

CHARTERED INSTITUTE OF TAXATION OF NIGERIA ACT

ARRANGEMENT OF SECTIONS

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An Act to establish the Chartered Institute of Taxation of Nigeria, to regulate members of the profession and provide for matters connected therewith.

[1992 No. 76.]

[Commencement.]

[30th November, 1992]

PART I

Establishment, etc., of the Chartered Institute of Taxation of Nigeria

1. Establishment of Chartered Institute of Taxation of Nigeria

(1) There is hereby established a body to be known as the Chartered Institute of Taxation of Nigeria (in this Act referred to as "the Institute") which shall be a body corporate under that name and be charged with the general duty of-

(a) determining what standards of knowledge and skill are to be attained by persons seeking to become registered members of the taxation profession (in this Act referred to as "the profession") and reviewing those standards, from time to time as circumstances may require;

(b) securing, in accordance with the provisions of this Act, the establishment and maintenance of a register of fellows, associates, graduates and student members of the Institute and the publication from time to time, of lists of those persons; and

(c) regulating and controlling the practice of the profession in all its ramifications;

(d) maintaining, in accordance with this Act, of discipline within the profession;

(e) performing, through the Council established under section 4 of this Act, the functions conferred on it by this Act.

(2) The Institute shall have perpetual succession and a common seal which shall be kept in such custody as the Council may, from time to time, authorise.

2. Membership of the Institute

(1) Subject to the provisions of this Act, persons admitted to membership of the Institute shall be registered as members in the category of-

(i) fellows;

(ii) associate members; and

(iii) graduate members.

(2) Persons registered under this Act as members shall be entitled to be enrolled-

(a) as fellows, if they satisfy the Council that for the period of five years immediately preceding the date of application in that behalf, they have been fit persons and have, in addition to being the holders of approved academic qualifications, been in continuous active practice as professional tax practitioners or administrators;

(b) as associate members, if for the period of not less than three years immediately preceding the date of application in that behalf (the period of membership of the Institute of Taxation in the discretion of the Council, counting in that behalf), have been enrolled as graduate members and are otherwise fit persons; and

(c) as graduate members, if they satisfy the Council that they have passed the Institute's examinations and are otherwise fit and proper persons to be enrolled.

3. Election of President and Vice-President

(1) The President and the Vice-President shall be elected by the members of the Council.

(2) The President and Vice-President shall each hold office for a term of two years from the date of their election, and the President shall be the chairman at meetings of the Institute, so however that in the event of the death, incapacity or inability for any reason of the President, the Vice President shall act as President for the unexpired portion of the term of office and as chairman, as the case may be, and references in this Act to the President shall be construed accordingly.

(3) The President and the Vice-President shall respectively be chairman and vice-chairman of the Council of the Institute under this Act.

(4) If the President or the Vice-President ceases to be a member of the Institute, he shall cease to hold any of the offices designated under this section.

4. Council of the Institute

(1) There shall be, as the governing body of the Institute, a Council which shall be charged with the administration and general management of the Institute.

(2) The Council shall consist of-

(a) a chairman who is the President of the Institute;

(b) a vice-chairman;

(c) the chairman of the Federal Board of Inland Revenue or his representative, not below the rank of a Director;

(d) two representatives of the Joint Tax Board;

(e) fifteen persons elected by the Institute;

(f) the three immediate past Presidents of the Institute, including the former Institute for a maximum of a three-years term after which a past President automatically retires;

(g) a representative each of the following Ministries, that is-

(i) Finance and Economic Development; and

(ii) Education; and

(h) two persons to represent institutions of higher learning in Nigerian offering courses leading to an approved qualification, to be appointed by the Minister in rotation, so however that the two shall not come from the same institution.

(3) The provisions of the First Schedule to this Act shall have effect with respect to the qualifications and tenure of office of members of the Council and other matters therein mentioned.

[First Schedule.]

5. Power of the Council

The Council shall have power to do anything which in its opinion is calculated to facilitate the carrying on of the activities of the Institute.

PART II

Financial provisions

6. Fund of the Institute

(1) There shall be established and maintained for the purpose of this Act a fund.

(2) There shall be paid into the fund established pursuant to subsection (1) of this section-

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

(b) such moneys as may be payable to the Institute, whether in the course of the discharge of its functions or not.

(3) There shall be paid out of the fund of the Institute established pursuant to subsection (1) of this section-

(a) the remuneration and allowances of the Registrar and other employees of the Institute;

(b) 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 determine; and

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

(4) The Council may invest moneys in the fund in any security created or issued by or on behalf of the Federal Government or in any other securities in Nigeria approved by the Council.

(5) The Council may, from time to time, borrow money for the purposes of the Institute and any interest payable on moneys so borrowed shall be paid out of the fund.

7. Accounts, etc.

The Council shall keep proper accounts on behalf of the Institute in respect of each financial year and proper records in relation to those accounts and the Council shall cause the accounts to be audited by a firm of chartered accountants and when audited, the accounts shall be submitted to the members of the Institute for approval by them at the next annual general meeting.

PART III

The Registrar and the register

8. Appointment of Registrar, etc., and preparation of the register

(1) The Council shall appoint a fit and proper person to be the Registrar for the purposes of this Act, and such other persons as the Council may, from time to time, think necessary to assist the Registrar in the performance of his function under this Act.

(2) It shall be the duty of the Registrar to prepare and maintain, in accordance with rules made by the Council, a register of the names, addresses, approved qualifications, and of such other qualifications and particulars as may be specified in the rules, of all persons who are entitled in accordance with the provisions of this Act to be enrolled as fellows, associate members, graduate members and student members or who, in the manner prescribed by such rules, apply to be so registered.

(3) The register shall consist of four parts of which-

(a) the first part shall be in respect of fellows;

(b) the second part shall be in respect of associate members;

(c) the third part shall be in respect of graduate members;

(d) the fourth part shall be in respect of student members.

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

(a) regulating the making of application for enrolment or registration, as the case may be, and providing for the evidence to be produced in support of such applications;

(b) providing for the notification to the Registrar, by the person to whom any registered particulars relates, of any change in those particulars;

(c) authorising a registered person to have any qualification which is in relation to the relevant division of the profession, either an approved qualification for the purposes of this Act, entered in relation to his name in addition to or, as he may elect, in substitution for any other qualifications so registered;

(d) specifying the fees, including any annual subscription, to be paid to the Institute 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 fee specified for the entry has been paid,

but rules made for the purposes of paragraph (d) of this subsection shall not come into force until they are confirmed at a meeting of the Institute.

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

(a) to correct, in accordance with the Council's directions, any entry in the register which the Council directs him to correct as being in the Council's opinion an entry which was incorrectly made;

(b) to make, from time to time, any necessary alteration to the registered particulars of registered persons;

(c) to remove from the register the name of any registered person who had died; and

(d) to record the names of members of the Institute who are in default for more than six months in the payment of annual subscriptions, and to take such action in relation thereto (including removal of the names of defaulters from the register) as the Council may direct or require.

(6) If the Registrar-

(a) sends by post to any registered person a registered letter addressed to him at his address on the register enquiring whether the registered or enrolled particulars relating to him are correct, and receives no reply to the letter within a period of six months from the date of posting it; and

(b) upon the expiration of that period, sends in the like manner to the person in question a second similar letter, and receives no reply to that letter within three months from the date of posting it,

the Registrar may remove the particulars relating to the person in question from the register:

Provided that the Council may direct the Registrar to restore to the appropriate part of the register any particulars removed therefrom under this subsection.

9. Publication of register and list of corrections

(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 commencement of this Act; and

(b) thereafter to cause to be printed, published and put on sale as aforesaid, either a corrected edition of the register or a list of corrections made to the register, since it was last printed; and

(c) to cause a print of each edition of the register and of each list of corrections to be deposited at the principal offices of the Institute; and

(d) to keep the register and lists so deposited to be made available to members of the public at all reasonable times for inspection.

(2) A document purporting to be a print of an edition of a register published under this section by authority of the Registrar, or documents purporting to be prints of an edition of a register so published and of the list of corrections to that edition so published, 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 or enrolled was so registered at the date of the edition or of the list of corrections, as the case may be, and that any person not so specified was not so registered.

(3) Where in accordance with subsection (2) of this section, a person is, in any proceeding shown to have been or not to have been registered or enrolled at a particular date, he shall, unless the contrary is proved, be taken for the purposes of those proceedings as having at all material times thereafter continued to be, or not to be so enrolled or registered.

PART IV

Registration

10. Registration of members.

(1) Subject to section 11 of this Act and to rules made under section 8 of this Act, a person shall be entitled to be registered as a member of the Institute if-

(a) he passes the qualifying examination accepted by the Council under this Act and completes the practical training prescribed; or

(b) he is by law entitled to practice for all purposes as a tax administrator or practitioner in the country in which the qualification was granted and, if the Council so requires, he satisfies the Council that he has sufficient experience as a tax administrator or practitioner; or

he satisfies the Council that immediately before the commencement of this Act he had not less than-

(i) one year's practical experience in accounting in the case of a registered member of the Institute of Chartered Accountants in Nigeria;

(ii) two years' practical experience in tax administration or practice in the case of a person who has passed the final of the Federal Board of Inland Revenue Training School examination or its equivalent;

(iii) three years' practical experience in taxation in the case of any other person possessing a degree certificate from any Nigerian or overseas recognised institution majoring in taxation.

(2) An applicant for registration shall, in addition to evidence of qualification, satisfy the Council that-

(a) he is of good character;

(b) he has attained the age of 21 years;

(c) he has not been convicted in Nigeria or elsewhere of any offence involving fraud or dishonesty; and

(d) he fulfils his financial obligations to the Institute.

(3) The Council may, in its sole discretion, provisionally accept a qualification produced in respect of an application for registration under this section, or direct that the application be renewed within such period as may be specified in the direction.

(4) Any entry directed to be made in the register under subsection (3) of this section, shall show that such registration is provisional and no entry so made shall be converted to full registration without the consent of the Council signified in writing in that behalf.

(5) The Council shall, from time to time, publish in the *Gazette* particulars of qualifications for the time being accepted as aforesaid.

11. Approval of recognised qualifications, etc.

(1) The Council may approve any institution for the purposes of this Act and may for those purposes approve-

(a) any course of training at any approved institution which is intended for persons seeking to become or are already tax administrators or practitioners and which in the opinion of the Council is designed to confer on persons completing it sufficient knowledge and skill for admission to the Institute;

(b) any qualification which, as a result of an examination taken in conjunction with a 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 the candidates have sufficient knowledge and skill to practice as tax administrators or practitioners.

(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 in Nigeria appearing to the Council to be 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 representations with regard to the proposal; and

(c) take into consideration any representations made as respect the proposal in pursuance of paragraph (b) of this subsection.

(3) A course, qualification or institution shall not be treated as approved during any period the approval is withdrawn under subsection (2) of this section.

(4) Notwithstanding the provisions of subsection (3) of this section, the withdrawal of an approval under subsection (2) of this section shall not prejudice the registration or eligibility for registration of any person who by virtue of the approval was registered or was eligible for registration (either unconditionally or subject to his obtaining a certificate of experience) immediately before the approval was withdrawn.

(5) The giving or withdrawal of an approval under this section shall have effect from such date, whether before or 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 such instrument in the *Gazette*; and

(b) not later than seven days before its publication as aforesaid, send a copy of the instrument to the Minister.

12. Supervision of instruction and examinations leading to approved 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 examination 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 any member of the Institute a person to visit approved institutions or evaluate such examinations.

(2) It shall be the duty of a person 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 examinations attended by him; and

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

but no such person shall interfere or be otherwise involved 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 may, if it thinks fit, and shall, if so required by the institutions, 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 observations on the report to the Council within such period as may be specified in the request, not being less than one month beginning with the date of the request.

PART V

Professional discipline

13. Establishment of Disciplinary Tribunal and Investigating Panel

(1) There shall be a Tribunal to be known as the Chartered Institute of Taxation of Nigeria Disciplinary Tribunal (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 Investigation 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 the chairman of the Council and six other members of the Council appointed by the Council.

(3) There shall be a body to be known as the Chartered Institute of Taxation of Nigeria Investigation Panel (in this Act referred to as "the Panel) which shall be charged with the duty of-

(a) conducting a preliminary investigation into any case where it is alleged that a member of the Institute has misbehaved in his capacity as a member or should for any other reason be the subject of proceedings before the Tribunal; and

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

(4) The Panel shall be appointed by the Council and shall consist of four members of the Council and one member who is not a member of the Council.

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

[Second Schedule.]

(6) The Council may make rules not inconsistent with this Act as to acts which constitute professional misconduct.

14. Penalties for unprofessional conduct

(1) Where-

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

the tribunal may, if it thinks fit, give a direction reprimanding that person or ordering the Registrar to strike his name off the relevant part of the register.

(2) The Tribunal may, if it thinks fit, defer or further defer its decision as to the giving of a direction under subsection (1) of this section until a subsequent meeting of the Tribunal; but

(a) no decision shall be deferred under this subsection for periods exceeding two years in the aggregate; and

(b) no person shall be a member of the Tribunal for the purposes of reaching a decision which has been deferred, unless he was present as a member of the Tribunal when the decision was deferred.

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

(5) The person to whom a direction relates may, at any time within twenty-eight days from the date of service on him of notice of the direction, appeal against the direction to the Federal High 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 Court of Appeal, the Tribunal shall be deemed to be a party thereto whether or not it appears on the hearing of the appeal.

(6) 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 any such an appeal is brought and is not withdrawn or struck out as aforesaid, if and when the appeal is dismissed,

and shall not take effect except in accordance with the foregoing provisions of this subsection.

(7) A person whose name is struck off the register in pursuance of a direction of the Tribunal under this section, shall not be entitled to be enrolled or registered again except in pursuance of a direction in that behalf; and a direction under this section for the striking off of a person's name from the register, may prohibit an application under this subsection by that person until the expiration of such period from the date of the direction (and where he has duly made such an application, from the date of his last application) as may be specified in the direction.

PART VI

Miscellaneous

15. Application of this Act to unregistered persons

Any person who is not a member of the Nigerian Institute of Taxation (in this Act referred to as "the former Institute") who, but for this Act, would have been qualified to apply for and obtain membership of the former Institute may, within the period of three months beginning from the commencement of this Act, apply for membership of the Institute in such manner as may be prescribed by rules made by the Council; and if approved, he shall be enrolled or, as the case may be, registered, according to his qualification.

16. When a person is deemed to practice as a member

(1) Subject to subsection (2) of this section, a person shall be deemed to practice as a member of the Institute if, in consideration of remuneration received or to be received and whether by himself or in partnership with any other person-

(a) he engages himself in the practice of taxation or holds himself out to the public as a member of the Institute; or

(b) he renders professional service or assistance in or about matters of principle or detail relating to taxation procedure; or

(c) he renders any other service which may by regulations made by the Council, with the approval of the Minister, be designed as service constituting tax practice.

(2) Nothing in this section shall be construed so as to apply to persons who, while in the employment of any Government, are required under the terms or in the course of such employment, to perform the duties or any of the duties of a tax administrator or practitioner.

17. Rules as to practice, etc.

(1) The Council may make rules-

(a) for the training of suitable persons in taxation administration, methods and practice; and

(b) for the supervision and regulation of the engagement, training and transfer of such persons.

(2) The Council may also make rules-

(a) prescribing the amount and due date for the payment of the annual subscription, and for such purposes different amounts may be prescribed by the rules according to whether the person is registered as a fellow, associate member, graduate member or student member;

(b) prescribing the form of licence to practise to be issued annually or, if the Council thinks fit, by endorsement on an existing licence; and

(c) restricting the right to practise in default of payment of the amount of the annual subscription where the default continues for longer than such period as may be prescribed by the rules.

(3) Rules when made under this section shall, if the chairman of the Council so directs, be published in the *Gazette*.

18. Provision of library facilities, etc.

The Institute shall-

(a) provide and maintain a library comprising books and publications for the advancement of knowledge of tax practice and such other books and publications as the Council may think necessary for the purpose;

(b) encourage research into taxation procedure and allied taxation, subject to the extent that the Council may, from time to time, consider necessary.

19. 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.

(2) If, on or after the relevant date, any person who is not a member of the Institute practices or holds himself out to practice as a tax administrator or practitioner for or in expectation of reward or takes or uses any name, title, addition or description implying that he is in tax practice, he shall be guilty of an offence; provided that, in the case of a person falling within section 15 of this Act-

(a) this subsection shall not apply in respect of anything done by him during the period of three months mentioned in that section; and

(b) if within that period he duly applies for membership of the Institute then, unless within that period he is notified that his application has not been approved, this subsection shall not apply in respect of any thing done by him between the end of that period and the date on which he is registered or is notified as aforesaid.

(3) If the Registrar or any other person employed by or on behalf of the Institute wilfully makes any falsification in any matter relating to the register, he shall be guilty of an offence.

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

(a) on summary conviction, to a fine of an amount not exceeding ₦100;

(b) on conviction on indictment, to a fine of an amount not exceeding ₦1,000 or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(5) Where an offence under this section which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be 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.

(6) In this section, "**the relevant date**" means the third anniversary of the coming into force of this Act or such earlier date as may be prescribed for the purposes of this section by order of the Minister published in the *Gazette*.

20. Regulations and rules

(1) Any regulation made under this Act, shall be published in the *Gazette* as soon as may be after they are made and a copy of any such regulation shall be sent to the Minister not later than 7 days before they are so published.

(2) Rules made for the purposes of this Act shall be subject to confirmation by the Institute at its next general meeting or at any special meeting of the Institute convened for that purpose, and if then annulled, shall cease to have effect on the day after the date of annulment, but without prejudice to anything done in pursuance or intended pursuance of any such rules.

21. Dissolution of the Nigerian Institute of Taxation and transfer of certain property, etc.

(1) The body known as the Nigerian Institute of Taxation (in this Act referred to as "the former Institute") is hereby dissolved.

(2) Accordingly, all the property held by or on behalf of the former Institute shall by virtue of this section and without further assurance, vest in the Institute and be held by it for the purposes of the Institute.

(3) The provisions of the Third Schedule to this Act shall have effect with respect to matters arising from the transfer by this section to the Institute of the property of the former Institute and with respect to the other matters mentioned in that Schedule.

[Third Schedule.]

22. Interpretation

In this Act, unless the context otherwise requires-

"Council" means the Council established as the governing body of the Institute under section 4 of this Act;

"fees" includes annual subscription;

"former Institute" means the Nigerian Institute of Taxation dissolved by section 2 (1) of this Act;

"Institute" means the Chartered Institute of Taxation of Nigeria established under section 1 of this Act;

"member of the Institute" means a registered fellow member, associate member, graduate member, or student member of the Institute and membership of the Institute shall be construed accordingly;

"member of the Institute" means a registered fellow member, associate member, graduate member, or student member of the Institute and membership of the Institute shall be construed accordingly;

"Minister" means the Minister charged with the responsibility for matters relating to taxation;

"Panel" means the Chartered Institute of Taxation of Nigeria Investigating Panel established under section 13 of this Act;

"President and Vice-President" means respectively the office-holders under those names in the Institute;

"profession" means the profession of taxation;

"register" means the register maintained in pursuance of section 8 of this Act;

"registered" in relation to a fellow, an associate member or a graduate member means registered in the part of the register relating to fellow, associate member or graduate member as the case may be;

"tax administrator" means any person employed as a tax administrator;

"tax practitioner" means any person who is registered or entitled to be registered under this Act in any of the categories of membership;

"Tribunal" means the Chartered Institute of Taxation Disciplinary Tribunal established under section 13 of this Act.

23. Short title

This Act may be cited as the Chartered Institute of Taxation of Nigeria Act.

SCHEMES

FIRST SCHEME

[Section 4 (3).]

Supplementary provisions relating to the Council

Qualifications and tenure of office of members of the Council

1. (1) Subject to the provisions of this paragraph, a member of the Council shall hold office for a period of three years beginning with the date of his appointment or election.

(2) Any member of the Institute who ceases to be a member thereof shall, if he is also a member of the Council, cease to hold office on the Council.

(3) Any member of the Council may, by notice in writing under his hand addressed to the President, resign his office.

(4) A person who retires from or otherwise ceases to be an elected member of the Council, shall be eligible again to become a member of the Council, and any appointed member may be re-appointed except if such member has been convicted of any criminal offence.

(5) Members of the council shall at its next meeting before the general meeting of the Institute arrange for five elected members of the Council who are longest in office to retire at that general meeting, with the exception of existing members of the Council as at the commencement of this Act.

(6) Elections to the Council shall be held in such manner as may be prescribed by rules made by the Council and, until so prescribed, they shall be decided by secret ballot.

(7) If for any reason a member of Council vacates office and-

(a) such member was appointed by the Minister or any other body, the Minister or that body may appoint another fit person to fill that vacancy; or

(b) such member was elected, the Council may, if the time between the unexpired portion of the term of office and the next general meeting of the Institute appears to warrant the filling of the vacancy, co-opt a fit person for such time as aforesaid.

Proceedings of the Council

2. (1) Subject to the provisions of this Act, the Council may in the name of the Institute make standing orders regulating its proceedings or proceedings of its committee or of any committee thereof.

(2) Standing orders shall provide for decisions to be taken by a majority of the members and, in the event of equality of votes, the President or the chairman shall have a second or casting vote.

(3) Standing orders made for a committee shall provide for the committee to report back to the Council on any matter referred to it by the Council.

4. The quorum of the Council shall be five and the quorum of a committee of the Council shall be fixed by the Council.

Meeting of the Institute

5. (1) The Council shall convene the meeting of the Institute on 30 April in every year or on such other day as the Council may, from time to time, appoint, so however, that if the meeting is not held within one year after the previous meeting, not more than fifteen months shall elapse between the respective dates of the two meetings.

(2) A special meeting of the Institute may be convened by the Council at any time and if not less than twenty members of the Institute so require, by notice in writing addressed to the chairman of the Council setting out the object of the proposed meeting, the chairman of the Council shall convene a special meeting of the Institute.

(3) The quorum of any meeting of the Institute shall be twenty members and that of any special meeting of the Institute shall be fifteen members.

Meeting of the Council

6. (1) Subject to the provisions of any standing orders of the Council, the Council shall meet whenever it is summoned by the chairman and, if the chairman is required to do so by notice in writing given to him by not less than five other members, he shall summon a meeting of the Council to be held within fourteen days from the date on which the notice is given.

(2) At any meeting of the Council the chairman shall preside and 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 the meeting.

(3) Where the Council desires to obtain the advice of any person on a particular matter, the Council may co-opt him as a member for such period as the Council 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 in the foregoing provisions of this paragraph, the first meeting of the Council shall be summoned by the President of the Institute.

Committees

7. (1) The Council may appoint one or more committees to carry out on behalf of the Institute or the Council such 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 two thirds 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 the committee in accordance with the terms 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

8. (1) The fixing of the seal of the Institute shall be authenticated by the signature of the chairman or of some other member of the Council 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 Institute or of the Council, as the case may require, by any person generally or specially authorised to act for that purpose by the Council.

(3) Any document purporting to be a document duly executed under the seal of the Institute shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

9. The validity of any proceedings of the Institute or the Council or of a committee of the Council shall not be adversely affected by any vacancy in membership or by any defect in the appointment of a member of the Institute or of the Council or of a person to serve on the committee or by reason that a person not entitled to do so took part in the proceedings.

10. Any member of the Institute or of the Council and any person holding office on a committee of the Council, who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Council on behalf of the Institute or on behalf of the Council thereof, shall forthwith disclose his interest to the President or to the Council, as the case may be, and shall not vote on any question relating to the contract or arrangement.

11. A person shall not by reason only of his membership of the Institute or the Council be treated as holding an office in the public service of the Federation.

SECOND SCHEDULE

Supplementary provisions relating to the Disciplinary Tribunal and Investigative Panel of the Tribunal

[Section 13.]

The Disciplinary Tribunal

1. The quorum of the Disciplinary Tribunal shall be four members.

2.(1) The Attorney-General of the Federation shall make rules as to the selection of members of the Disciplinary Tribunal for the purpose of any proceeding, the procedure to be followed and the rules of evidence to be observed in proceedings before the Disciplinary Tribunal.

(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 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 Tribunal;

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

(e) subject to the provisions of section 14 (5) of this Act, as to the costs of proceedings before the Disciplinary Tribunal;

(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 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; and

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

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

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

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

4. (1) For the purpose of advising the Disciplinary Tribunal on questions of law arising in proceedings before it, there shall in all such proceedings be an assessor to the Disciplinary Tribunal 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 Tribunal 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 Tribunal is deliberating in private, that every such party or person as aforesaid shall be informed what advice the assessor has tendered; and

(b) that every such party or person as aforesaid shall be informed if in any case the Disciplinary Tribunal 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 letter by which he is appointed.

The Investigating Panel

5. The quorum of the Investigating Panel shall be three.

6.(1) The Investigating Panel may, at any of its meetings attended by all the members of the Investigating Panel, make standing orders with respect to the Investigating Panel.

(2) Subject to the provisions for any such standing orders, the Investigating Panel may regulate its own procedure.

Miscellaneous

7. (1) A person ceasing to be a member of the Disciplinary Tribunal or the Investigating Panel shall be eligible for appointment as a member of the Disciplinary Tribunal or Investigating Panel, as the case may be.

(2) A person may, if otherwise eligible, be a member of both the Disciplinary Tribunal and the Investigating Panel; but no person who acted as a member of the Investigating Panel with respect to any case shall act as a member of the Disciplinary Tribunal with respect to that case.

8. The Disciplinary Tribunal or the Investigating 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 paragraph 7 (2) of this Schedule, by reason of the fact that any person who was not entitled to do so took part in the proceedings of that body.

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

10. Any expenses of the Disciplinary Tribunal or the Investigation Panel shall be defrayed by the Institute.

THIRD SCHEDULE

Transitional provisions as to assets and liabilities

[Section 21 (3).]

Transfer of property

1. Without prejudice to the generality of section 21 of this Act, all the assets and liabilities of the former Institute shall become assets and liabilities of the Institute.

2. (1) All agreements, contracts, deeds or other instruments to which the former Institute was a party shall, so far as possible and subject to any necessary modifications, have effect as if the Institute has been a party thereto in place of the former Institute.

(2) Documents not falling within sub-paragraph (1) of this paragraph, including enactments which refer, whether specially or generally to the former Institute, shall be construed in accordance with that sub-paragraph as far as possible.

(3) Any legal proceedings or application to any authority pending on the day this Act comes into force by or against the former Institute and relating to property transferred to the Institute by this Act, may be continued on or after that day by or against the Institute.

Registration of transfer

3. If the law in force at the place where any property transferred by this Act is situate provides for the registration of transfer of property of the kind in question (whether by reference to any instrument of transfer or otherwise), the law shall so far as it provides for alteration of a register (but not for avoidance of transfer, the payment of fees or any other matter) apply, with the necessary modifications, to the transfer of the property aforesaid and it shall be the duty of the Council to furnish the necessary particulars of the transfer to the proper officer of the registration authority and of that officer to register the transfer accordingly.

Transfer of functions, etc.

4. (1) As soon as may be after the commencement of this Act, the President shall summon a general meeting of the Institute to elect the Institute's representatives on the Council of the Institute.

(2) The persons who were members of the Council of the former Institute immediately before the commencement of this Act shall be deemed to be members of the Council of the Institute until the date when the Council established by this Act is duly constituted.

(3) Any person who, immediately before the commencement of this Act, held office as the President or Vice-President of the Council of the former Institute by virtue of the articles of association of the former Institute shall on the day this Act comes into force become the President or Vice- President, as the case may be, of the Institute, and shall be deemed-

(a) to have been appointed to that office in pursuance of the relevant provisions of this Act corresponding to the relevant provisions in the said articles of association; and

(b) to have been so appointed on the date on which he took or last took office, in pursuance of the relevant provisions of those articles.

(4) The persons who were members of the former Institute shall, as from the commencement of this Act, be registered as members of the Institute, and, without prejudice to the generality of the provisions of this Schedule relating to the transfer of property.

(5) Any person who was an employee of the Council of the former Institute or was otherwise employed by the former Institute shall become the holder of an appointment in the Council or Institute, as the case may be, with the status, designation and functions which correspond as nearly as may be to those which appertained to him as such employee.

(6) All regulations, rules and similar instruments made for the purposes of the former Institute and in force immediately before the coming into force of this Act shall, except in so far as they are subsequently revoked or amended by any authority having power in that behalf, have effect with any necessary modifications, as if duly made for the corresponding purposes of the Institute.

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. Chartered Institute of Taxation of Nigeria (Disciplinary Tribunal) Rules.

CHARTERED INSTITUTE OF TAXATION OF NIGERIA (DISCIPLINARY TRIBUNAL) RULES

under Schedule 2; paragraph 2 (i)

[S.1. 17 of 1999.]

[Commencement.]

[19th October, 1999]

RULES

1. Reference to the Tribunal.
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4. Parties to the proceedings before the Tribunal.
5. Fixing of hearing day and service of notice, etc., thereof by the secretary.
6. Hearing in the absence of parties.
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8. Amendment of charges before the Tribunal.
9. Holding of proceedings in public.
10. Adjournment.

11. Penalty for giving false evidence.

12. Findings of not guilty.

13. Costs.

14. Publication of directions of Tribunal.

15. Record of proceedings.

16. Dispensing with provisions.

17. Extension of time.

18. Exhibits and books.

19. Interpretation.

20. Citation.

SCHEDULE

Notice of hearing by the Tribunal

CHARTERED INSTITUTE OF TAXATION OF NIGERIA (DISCIPLINARY TRIBUNAL) RULES

under Schedule 2; paragraph 2 (i)

[S.1. 17 of 1999.]

[Commencement.]

[19th October, 1999]

1. Reference to the Tribunal

In any case where, in pursuance of section 13 (3) of the Act, the Panel is of the opinion that a *prima facie* case is shown against a tax 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.

2. President to convene the Tribunal

The Secretary shall refer the report and the charges to the President of the Council of the Chartered Institute of Taxation of Nigeria who shall convene a meeting of the Tribunal, as set up in accordance with rule 3 of these Rules.

3. Composition of the Tribunal

(1) Whenever any case of professional misconduct against a tax practitioner is referred to the Tribunal by the Panel, such a case shall be heard by the President of the Council and six other members of the Council appointed by the Council.

(2) The President of the Council, or, in his absence, anyone appointed in that behalf shall be the chairman of the Tribunal.

(3) Four members of the Tribunal, including the chairman, shall form a quorum.

(4) An assessor appointed by the Council on the nomination of the Attorney-General of the Federation in accordance with paragraph 4 (3) of the Second Schedule to the Decree shall sit with the Tribunal and it shall be the duty of such assessor to advise the Tribunal on questions of law arising in proceedings before it.

(5) Except where the Tribunal is deliberating in private, the advice of an assessor on questions of law as to evidence, procedure and as to compliance with the Decree shall be tendered in the presence of every party or his representative.

(6) Where the advice of the assessor is tendered while the Tribunal is deliberating in private, the assessor shall personally, as soon as may be, inform each party or his representative in writing of the question which has been put to him by the Tribunal and of his advice thereon.

(7) Every party or his representative shall be informed whenever the advice tendered by the assessor has not been accepted.

4. Parties to the proceedings before the Tribunal

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

(a) the chairman of the Panel;

(b) the tax practitioner whose conduct is the subject matter of the proceedings;

(c) if the Tribunal so directs, the complainant, who may be represented by a legal practitioner; and

(d) such other person required by leave of the Tribunal to be joined.

(2) The tax practitioner whose conduct is the subject matter of the proceedings may appear either in person or be represented by a legal practitioner and the Tribunal may also employ the services of a legal practitioner to present the case before it.

5. Fixing of hearing day and service of notice, etc., thereof by the secretary

(1) On the direction of the chairman of the Tribunal the secretary shall fix a day for the hearing of the case and shall serve notice thereof on each party to the proceedings.

(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 the documents considered by the Panel.

(3) Service of any document on the tax practitioner whose conduct is the subject matter of the proceedings, may be effected either by handing the documents to him personally or by sending it by registered post to the address recorded in the register maintained under section 8 of the Decree.

6. Hearing in the absence of parties

(1) If any party fails to appear at the hearing, the Tribunal may, upon proof of service on such party of the notice of hearing, proceed to hear and determine the case in his absence.

(2) Any party to a proceeding before the Tribunal who fails to appear at the hearing, may within one calendar month from the pronouncement of the findings and directions of the Tribunal and upon giving notice to every other party and to the secretary, apply to the Tribunal for a re-hearing.

(3) The Tribunal, if satisfied that it is just that the cause should be re-heard, may grant the application on such terms and costs or otherwise as it thinks fit.

7. Hearing of witnesses and reception of documents

The Tribunal may in the course of its proceedings hear such witnesses and receive such documentary evidence as in its opinion may assist it in arriving at a conclusion as to the truth or otherwise of the allegations of misconduct referred to it by the Panel.

8. Amendment of charges before the Tribunal

If in the course of the proceedings it appears to the Tribunal that the charges forwarded to it by the Panel require to be amended or added to, the Tribunal may permit such amendments or addition as it shall think fit.

9. Holding of proceedings in public

The proceedings of the Tribunal shall be held and its findings and directions shall be pronounced in public.

10. Adjournment

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

11. Penalty for giving false evidence

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

12. Findings of not guilty

If, after the hearing, the Tribunal adjudges that the allegations of infamous conduct in a professional respect have not been proved, the Tribunal shall record a finding that the tax practitioner is not guilty of such conduct in respect of the matter to which the allegation relates.

13. Costs

The Tribunal may, without finding any misconduct proved against a tax practitioner, nevertheless order any party to pay costs of the proceedings, having regard to his conduct and to all the circumstances of the case the Tribunal shall think fit so to order.

14. Publication of directions of Tribunal

Subject to the provisions of section 14 of the Decree (relating to the lodging of an appeal against the direction of the Tribunal) any direction given by the Tribunal in accordance with section 14 (1) of the Decree shall be published in the Federal Gazette as soon as such direction takes effect.

15. Record of proceedings

(1) Shorthand notes of proceedings may be taken by a person appointed by the Tribunal and any party who appeared at the proceedings shall be entitled to inspect the transcript thereof.

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

(3) If no shorthand notes be taken, the chairman of the Tribunal shall take a note of the proceedings and the provisions of these Rules as to inspection and taking of copies shall apply to such notes accordingly.

16. Dispensing with provisions

The Tribunal may dispense with any requirements of these Rules respecting notices, affidavits, documents service or time in any case where it appears to the Tribunal to be just to do so.

17. Extension of time

The Tribunal may in any given case extend the time to do anything under these Rules.

18. Exhibits and books

The Tribunal may order that any books or other exhibits, produced or used at a hearing, be retained by the secretary until the time within which an appeal may be entered has expired, and if notice of appeal is given, until the appeal is heard or otherwise disposed of.

19. Interpretation

In these Rules, unless the context otherwise requires-

"complainant" means any person who makes allegation of professional misconduct against a tax practitioner;

"Decree" means the Chartered Institute of Taxation of Nigeria Decree 1992;

"Panel" means the Chartered Institute of Taxation of Nigeria Investigating Panel;

"tax practitioner" means a member of the Institute;

"secretary" means a person appointed to act as the Registrar of the Chartered Institute of Taxation of Nigeria.

20. Citation

These Rules may be cited as the Chartered Institute of Taxation of Nigeria (Disciplinary Tribunal) Rules.

SCHEDULE

[Rule 5]

Writ of the Chartered Institute of Taxation of Nigeria Act

[Cap. C10.]

Notice of hearing by the Tribunal

In the matter of A. B., a Tax Practitioner

and

In the matter of the Chartered Institute of Taxation of Nigeria Decree 1992

TAKE NOTICE, that the report and charges prepared by the Chartered Institute of Taxation of Nigeria

Investigating Panel in the above matter are fixed for hearing by the Chartered Institute of Taxation of

Nigeria Disciplinary Tribunal at.....

..... day of..... of 20

.....
Secretary to the Tribunal



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