this Act, the Minister shall take into consideration representatives of print media, commercial radio and television broadcasting, outdoor advertising and the advertisers.

(3) Subject to section 2 (2) of this Act, the Chairman shall hold office for a period not exceeding three years beginning with the date of his appointment and shall not be immediately eligible to be re-appointed as Chairman, except for the first Chairman who may be re-appointed for one more term only.

(4) A person who has ceased to be a chairman of the Council shall be eligible to become a member of the Council.

(5) Subject to the provisions of this paragraph, a member of the Council other than a public officer shall hold office for a period not exceeding three years beginning with the date of his appointment or election, as the case may be.

(6) Any member of the Council may by notice to the Council, resign his membership.

(7) Subject to section 2 of this Act, a person who has ceased to be a member of the Council shall be eligible for re-appointment or re-election, as the case may be.

(8) Where a member of the Council ceases to hold office before the date when his term of office would have expired by effluxion of time, the body or person by whom he was appointed or elected shall as soon as may be, appoint or elect a person to fill the vacancy for the residue of the term.

Proceedings of the Council

2. Subject to the provisions of this Act and section 27 of the Interpretation Act (which provides for decisions of a body to be taken by a majority of the members of the body and for the Chairman to have a second or casting vote) the Council may make standing orders regulating the proceedings of the Council or of any committee thereof or elect a temporary Vice-Chairman in the absence of the Chairman for the conduct of the affairs of the Council.

[Cap. 123.)

3. The quorum of the Council shall be seven and the quorum of any committee of the Council shall be as determined by the Council.

4. At any time while the office of the Chairman is vacant or the Chairman is in the opinion of the Council temporarily or permanently unable to perform the functions of his office, the Vice-Chairman shall perform those functions and references in this Schedule to the Chairman shall be construed accordingly.

5. (1) Subject to the provisions of any applicable standing orders, the Council shall meet whenever summoned by the Chairman and if the Chairman is required so to do by notice given to him by not less than six other members, he shall summon a meeting of the Council to be held within twenty-one days from the date on which the notice is given.

(2) At any meeting of the Council, the Chairman or in his absence, the Vice-Chairman shall preside, but if both are absent the members present at the meeting shall appoint one of their members to preside at that meeting.

(3) Where the Council wishes to obtain the advice of any person on a particular matter, the Council may co-opt him as a member for such period as it thinks fit, but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Council and shall not count towards a quorum.

(4) Notwithstanding anything to the contrary, the first meeting of the Council shall be summoned by the Minister who may give such directions as to the procedure to be followed at that meeting as he may deem fit.

Committees

6. (1) The Council may appoint one or more committees to carry out, on behalf of the Council, such of its functions as the Council may determine.

(2) A committee appointed under this paragraph shall consist of the number of persons determined by the Council and not more than one-third of those persons may be persons who are not members of the Council.

(3) A person other than a member of the Council shall hold office on a committee in accordance with the term of the letter by which he is appointed.

(4) A decision of a committee of the Council shall be of no effect until it is confirmed by the Council.

Miscellaneous

7. (1) The fixing of the seal of the Council shall be authenticated by the signature of the chairman or of some other member authorised generally or specially by the Council to act for that purpose.

(2) Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Council by any person generally or specially authorised by the Council for that purpose.

SECOND SCHEDULE

[Section 22 (5).]

Supplementary Provisions relating to the Disciplinary Committee, the Investigating Panel and the Standards Panel

The Disciplinary Committee

1. (1) The Chief Justice of Nigeria shall make rules as to the procedure to be followed and the rules of evidence to be observed in proceedings before the Disciplinary Committee.

(2) The rules shall in particular provide-

(a) for securing that notice of proceedings shall be given at such time, and in such manner as may be specified by the rules, to the person who is the subject of the proceedings;

(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 Disciplinary Committee;

(d) for enabling any party to the proceedings to be represented by a legal practitioner;

(e) subject to the provisions of section 25 (2) (d) of this Act, as to the costs of proceedings before the Disciplinary Committee;

(f) for requiring in a case where it is alleged that the person who is the subject of the proceedings is guilty of infamous conduct in any professional respect, that where the Disciplinary Committee judges 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 matter to which the allegation relates;

(g) for publishing in the *Federal Gazette* of notice of any direction of the Disciplinary Committee which has taken effect, providing that, a person's name shall be struck off from the register.

2. (1) For the purpose of advising the Disciplinary Committee on questions of law arising in proceedings before it, there shall in such proceedings be an assessor to the Disciplinary Committee who shall be appointed by the Council on the recommendation of the Attorney-General of the Federation and shall be a legal practitioner of not less than seven years' standing.

(2) The Attorney-General of the Federation shall make rules as to the functions of assessors appointed under this paragraph, and in particular such rules shall contain provisions for securing-

(a) that where an assessor advises the Disciplinary Committee on any question of law as to evidence, procedure or any other matter specified by the rules, he shall do so in the presence of every party or person representing a party to the proceedings who appears thereat or, if the advice is tendered while the Disciplinary Committee is deliberating in private, that every such party or person as aforesaid shall be informed as to what advice the assessor has tendered;

(b) that every party or person as aforesaid shall be informed if in any case the Disciplinary Committee does not accept the advice of the assessor on such a question as aforesaid.

(3) An assessor may be appointed under this paragraph either generally or for any particular proceedings or class of proceedings, and shall hold and vacate office in accordance with the terms of the instrument by which he is appointed.

The Investigating Panel

1. The quorum of the Investigating Panel shall be three.
2. The Investigating Panel may, at any of its meetings attended by not less than five members of the Investigating Panel, make standing orders with respect to the Investigating Panel and subject to the provisions of any such standing orders, the Investigating Panel may regulate its own procedure.

5. No member of the Investigating Panel shall sit as a member of the Disciplinary Committee.

Miscellaneous

6. A person ceasing to be a member of the Disciplinary Committee, the Investigating Panel or the Standards Panel shall be eligible for re-appointment as a member of that body.

7. The Disciplinary Committee, the Investigating Panel or the Standards Panel may act notwithstanding any vacancy in the membership of any of the said bodies and the proceedings of any of such bodies shall not be invalidated by any irregularity in the appointment of a member of such bodies (or subject to paragraph I of this Schedule) or by reason of the fact that any person who was not entitled to do so took part in the proceedings of any of such bodies.

8. The Disciplinary Committee, the Investigating Panel or the Standards Panel may each sit in two or more places.

9. Any document authorised or required by virtue of this Act to be served on the Disciplinary Committee, the Investigating Panel or the Standards Panel shall be served on the Registrar.

10. Any expenses of the Disciplinary Committee, the Investigating Panel or the Standards Panel shall be defrayed by the Council.

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. Advertising Practitioners (Disciplinary Committee) Rules.

ADVERTISING PRACTITIONERS (DISCIPLINARY COMMITTEE) RULES

[S.1. 2 of 1999]

ARRANGEMENT OF RULES

RULE

1. Reference of case to Committee.
 1. Parties and appearance.
 2. Notice of hearing and service.
 3. Witnesses and evidence.
 4. Amendment of charges.
 5. Proceedings to be in public.
 6. Adjournment of hearing.
 7. False evidence.
 8. Findings and costs.
 9. Publication of Committee's findings.
 10. Records of proceedings.
 11. Power to dispense with certain requirements.
 12. Interpretation.
 13. Citation.

ADVERTISING PRACTITIONERS (DISCIPLINARY COMMITTEE) RULES

under paragraph 1, Second Schedule

[S.1. 2 of 1999.]

[Commencement.] *[21st May, 1998]*

Proceedings before the Committee

1. Reference of case to Committee

In any case where in pursuance of section 21 (3) of the Act the Panel is of the opinion that a *prima facie* case is made against an advertising practitioner, the Panel shall prepare a report of the case and formulate any appropriate charge or charges and forward them to the Secretary together with all the documents considered by the Panel.

1. Parties and appearance

(1) The parties to proceedings before the Committee shall be-

(a) the complainant;

(b) the respondent;

(c) any other person required by the Committee to be joined or joined by leave of the Committee.

(2) Any party to the proceedings may appear in person or be represented by a legal practitioner, so however that the Committee may order a party to the proceedings to appear in person if it is of opinion that it is necessary in the interest of justice but without prejudice to his right to counsel.

1. Notice of hearing and service

(1) On the direction of the Chairman, the Secretary shall fix a day for the hearing of the case and forthwith thereafter shall, in the form set out in the Schedule to these rules, serve notice thereof on each party to the proceedings.

[Schedule.]

(2) The Secretary shall serve on each party, other than the complainant, copies of the report and all the charges prepared by the Panel and all documents considered by the Panel.

(3) It shall be sufficient compliance with this rule if any process required to be served is handed to the party concerned or effected personally or is sent by registered post to the last known place of residence or abode of the party.

(4) Any party to the proceedings before the Committee who fails to appear or be represented, or who has previously appeared before the Committee but subsequently fails to appear or be represented, may apply within 30 days after the date when the pronouncement of the findings and directions of the Committee were given for a re-hearing on the grounds of want of notice or other good and sufficient reason; and the Committee may, in appropriate cases, grant the application upon such terms as to costs or otherwise as it thinks fit.

4. Witnesses and evidence

The Committee may in the course of its proceedings hear such witnesses and receive such documentary evidence as in its opinion may assist in arriving at a conclusion as to the truth or otherwise of the charge or charges referred to it by the Panel; and in the application of this rule, the provisions of the Evidence Act shall apply to any such proceedings.

[Cap. E.14.]

1. Amendment of charges

If in the course of the proceedings it appears to the Committee that the charge or charges referred to it by the Panel require to be amended in any respect, the Committee may permit such amendment as it thinks fit.

1. Proceedings to be in public

The proceedings of the Committee shall be held, and its findings and direction shall be pronounced, in public.

1. Adjournment of hearing

The Committee may, of its own motion, or upon application of any party, adjourn the hearing on such terms as to costs or otherwise as the Committee may think fit.

8. False evidence

If any person wilfully gives false evidence on oath before the Committee during the course of any proceedings, or wilfully makes a false statement in any affidavit sworn for the purpose of any such proceedings, the Committee may refer the matter to the Attorney-General of the Federation for any action he may deem fit.

Findings, etc.

1. Findings and costs

If after the hearing, the Committee adjudges that the charge of professional misconduct has not been proved, the Committee-

(a) shall record a finding that the respondent is not guilty of such conduct in respect of the matters to which the charge relates;

(b) may, nevertheless, order any party (except the complainant) to pay the costs of the proceedings if, having regard to his conduct and to all the circumstances of the case, the Committee thinks fit so to order.

10. Publication of Committee's findings

Subject to section 23 (3) of the Act (which relates to appeals), any direction given by the Committee shall be published in the Federal *Gazette* as soon as may be after the direction takes effect.

11. Records of proceedings

(1) Notes of the proceedings may be taken by a person appointed by the Committee and any party who appeared at the proceedings shall be entitled to inspect the record thereof.

(2) The Secretary shall supply to any person entitled to be heard upon an appeal against the direction of the Committee, and to the Advertising Practitioners Council of Nigeria, but to no other persons, a copy of such notes on payment of such charges as may be determined by the Secretary.

(3) If no notes are taken, the Chairman shall take a note of the proceedings and, accordingly, the provisions of these rules as to inspection and supplying of copies shall apply to such notes.

12. Power to dispense with certain requirements

The Committee may dispense with any requirement of these rules respecting notices, affidavits, documents, service or time in any case where it appears to the Committee to be just to do so; and the Committee may in any appropriate case extend the time to do anything under these rules.

Supplementary

13. Interpretation

In these rules, unless the context otherwise requires-

“**chairman**” means the chairman of the Advertising Practitioners Disciplinary Committee;

“**complainant**” means the Advertising Practitioners Investigating Panel or any member thereof;

“**respondent**” means the person required to answer any charge of professional misconduct;

“**Secretary**” means a person appointed to act as the Registrar under section 7 of the Act.

14. Citation

These rules may be cited as the Advertising Practitioners (Disciplinary Committee) Rules 1998.

SCHEDULE

[Rule 3.]

Notice of Hearing by the Advertising Practitioners Disciplinary Committee

In the matter of the Advertising Practitioners (Registration, etc.) Act, (Cap. A 7)

and

In the matter of A.B, a registered Advertising Practitioner

TAKE NOTICE that the report and charges prepared by the Advertising Practitioners Investigating Panel in the above matter are fixed for hearing by the Advertising Practitioners Disciplinary Committee

at.....on the.....day of..... 20

Copies of:

(a) the report;

(b) the charges; and

(c) are annexed hereto.

DATED theday of20

.....

Secretary to the Committee