



NATIONAL INSTITUTE OF MARKETING OF NIGERIA ACT

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NATIONAL INSTITUTE OF MARKETING OF NIGERIA ACT

An Act to establish the National Institute of Marketing of Nigeria to regulate and control the practice of the Marketing Profession; and for matters connected therewith.

[2003 No. 25.]

[22nd July, 2003]

[Commencement.]

PART I

Establishment, etc., of the National Institute of Marketing of Nigeria

1. Establishment of the National Institute of Marketing of Nigeria

(1) There is established a body to be known as the National Institute of Marketing of Nigeria (in this Act referred to as “the Institute”) which— (a) shall be a body corporate with—

- (i) perpetual succession;
 - (ii) a common seal which shall be kept in such custody as the Council may direct;
 - (b) may sue and be sued in its corporate name; and
 - (c) may, subject to the Land Use Act, hold, acquire and dispose of any property movable or immovable.
- (2) The Institute has the general duty of—
- (a) determining who are marketers for the purpose of this Act;
 - (b) determining what standards of knowledge and skill are to be attained by persons seeking to become members of the marketing profession (in this Act referred to as “the Profession”) and reviewing those standards from time to time as circumstances may require;
 - (c) securing, in accordance with the provisions of this Act, the establishment and maintenance of the register of Fellows, Full Members, Associate Members, Graduate Members, Student Members, Honorary Fellow and Corporate Members of the profession and the publication, from time to time, of the lists of those members;
 - (d) regulating and controlling the practice of marketing profession in Nigeria;
 - (e) maintaining, in accordance with this Act, discipline within the profession; and
 - (f) performing, through the Council established under section 4 of this Act, such other functions conferred on it by the Act.

2. Members 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—

- (a) fellows;
 - (b) full members;
 - (c) associates;
 - (d) graduates; or
 - (e) students.
- (2) A person registered under this Act as a marketer shall be entitled to be enrolled—
- (a) as a Fellow, if he satisfies the Council that he has attained the age of 35 years and that for the period of five years immediately preceding the date of application in that behalf has been a fit and proper person, and in addition he is the holder of an approved academic qualification and has credibility held a senior management position in a marketing or related organisation, or has held a senior lecturer position in a higher education institution for a period of not less than eight years;
 - (b) as a Full Member, if he has attained the age of 25 years and has been an Associate Member for a period of not less than five years immediately preceding the date of application in that behalf and has been enrolled as an associate member or has been exempted from this requirement by the Council and is otherwise a fit and proper person;
 - (c) as an Associate Member, if he has attained the age of 23 years and is employed in a management capacity in a marketing or related organisation, and has passed examinations accepted by the Institute and is otherwise a fit and proper person to be enrolled in the register;
 - (d) as a Graduate Member, if he has attained the age of 18 years and has passed the examination accepted by the Institute, and is otherwise a fit and proper person to be enrolled in the register; and
 - (e) as a Student Member, if he is enrolled as a full-time or part-time student of marketing or related subject in an institution of learning

recognised by the Institute, and has satisfied the Council that he is a fit and proper person to be enrolled in the register.

- (3) The Institute may register a member as a Honorary Fellow or Corporate Member.
- (4) A Honorary Fellow shall be a person who has been in continuous employment of a reputable commercial organisation as a marketer for a period of not less than 15 years preceding the date of his application to the Institute for registration as a Honorary Fellow.
- (5) Corporate membership shall consist of companies, which produce or market goods and or services in Nigeria, which at the date of application, employ not less than 25 persons and satisfy the rules and regulations of the Institute.
- (6) Persons registered as Fellows and Associates of the Institution shall be entitled to use after their names, the words "Fellow of the National Institute of Marketing of Nigeria" and "Associate of the National Institute of Marketing of Nigeria" respectively or the initials "FNIM" or "ANIM".
- (7) The designatory letters of the Full Members of the Institute shall be "MNIM".
- (8) A person shall, when enrolled or registered, as the case may be, receive a certificate in such form as the Council may approve for the purpose.

3. Election of President and Vice-President of the Institute

- (1) There shall be a President and two Vice-Presidents of the Institute who shall be elected at the annual general meeting of the Institute, and each shall hold office for a term of two years from the date of election and maybe re-elected to the same office for another term of two years and no more.
- (2) 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 first Vice-President or failing him, the second Vice-President shall act as President for the un-expired portion of the term of office as Chairman, as the case may be, and references in this Act to the President shall be construed accordingly.

- (3) The President and the first Vice-President, respectively shall be Chairman and Vice-Chairman of the Council of the Institute under this Act.
- (4) If the President or any of the Vice-Presidents 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) the President of the Institute who shall be the Chairman;
 - (b) the two Vice-Presidents of the Institute;
 - (c) six persons elected by the Institute;
 - (d) the immediate past President of the Institute;
 - (e) a representative each of the following Ministries, that is—
 - (i) Commerce; and
 - (ii) Education;
 - (f) the Director-General of the Centre for Management Development; and
 - (g) two persons to represent Institutions of higher learning in Nigeria offering courses leading to an approved qualification in marketing, to

be appointed by the Minister in rotation, so however that the two shall not be from the same Institution.

- (3) The provision 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 the 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. Funds of the Institute

- (1) There shall be established for the Institute, a fund which shall be managed and controlled by the Council.
- (2) There shall be paid into the Fund—
- (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—
- (a) the remuneration and allowances of the Registrar and employees of the Institute;
- (b) such reasonable travelling and subsistence allowances 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

- (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 it to be audited by an auditor and when audited, the accounts shall be presented to the members of the Institute for approval at the 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 of the Institute 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 President of the Institute or any committee 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 Institute as the Council may determine to assist the Registrar in the execution of his functions under this Act.

- (4) The Registrar shall—
- (a) prepare and maintain, in accordance with the rules and regulations made by the Council, a Register of the names, addresses, approved qualifications and 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;
 - (b) enrol all Fellows, Full Members, Associate Members, Graduate Members and Student Members; and
 - (c) register as Honorary Fellows or Corporate Members those who apply, in the manner prescribed by such rules, to be so registered.
- (5) The Register shall consist of seven parts of which the—
- (a) first part shall be in respect of Fellows;
 - (b) second part shall be in respect of Full Members;
 - (c) third part shall be in respect of Associate Members;
 - (d) fourth part shall be in respect of Graduate Members;
 - (e) fifth part shall be in respect of Honorary Members; (f) sixth part shall be in respect of Student Members; and
 - (g) seventh part shall be in respect of Corporate Members.
- (6) Subject to other provisions of this section, the Council shall make rules with respect to the form and keeping of the registers and the making of entries therein, and in particular—
- (a) regulating the making of applications for enrolment or registration, as the case may be, and providing for the evidence to be produced in support of the applications;
 - (b) providing for the notification to the Registrar, by the person to whom any registered particular relates or any change in those particulars;

- (c) authorising an enrolled or registered person to have any qualification which is in relation to the relevant division of the profession, either an approved qualification or an accepted qualification, for the purposes of this Act, registered in relation to his name in addition to, or as he may elect, in substitution for any other qualification 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; and
 - (e) specifying anything failing to be specified under the foregoing provisions of this section; 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.
- (7) The Registrar shall—
- (a) 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) make, from time to time, any necessary alterations in the registered particulars of registered persons;
 - (c) remove from the Register the name of any enrolled or registered person who has died; and
 - (d) 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.
- (8) If the Registrar—
- (a) sends by post to any enrolled or registered person a registered letter addressed to him at his enrolled address on the Register, enquiring whether the enrolled registered particulars relating to him are correct

and receives no reply to the letter within the 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 and 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) The Registrar shall—
 - (a) 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 thereafter cause to be printed, published and put on sale as aforesaid, either a corrected edition of the Register of list of corrections made to the Register, since it was last printed;
 - (b) cause a print of each edition of the Register and each list of the corrections to be deposited at the principal offices of the Institute; and
 - (c) keep the Register and lists so deposited and made available at all reasonable times for inspection by members of the public.
- (2) A document purporting to be a print of an edition of the Register published under this section by authority of the Registrar or documents purporting to be prints of an edition of the 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 enrolled or registered as 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 enrolled or registered.

- (3) Where in accordance with subsection (2) of this section a person is in any proceedings, 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 the 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 marketers

- (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 marketer if—
- (a) he passes the qualifying examinations accepted by the Council under this Act and completes the practical training prescribed; or
 - (b) he holds a qualification granted outside Nigeria and for the time being accepted by the Institute and is by law entitled to practice for all purposes as a professional marketer 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 marketer.
- (2) Subject to section 11 of this Act and to rules and regulations made under section 8 of this Act, a person shall be entitled to be registered as a marketer if he satisfies the Council that immediately before the appointed day he had not less than 15 years experience as a marketer.
- (3) An applicant for registration shall, in addition to evidence of qualification, satisfy the Council that he—
- (a) is of good character;
 - (b) has attained the age of 28 years; and
 - (c) has not been convicted of any offence involving fraud or dishonesty.

- (4) 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.
- (5) Any entry directed to be made in the Register under subsection (4) of this section shall show that 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.
- (6) The Council shall, from time to time, prescribe and publish in the official newsletter and magazine of the Institute particulars of qualifications for the time being accepted as aforesaid.

11. Approval of qualifications

- (1) The Council may approve any institutions for the purposes of this Act and may for those purposes approve—
 - (a) any course of training at an approved institution which is intended for persons who are seeking to become or are already marketers and which the Council considers is designed to confer on persons completing it, sufficient knowledge and skill for admission to the Institute; and
 - (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 marketers.
- (2) The Council may, if it thinks fit, withdraw any approval given under this section in respect of any course, qualifications or institutions, but before withdrawing such an approval, the Council shall—
 - (a) give notice that it proposes to do so to each person in Nigeria appearing to the Council to be the person by whom the course is

conducted or the qualification is granted or the Institution is controlled, as the case may be; and

- (b) afford each such person an opportunity of making to the Council representations with regard to 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 approval under subsection (2) of this section shall not prejudice the registration or eligibility 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, either 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 practicable, publish a copy of every such instrument in the official newsletter and magazine of the Institute; and
 - (b) not later than seven days before its publication as aforesaid, send a copy of the instrument to the Minister.

12. Supervision of instructions and examinations leading to approved qualifications

- (1) The members of the Council shall keep themselves informed of the nature of—
 - (a) the instructions 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 purposes of performing that duty the Council may

appoint, either from its own members or otherwise, persons to visit approved institutions or observe such examinations.

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

- (a) the adequacy of the instruments given to persons attending approved courses of training at institutions visited by them;
- (b) the adequacy of the examinations attended by them; and
- (c) any other matters relating to the institutions or examinations on which the Council may, either generally or in particular cases request them to report, but no such person shall interfere with the giving of any instruction or the holding of any examination.

(3) On receiving a report made pursuant to this section, the Council may, if it thinks fit, and shall, if so required by the institution, 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 that request.

PART V

Professional Discipline

13. Establishment of Disciplinary Tribunal and Investigating Panel

- (1) There shall be a tribunal to be known as the National Institute of Marketing of Nigeria Disciplinary Tribunal in this Act referred to as (“the Disciplinary Tribunal”) which shall be charged with the duty of considering and determining any case referred to it by the Investigating Panel, established under subsection (3) of this section and any other case of which the Disciplinary Tribunal has cognisance under the following provisions of this Act.

- (2) The Disciplinary Tribunal shall consist of the Chairman and six other members appointed by the Council.
- (3) There shall be a body to be known as the National Institute of Marketing of Nigeria Investigation Panel (in this Act referred to as “the Investigation Panel”) which shall be charged with the duty of—
 - (a) conducting a preliminary investigation into any case where it is alleged that a person fully, provisionally or temporarily registered has misbehaved in his capacity as such, or should for any reason be the subject of proceedings before the Disciplinary Tribunal; and
 - (b) deciding whether the case should be referred to the Disciplinary Tribunal.
- (4) The Investigation Panel shall be appointed by the Council and shall consist of two members of the Disciplinary Tribunal.
- (5) The provisions of the Second Schedule to this Act shall, so far as applicable to the Disciplinary Tribunal and the Investigation Panel respectively, have effect with respect to 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 conducts, etc.

- (1) Where—
 - (a) a member is adjudged by the Disciplinary Tribunal to be guilty of infamous conduct in any professional respect; or
 - (b) a member, is convicted in any court of law having power to award imprisonment for an offence (whether or not punishable with imprisonment), which in the opinion of the Tribunal is incompatible with the status of a member of the Institute; or

- (c) the Disciplinary Tribunal is satisfied that the name of any person has been fraudulently enrolled or registered, the Disciplinary 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 Disciplinary Tribunal may, if it thinks fit, defer its decision as to the giving of a direction under subsection (1) of this section until a subsequent meeting of the Disciplinary Tribunal, but—
- (a) no decision shall be deferred under this subsection for any period exceeding two years in the aggregate; and
- (b) no person shall be a member of the Disciplinary Tribunal for the purposes of reaching a decision which has been deferred, or further deferred, unless he was present as a member of the Disciplinary 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 Disciplinary Tribunal gives a direction under subsection (1) of this section, the Disciplinary Tribunal shall cause notice of the direction to be served on the person to whom it relates.
- (5) The person to whom a direction given under subsection (1) of this section relates may, at any time within 28 days from the date of service on him of notice of the direction appeal against the direction to the Federal High Court, and the Disciplinary Tribunal may appear as respondent to the appeal and for the purpose of enabling direction to be given as to the costs of the appeal and of proceedings before the Federal High Court, the Disciplinary 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 Disciplinary Tribunal under section (1) of this section shall take effect—
- (a) where no appeal under this section is brought against the direction within the time limited for such an 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; and
 - (c) where such an appeal is brought and is not withdrawn or struck out as aforesaid, if and when the appeal is dismissed, and shall not take effect except in accordance with the foregoing provisions of this subsection.
- (7) A person whose name is struck off the Register in pursuance of a direction of the Disciplinary Tribunal under this section, shall not be entitled to be enrolled or registered again, except in pursuance of a direction in that behalf given by the Disciplinary Tribunal on the application of that person 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 and General

15. Application of the Act to un-enrolled persons

Any person not being a member of the Nigerian Marketing Association and the Certified Institute of Marketing of Nigeria who, but for this Act, would have been qualified to apply for, and obtain membership of the two bodies may, within a period of three months from the commencement of this Act, apply for the 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 registered, as the case may be, according to his qualification.

16. When persons are deemed to practise as marketers

- (1) Subject to subsection (2) of this section, a person shall be deemed to practice as a marketer if in consideration of remuneration received or to be received and whether by himself or in partnership with any other person he—
- (a) engages himself in the practice of marketing or holds himself out to the public as a marketer; or
 - (b) renders professional service or assistance in, or about matters of principles or detail, relating to the practice of marketing; or
 - (c) renders any other service which may, by regulations made by the Council in consultation with the Minister, be designated as service constituting practice as a marketer.
- (2) Notwithstanding in subsection (1) of this section shall be construed 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 marketer.

17. Rules as to practices, fees, etc.

- (1) The Council may make rules for the—
- (a) training of suitable persons in marketing methods and practice; and
 - (b) supervising 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 purpose, different amounts may be prescribed by the rules according to the category of membership;
 - (b) prescribing the form of license to practice to be issued annually, or if the Council thinks fit, by endorsement on an existing license; and

(c) restricting the right to practice as a marketer if default continues for longer than such period as may be prescribed by the rules.

(3) Rules made under this section, shall, if the Chairman of the Council so directs, be published in the official newsletter and magazine of the Institute.

18. Confirmation of rules by the Institute, etc.

Rules made for the purpose of this Act shall be subject to confirmation by the Institute at its next 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.

19. Provisions of library facilities, etc.

The Institute shall—

- (a) provide and maintain a library comprising of books and publications for the advancement of the knowledge of marketing and such other books and publications as the Council may think necessary for the purpose; and
- (b) encourage research into marketing methods and allied subjects, to the extent that the Council may, from time to time, consider necessary.

20. Offences and penalties

(1) Any person who, 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 the material particular, commits an offence.

- (2) If on or after the coming into force of this Act, any person who is not a member of the Institute practises or holds himself out to practise as a marketer for, or in expectation of reward or takes or uses any name, title, addition or description, implying that he is in practice as a marketer, he commits an offence.
- (3) In the case of a person falling within section 16 of this Act—
 - (a) the provision of subsection (2) of this section shall not apply in respect of anything done by him during the period of three months mentioned in the 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, the provision of subsection (2) of this section shall not apply in respect of anything done by him between the end of that period and the date on which he is enrolled, or registered or notified as aforesaid.
- (4) 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 commits an offence.
- (5) A person who commits an offence under this section shall be liable—
 - (a) on summary conviction to a fine not exceeding N10,000.00; or
 - (b) on conviction or indictment, to a fine not exceeding N10,000.00 or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.
- (6) 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 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 have committed that

offence and shall be liable to be proceeded against and punished accordingly.

21. The Body of Fellows of the Institute

- (1) There shall be established by the Institute a body to be known as “the Body of Fellows” which role shall be advisory and which membership shall be drawn from among marketers who have been conferred with the Institute’s fellowship and have been appointed to the Body of Fellows by the Council:

Provided that all marketers who have been conferred with the Association’s Fellowship before the commencement of this Act, shall form the initial membership of the Body of Fellows, and not more than five appointments shall be made annually by the Council into that body.

- (2) The Body of Fellows shall appoint one of their members as the Chairman and shall hold regular quarterly meetings provided that it shall not hold less than two meeting in any particular year.
- (3) The persons appointed in accordance with the provisions of subsection (2) of this section shall each hold office for a term of two years from the date of appointment so however that in the event of the death, incapacity or inability for any reasons of the Chairman, another member of the Body of Fellows shall act as the Chairman, for the unexpired term of his appointment.
- (4) The Registrar shall also be the Secretary to the Body of Fellows.

22. Powers of the Minister to give directives 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 and it shall be the duty of the Council to comply with the directives.

23. Regulations

- (1) The Council may in consultation with the Minister make regulations generally for the purpose of giving full effect to the provisions of this Act.
- (2) Any regulations, made under this Act, shall be published in the Gazette as soon as may be necessary after they are made, and a copy of any such regulations shall be sent to the Minister not later than seven days before they are so published.

24. Dissolution of the Nigerian Marketing Association and transfer of certain assets and liabilities

- (1) The body known and referred to as the Nigerian Marketing Association or any other organisation by whatsoever name called purporting to be performing the same function is hereby consequentially dissolved.
- (2) Accordingly, all the assets and liabilities held or incurred immediately before the commencement of this Act by or on behalf of the Association or any other related body shall, by virtue of this Act, and without further assurance, vest in the Institute and be held by it for the purposes of the Institute.
- (3) The provisions of the Second Schedule of this Act, shall have effect with respect to matters arising from the transfer by this section to the Institute of the property of the Association and with respect to the other matters mentioned therein.

[Second Schedule.]

25. Interpretation

In this Act—

“Association” means the Nigerian Marketing Association;

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

“Disciplinary Tribunal” means the National Institute of Marketing of Nigeria Disciplinary Tribunal established under subsection (1) of section 13 of this Act;

“Fees” includes annual subscription;

“Institute” means the National Institute of Marketing of Nigeria established under section 1 of this Act;

“Investigation Panel” means the National Institute of Marketing of Nigeria Investigation Panel established under subsection (3) of section 13 of this Act;

“Marketer” means any person registered to practice marketing under this Act;

“Member” means enrolled Fellow, Full Member, Associate Member, Graduate Member, Student Member or a registered Special or Corporate Member, as the case may be, and “membership of the Institute” shall be construed accordingly;

“Minister” means the Minister charged with the responsibility for matters relating to Commerce;

“President” and “Vice-President” respectively means the office holders under those names in the Institute; “Register” means the Register maintained pursuant to section 9 of this Act. 26. Short title

This Act may be cited as the National Institute of Marketing of Nigeria Act, 2003.

SCHEDULES

First Schedule

[Section 4 (3).]

Supplementary Provisions relating to the Council

1. Tenure of office, etc., of members of the Council

- (1) Subject to the provision of this paragraph, a member of the Council shall hold office for a period of three years, beginning with the date of his election or appointment.
- (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 to become a member of the Council and any appointed member may be reappointed.
- (5) Members of the Council shall at their next meeting before the annual general meeting of the Institute arrange for four members of the Council appointed or elected and longest in the office to retire at that general meeting.
- (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 the Council vacates office and—
 - (a) such member was appointed by the Minister, the Minister shall appoint another fit and proper person to represent the same interest; 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 and proper person for such time as aforesaid.

2. Proceedings of the Council

- (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 Committees thereof.
- (2) The 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, as the case may be, shall have a second or casting vote.
- (3) The standing orders made for a Committee of the Council shall provide for the Committee to report to Council on any matter referred to it by the Council.
- (4) The quorum at any meeting of the council shall be ten and the quorum of a Committee of the Council shall be determined by the Council.

3. Meetings of the Council

- (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 convene a meeting of the Council to be held within 14 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 or in his absence the second Vice-President shall preside, but if the Chairman, the Vice-Chairman and the second Vice-President 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 subparagraph 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.

4. Committees

- (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 of whom not more than one-third may be persons who are not members of the Council and a person other than a member of the Council shall hold office on the Committee in accordance with the terms of his letter of appointment.
- (3) A decision of a Committee of the Council shall be of no effect until it is confirmed by the Council.

5. Meetings of the Institute

- (1) The Council shall convene the meeting of the Institute once in every year at such time and place as may be determined by the Council, so however that if the meeting is not held within one year after the previous annual meeting not more than fifteen months shall elapse between the respective dates of the two meetings.
- (2) The Chairman of the Council shall convene a special meeting of the Institute at any time, if he receives a notice in writing, addressed to him by not less than 20 members of the Institute, setting out the objects of the proposed meeting.
- (3) The following members shall be entitled to receive notice of any meeting of the Institute—

- (a) fellows;
 - (b) full members;
 - (c) associate members;
 - (d) honorary fellows; and
 - (e) corporate members.
- (4) The quorum of any general meeting of the Institute shall be 25 members and that of any special meeting of the Institute shall be 15 members.

6. Miscellaneous

- (1) The fixing of the seal of the Institute shall be authenticated by the signature of the Chairman or of some other members of the Council authorised generally or specifically by the Institute 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 the 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.

7. Validity of proceedings

The validity of any proceedings of the Institute or the Council, or of a Committee of the Council shall not be affected by any vacancy in the membership or 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.

8. Disclosure of interest

Any member of the Institute or 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 or a Committee thereof, shall forthwith disclose his interest to the President or to the Council, as the case maybe, and he shall not vote on any question relating to that contract or arrangement.

9. Membership of Institute not to be taken as holding an office in the Public Service of the Federation

A person shall not by reason only of his membership of the Institute be treated as holding an office in the Public Service of the Federation.

10. Transitional Council

- (1) There shall be a Transitional Council composed of two bodies formally known as the Nigerian Institute of Marketing of Nigeria (NIMARK) and the Chartered Institute of Marketing of Nigeria (CIMN) as follows—

The President, 2nd Vice-President, Deputy-Registrar and four Council members shall be drawn from the Nigerian Institute of Marketing otherwise known as NIMARK while the 1st Vice-President, Registrar and three Council members shall be drawn from the Chartered Institute of Marketing of Nigeria (CIMN).

- (2) The Transitional Council shall serve for a period of not more than one year except otherwise extended for more than six months subject to the approval of two-thirds majority of the Council.
- (3) The quorum of the Transitional Council shall be three: provided at least one member of either body is present.
- (4) Major decisions of the Council such as qualification of membership of the Institute shall require (two-thirds) majority votes to come into effect.

Second Schedule

Supplementary Provisions relating to the Disciplinary Tribunal and Investigating Panel

1. Quorum of the Disciplinary Tribunal

The Quorum of the Disciplinary Tribunal shall be four members.

2. Rules

- (1) The Attorney-General of the Federation shall make rules as to the selection of members of the Disciplinary Tribunal for the purposes of any proceedings, the procedure to be followed and the rules of evidence to be observed in the proceedings before the Disciplinary Tribunal.
- (2) The rules shall in particular provide—
 - (a) for securing that notice of the proceeding 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 provision of section 14 (5) of this Act, for 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 misconduct in any professional respect, that where the Disciplinary Tribunal adjudges that the allegation has been proved, it shall record a finding that the person is

guilty of such misconduct in respect of the matters to which the allegation relates; and

- (g) for publishing in the newsletter and magazine, notice or any direction of the Disciplinary Tribunal which has taken effect providing that a person's name shall be struck off the Register.

3. Administering oaths, etc.

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 by writs of subpoena ad testificandum and dues 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 which a writ which he could not be compelled to produce at the trial of an action.

4. Assessors to Disciplinary Committee

- (1) For the purpose of advising the Disciplinary Committee on question 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 nomination of the Attorney-General of the Federation, and he 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 the 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

a person representing a party to the proceedings, who appear 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 of 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.

5. Quorum of Investigating Panel

The quorum of the Investigating Panel shall be three.

6. Standing Order

- (1) The Investigating Panel may, at any of its meetings attended by all members, make standing orders with respect to the Investigating Panel.
- (2) Subject to the provisions of any such standing order, the Investigating Panel may regulate its own proceedings.

7. Reappointment of a person as a member of the Disciplinary Tribunal, etc.

- (1) A person ceasing to be a member of the Disciplinary Tribunal, or the Investigating Panel shall be eligible for reappointment 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 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. Non-invalidation on the basis of vacancy

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. Services of a document

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. Defraying of expenses

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

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