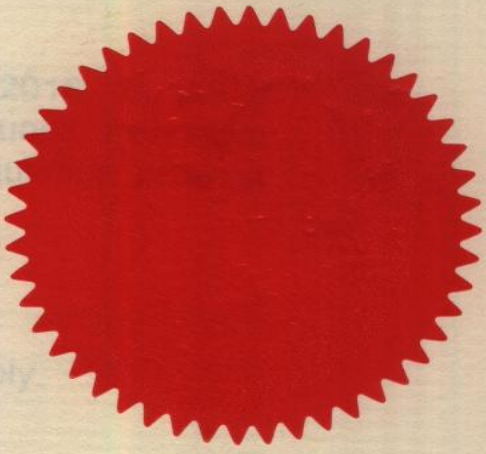


Supplement "C" to The Gambia Gazette No. of , 2024

Legal Practitioners (Amendment) Act, 2024

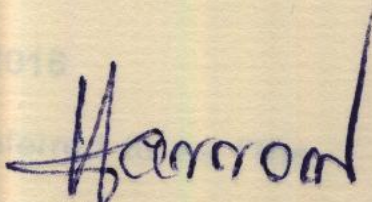


THE GAMBIA

NO. 06 OF 2024

Assented to by The President,

this 07<sup>th</sup> day of October, 2024.

  
Adama Barrow  
President

LS

**LEGAL PRACTITIONERS (AMENDMENT) ACT, 2024**

**A BILL ENTITLED**

**AN ACT** to amend the Legal Practitioners Act 2016, to make provision for, regulatory objectives to guide the Council, free legal services to indigent persons, strengthening the regulation of legal practice and for connected matters.

[ ]

**ENACTED** by the President and the National Assembly.

**1. Short title**

This Act may be cited as the Legal Practitioners (Amendment) Act, 2024.

**2. Amendment of the Legal Practitioners Act 2016**

The Legal Practitioners Act 2016 (in this Act referred to as "**the Principal Act**") is amended as set out in this Act.

**3. Amendment of section 2**

Section 2 of the Principal Act is amended by inserting the definition of the words "**indigent person**" immediately after the definition of the word "**Gazette**" as follows –

"**indigent person**" means a poor person;"

**4. New Section 3A**

The Principal Act is amended by inserting a new section immediately after section 3 as follows –

**"3A. The regulatory objectives**

(1) In this Act, reference to "**the regulatory objectives**" is a reference to the objectives of –

- (a) protecting and promoting the public interest;
- (b) supporting the constitutional principle of the rule of law;
- (c) improving access to justice;

- (d) protecting and promoting the interests of consumers of legal services;
- (f) encouraging an independent, strong, diverse and effective legal profession with ethical obligations and with a strong sense of duty towards the courts and tribunals where they appear;
- (g) improving legal awareness amongst the general public and to make the consumers of legal services well informed of their legal rights and duties; and
- (h) promoting and maintaining adherence to the professional principles.

(2) The “**professional principles**” are that a legal practitioner shall—

- (a) act with independence and integrity;
- (b) maintain high standards of work;
- (c) act in the best interest of his or her client;
- (d) ensure that the affairs of his or her client is kept confidential; and
- (e) comply with his or her duty to the court to act with independence in the interest of justice.

(3) In discharging its functions under section 4, the Council shall comply with and promote the regulatory objectives, and may issue guidelines and regulations for this purpose.

(4) The guidelines and regulations issued by the Council under subsection (3) shall —

- (a) be compatible with the regulatory objectives; and
- (b) be made in a way in which the Council considers most appropriate for the purpose of meeting the regulatory objectives.”

## 5. Amendment of section 4

Section 4 (1) of the Principal Act is amended as follows—

- (a) in paragraph (a) by adding the words **“call to bar and”** immediately after the word **“regulate”**;
- (b) by deleting the word **“and”** at the end of paragraph (b) and inserting new paragraphs (c) and (d) as follows —
  - “(c) regulate the discipline and conduct of legal practitioners;**
  - “(d) regulate the provision of free legal services to indigent persons, by legal practitioners; and”**; and
- (c) by renumbering paragraph (c) as paragraph (e).

## 6. Amendment of section 5

Section 5 (1) of the Principal Act is amended —

- (a) in paragraph (a) and (b) by substituting them with the following —
  - “(a) the Chief Justice or his or her designate not below the rank of a High Court Judge as Chairperson; and**
  - “(b) Minister or his or her designate not below the rank of Principal State Counsel as Vice-Chairperson”**;
- (b) in paragraph (f), by substituting for it the following—
  - “(f) a lay person with an accomplished background, knowledge and experience in a profession that regulates its own members, who shall be appointed by the Council.”**

## 7. Amendment of section 7

Section 7 of the Principal Act is amended by —

- (a) deleting the comma and word **“Treasurer”** in the headnote;

- (b) deleting sub-sections (3), (4), and (5); and
- (c) renumbering sub-section (6) as sub-section (3).

#### 8. Amendment of section 9

Section 9 of the Principal Act is amended –

- (a) in sub-section (4), by substituting for it the following—

**“(4) The Chairperson shall preside at all meetings of the Council at which he or she is present, and in his or her absence the Vice-Chairperson shall preside, and in the absence of both the Chairperson and Vice-Chairperson, the designate of the Chairperson or Vice Chairperson shall preside.”**; and
- (b) in sub-section (6), by deleting the word “or” immediately after the word Chairperson, and replacing it with a **comma**, and inserting the words “**or their designates**” immediately after the word “**Vice-Chairperson**”.

#### 9. New section 13A

The Principal Act is amended by inserting a new section immediately after section 13 as follows –

##### “13A. Pupil Master

- (1) The Council may draw up and keep under review a list of legal practitioners of not less than ten years standing, who may be pupil masters.
- (2) Notwithstanding sub-section (1), the Council shall not include a legal practitioner on the list of pupil masters, unless it is satisfied that the legal practitioner is able to provide the required amenities and training, to be a pupil master, in accordance with guidelines issued by the Council for that purpose.
- (3) The Council may –
  - (a) remove the name of a person; or
  - (b) at the request of a pupil master, remove his or her name,from the list of pupil masters.

11. Amendment of section 23

- (4) The pupil master shall –
- (a) ensure that the pupil is in attendance for such aggregate number of hours per week as may be determined by the Council;
  - (b) provide the pupil with the necessary assistance and guidance in the completion of his or her pupillage before he or she is able to practice;
  - (c) make the pupil familiar with proceedings in Court;
  - (d) give the pupil the necessary and appropriate opportunity to interact with clients; and
  - (e) provide the Council with a comprehensive report, in such form and manner as the Council may require, on the pupil's performance during pupillage."

10. Amendment of section 15

Section 15 of the Principal Act is amended –

- (a) by inserting new sub-sections (2) and (3) as follows-
- "(2) Where the Council is satisfied that there are no placements available for pupillage in the case of an applicant, it may authorise the applicant to undergo such other form of training as it may specify, instead of pupillage.**
- (3) Notwithstanding sub-section (2), the Council may, by Order published in the Gazette, prescribe any other form of training, in place of pupillage."**

**11. Amendment of section 23**

Section 23 of the Principal Act is amended by –

- (a) substituting for sub-section (1) the following–

**“(1) Notwithstanding section 22, a person shall not practice as a private legal practitioner in The Gambia unless he or she has been issued with a Practicing Certificate by the Council–**

- (a) on the payment of a prescribed fee;
- (b) upon showing evidence of having undertaken the required free legal services to indigent persons, in accordance with the guidelines issued by the Council;
- (c) in the case of a new applicant for admission to practice, upon making a commitment to undertake the required free legal service to indigent persons, in accordance with rules issued by the Council;
- (d) in the case of a legal practitioner of more than five years standing, upon showing evidence of having undergone the required training, under the continuing legal education scheme established under guidelines issued by the Council; and
- (e) upon producing a certificate of membership from the Gambia Bar Association or other professional body of legal practitioners that regulates its members.”

- (b) Inserting a new sub-section (4) as follows–

**“(4) Except State law officers, a person shall not have right of audience before the superior courts if he or she has not been issued with a Practicing Certificate in accordance with guidelines issued by the Council.”**

**25C. Committee on legal aid to indigent persons**

There is established by this Act, the Legal Aid Committee which shall consist of –

- (a) a member of the Council nominated by the Chief Justice as Chairperson;
- (b) the Executive Secretary of National Agency for Legal Aid, as vice Chairperson;
- (c) the Chairperson of the National Human Rights Commission;
- (d) two Legal Practitioners of at least ten years standing appointed by the Minister responsible for Justice;
- (e) a lay person with an accomplished background, knowledge, and experience in law, who shall be appointed by the Council.”

**14. Amendment of section 27**

Section 27(1) of the Principal Act is amended by substituting for it the following –

“(1) There is established by this Act, the Governing Committee for Legal Education, which shall consist of –

- (a) a Judge of the Supreme Court of The Gambia, nominated by the Chief Justice, who shall be the Chairperson;
- (b) a member of the Council, nominated by the Chief Justice;
- (c) two legal practitioners of not less than ten years standing to be nominated by the Gambia Bar association;
- (d) the Director of the Gambia Law School; and
- (e) the Dean of the Faculty of Law of the University of The Gambia.”

15. Amendment of Part VI

Part VI of the Principal Act is amended –

(a) by substituting the heading of the Part with the following–

**“DISCIPLINE AND MISCONDUCT”**

(b) in section 28 by substituting for sub-sections (1) to (4) the following–

**“(1) The Council shall establish such panels of Disciplinary Committee, and each panel shall comprise –**

(a) a Judge of the High Court who shall be nominated by the Chief Justice and serve as the Chairperson;

(b) a State Law Officer not below the rank of a Principal State Counsel who shall be nominated by the Attorney General; and

(c) a legal practitioner of at least ten years standing, who shall be nominated by the Gambia Bar Association.

**(2) The quorum at a sitting of each panel shall be three members, and the decision of the panel shall be simple majority.**

**(3) A member of each panel shall hold office for three years and shall not be eligible for reappointment.**

**(4) A member of each panel may at any time resign from his or her office by giving one month notice thereof to the Council, and the notice shall take effect from the date the Council receives it.”**

(c) by substituting for section 40 the following –

**“40. Professional misconduct**

(1) The following acts shall constitute unprofessional conduct or professional misconduct on the part of a legal practitioner –

(a) touting, that is, importuning for clients;

- (b) withholding the payment of trust money without lawful cause;
- (c) champerty;
- (d) breach of confidentiality as between a client and his or her legal practitioner, or as between or among legal practitioners in a relationship of partners or employer and employee in legal practice;
- (e) in any way assisting, allowing or enabling an unqualified person to charge, recover or receive any fee or derive any remuneration in respect of, or in connection with the preparation or execution of any document or the performance of any professional work which only a legal practitioner is qualified by law, to prepare, execute or perform, or in any way conniving at any arrangement, agreement or understanding whereby any such fee or remuneration shall be charged, recovered or received by any such unqualified person;
- (f) opening or maintaining any office or branch which is not under the continuous personal supervision of a legal practitioner;
- (g) keeping the account of his or her practice as a legal practitioner in the books of account utilised in connection with any other business in which he or she may be interested jointly with an unqualified person;
- (h) failing to maintain and keep a separate client account and intermingling his or her personal monies with client's money;
- (i) remunerating an employee who is an unqualified person by way of a share in the profits of his or her practice as a legal practitioner;
- (j) allowing his or her name with any of his or her qualifications as legal practitioner to appear by way of advertisement or notification or by way of information upon any business letterhead, accounts or other documents whatsoever in conjunction with the name of an unqualified person so as to convey, or be likely to convey, the impression that he or she is associated in the legal profession with that unqualified person;

- (k) entering into or continuing to be a party to any contract or arrangement with an unqualified person, the effect of which is to place the legal practitioner under such control on the part of the unqualified person as may interfere with his or her professional independence;
  - (l) except for free legal services offered under guidelines issued under this Act, levying any charges or accepting any fee which is less than the minimum charge prescribed in a tariff of minimum charges;
  - (m) receiving remuneration for the performance of professional work and failing, without reasonable excuse, to perform such work within a reasonable time;
  - (n) receiving, without the written authority of his or her client or any order of the High Court, the whole or part of any party costs awarded to his or her client, other than any taxed or agreed costs for which he or she has a lien; or
  - (o) deducting or retaining without the written authority of his or her client or an order of the High Court, from any monies recovered or received on behalf of his or her client any sum other than any taxed or agreed costs for which he or she has a lien.
- (2) Nothing in sub-section (1) shall prevent—
- (a) the Council from prescribing any other acts which constitute unprofessional conduct or professional misconduct, or unworthy conduct on the part of a legal practitioner; or
  - (b) the Disciplinary Committee or the High Court from determining whether or not any act on the part of a legal practitioner, but which has not been mentioned in subsection (1), constitutes unprofessional conduct, professional misconduct, or unworthy conduct.
- (3) In determining any question under paragraph (b) of sub-section (2), the Disciplinary Committee or the High Court, as the case may be, shall have regard to any code of conduct or rules of etiquette applicable to the legal profession in The Gambia.

(4) Where the High Court determines that an act on the part of a legal practitioner is unprofessional, dishonourable or unworthy conduct, it shall direct the Disciplinary Committee to impose the disciplinary measures prescribed in section 33.”

**16. Amendment of section 44**

Section 44 of the Principal Act is amended by substituting for it the following –

**“44. Name and address of legal practitioner to be endorsed on legal document and court process**

A legal practitioner who prepares any legal document or court process shall note or endorse or cause to be noted or endorsed on it, his or her name and the name of the firm by which he or she is employed, together with the appropriate address of the legal practitioner or the firm.”

**17. New section 53A**

The Principal Act is amended by inserting a new section immediately after section 53 as follows –

**“53A. Establishment of Privileges Committee-**

(1) There is established by this Act, the Privileges Committee which shall comprise of –

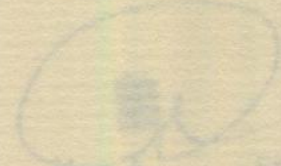
- (a) a justice of the Supreme Court of The Gambia, nominated by the Chief Justice as Chairperson;
- (b) the President of The Gambia Court of Appeal;
- (c) a member of the Council, nominated by the Council;
- (d) the Solicitor General and Legal Secretary;
- (e) three members of the Gambia Bar Association of at least twenty years standing, nominated by the Gambia Bar Association; and
- (f) a lay person with an accomplished background, knowledge and experience in a profession that regulates its own members, appointed by the Council.

(2) The Council may make Regulations prescribing the functions of the Privileges Committee.”

PASSED in the National Assembly this 29<sup>th</sup> day of July, in the year of Our Lord  
Twenty Twenty Four.

  
M. A. Siso  
Clerk of the National Assembly

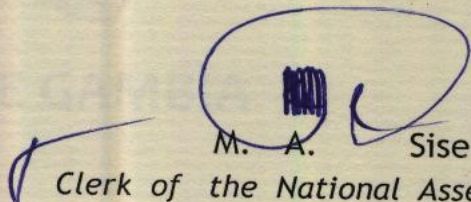
THIS PRINTED IMPRESSION has been carefully compared by me with the bill  
which has passed in the National Assembly and found by me to be a true and correct copy of  
the said Bill.

  
M. A. Siso  
Clerk of the National Assembly

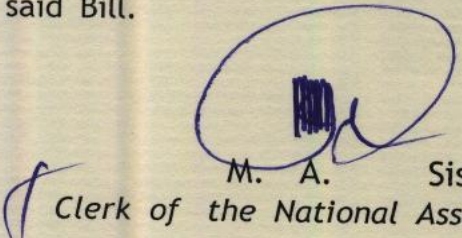
Legal Practitioners (Amendment) Act, 2024

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PASSED in the National Assembly this 24<sup>th</sup> day of July, in the year of Our Lord  
Twenty Twenty Four.

  
M. A. Sise  
Clerk of the National Assembly.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill  
which has passed in the National Assembly, and found by me to be a true and correct copy of  
the said Bill.

  
M. A. Sise  
Clerk of the National Assembly.