

COUNCIL OF NIGERIAN MINING ENGINEERS AND GEOSCIENTISTS ACT

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COUNCIL OF NIGERIAN MINING ENGINEERS AND GEOSCIENTISTS ACT

An Act to provide for the establishment of the Council of Nigerian Mining Engineers and Geoscientists and for the control of the practice of the profession of mining engineering and geosciences in Nigeria.

[1990 No. 40.]

[30th December, 1990]

[Commencement.]

PART I

Establishment of the Council of Nigerian Mining Engineers and Geoscientists, etc.

1. Establishment of the Council of Nigerian Mining Engineers and Geoscientists, etc.

(1) There is hereby established, for the purposes of regulating the standard of practice of mining engineers and geoscientists, a body to be known as the Council of Nigerian Mining Engineers and Geoscientists (in this Act referred to as "the Council") which shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

- (2) The Council shall be charged with the general duty of-
- (a) prescribing and enforcing the minimum standards of education and experience to be obtained by persons qualified to practise as registered mining engineers and geoscientists;
 - (b) prescribing and enforcing the code of conduct of registered mining engineers and geoscientists;
 - (c) securing in accordance with this Act, the establishment and maintenance of a register of persons entitled to practice as mining engineers and geoscientists and reviewing those standards, from time to time, as circumstances may require;
 - (d) regulating and controlling the practice of mining engineering and geosciences in all its aspects and ramifications;
 - (e) maintaining discipline in the profession in accordance with this Act; and
 - (f) performing such other functions which in its opinion are calculated to facilitate the carrying on of its activities under this Act.

2. Membership of the Council

- (1) Subject to the provisions of this Act, the Council shall consist of a Chairman to be appointed by the President, on the recommendation of the Minister and the following other members, that is-
- (a) the Chief Executive of the Nigerian Mining Corporation;
 - (b) the Chief Executive of the National Steel Council;
 - (c) the Director of Mines in the Ministry of Solid Minerals Development;
 - (d) the Director of the Federal Geological Surveys of Nigeria;
 - (e) the President of the Nigerian Mining and Geosciences Society;
 - (f) one person to represent the Oil Companies in rotation for one term at a time;
 - (g) one person to represent the Department of Earth Sciences in the Universities in rotation for one term at a time;
 - (h) one person to represent the Ministry of Power and Steel;
 - (i) one person to represent the Ministry of Petroleum Resources;
 - (j) one person to represent the Ministry of Science and Technology; and

(k) three other persons to be appointed after consultation with the Nigerian Mining and Geosciences Society.

(2) Except as otherwise provided in this Act, the members of the Council, other than ex-officio members, shall be appointed by the Minister on the recommendation of the bodies they represent, if any.

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

[First Schedule.]

3. Tenure of office of members

(1) A person appointed as a member of the Council shall hold office for a term of four years and shall be eligible for re-appointment for only a further term of four years.

(2) The office of a member of the Council shall become vacant if-

(a) he becomes bankrupt or makes arrangements with his creditors; or

(b) he is, as a result of physical or mental illness, unable to discharge his functions as a member of the Council; or

(c) he is convicted of an offence involving dishonesty, fraud or moral turpitude.

(3) The Minister may by notice in writing revoke the appointment of a member if, in his opinion, it is not in the interest of the Council that the member should continue in office.

PART II

Powers of the Council

4. Powers of the Council

(1) The Council shall have power-

(a) to prescribe the amount to be paid as licence fees for registration as a mining engineer and geoscientist;

(b) to raise and manage its own funds;

(c) to receive grants, loans, endowment, fees and other payments;

(d) to pay the members of the Council such allowances as the Minister may, from time to time, approve;

(e) subject to such terms and conditions as may be approved by the Council, to remunerate its staff and agents.

(2) The Council shall not-

- (a) borrow money or dispose of any property except with the prior consent of the Minister; or
- (b) pay remuneration (including pensions, allowances or other benefits) except with the prior consent of the Minister; or
- (c) pay expenses to any member or employee of the Council or to any other person except in accordance with scales approved by the Minister.

5. Power of the Minister to give directives to the Council

(1) The Minister may give the Council directives of a general character or relating 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.

(2) Before giving a directive under subsection (1) of this section, the Minister shall give a copy of the proposed directive to the Council and shall afford the Council an opportunity of making representation to him with respect to the directives.

(3) The Minister may, after considering any representations made to him in pursuance of subsection (2) of this section, give the directive either without modification or with such modifications as appear to him to be appropriate, having regard to the representations made to him in pursuance of that subsection.

PART III

Financial Provisions

6. Fund of the Council

(1) The Council shall establish and maintain a fund from which shall be defrayed all expenditure incurred by the Council.

(2) There shall be paid and credited to the fund established in pursuance to subsection (1) of this section-

- (a) such moneys as may be provided for the governance of the Council by way of grant or loan or otherwise howsoever; and
- (b) all other moneys that may accrue to the Council under this Act.

7. Accounts and Audit

(1) The Council shall prepare and submit to the Minister, not later than 30 September of the year in which this Act comes into force and in each subsequent year thereafter, an estimate of its expenditure and income during the next succeeding year.

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

(3) The Council shall prepare and submit to the Minister, not later than twelve months after its establishment and once in each year thereafter, a report on the activities of the Council during the last preceding year and shall include in the report a copy of the audited accounts of the Council for that year and of the auditor's report on the accounts.

PART IV

Staff of the Council

8. Registrar and other employees of the Council

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

(2) The Registrar shall, in addition to his other functions under this Act, be the Secretary to the Council and shall on the instructions of the Chairman of the Council 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 Council, as the Council may determine, to assist the Registrar in the exercise of his functions under this Act.

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

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

PART V

Register, Registration, etc.

9. Preparation and maintenance of the register

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

provisions of this Act, to be registered as mining engineers or geoscientists and who apply in the prescribed manner to be so registered.

(2) The register shall consist of two parts of which one shall be in respect of fully registered persons and the other in respect of provisionally registered persons.

(3) Subject to the following 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 for-

- (a) regulating the making of applications for registration and providing for the evidence to be produced in support of applications;
- (b) providing for the notification to the Registrar, by the person to whom any registered particulars relate, of any change in those particulars;
- (c) authorising a registered person to have any qualification, which is 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 to be paid to the Council in respect of the entry of names on the register, and authorising the Registrar to refuse to enter a name on the register until any fee specified for the entry has been paid;
- (e) specifying anything falling 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 have been approved by the Minister and published in the Gazette.

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

- (a) to correct, in accordance with the direction of the Council, any entry which, in the opinion of the Council, is 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 part of the register which relates to provisionally registered persons, all particulars relating to a person registered in the other part of the register; and
- (d) to remove from the relevant part of the register the name of any registered person who has died, or as the case may be, has ceased to be entitled to be registered.

(5) 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 particulars relating to him are

- correct, and receives no reply to the letter within a period of three months from the date of posting it; and
- (b) upon the expiration of that period, sends in 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 relevant part of the register; but the Council may, for any reason which seems to it to be sufficient, direct the Registrar to restore to the appropriate part of the register any particulars removed therefrom under this subsection.

10. Publication of register and lists 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 beginning of the year in which this Act comes into force;
- (b) in each year after that in which the register is first published under paragraph (a) of this subsection, to cause to be printed, published and put on sale as aforesaid, either a corrected edition of the register or a list of alterations made to 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 Council, and it shall be the duty of the Council to keep the register and lists so deposited open at all reasonable times for inspection by members of the public.

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

11. Registration of mining engineers and geoscientists

(1) Subject to section 25 and to rules made under section 9 (3) of this Act, a person shall be entitled to be fully registered as a mining engineer or geoscientist if-

- (a) he passes the qualifying examination for registration recognised or conducted by the Council; and
- (i) has not less than two years' post-qualification experience in the relevant profession; or

- (ii) has served in a recognised institution or organisation for the same period;
- (b) he holds a qualification granted outside Nigeria and for the time being is accepted by the Council and he is by law entitled to practise for all purposes as a mining engineer or geoscientist in the country in which the qualification was granted and, if the Council so requires, he satisfies the Council that he has had sufficient practical experience as a mining engineer or geoscientist.

(2) Subject as aforesaid, a person shall also be entitled to be registered under this Act as a mining engineer or geoscientist if-

- (a) he holds a certificate recognised by the Council and has not less than two years' post-qualification practical experience in the relevant profession or served for not less than the same period under any recognised mining engineering or geosciences institution or organisation; or
- (b) he has passed an examination approved by the Council and has not less than two years' post-qualification practical experience in the relevant profession or served for not less than the same period in a recognised mining engineering or geosciences institution or organisation.

(3) An application for registration as a mining engineer or geoscientist shall be in the form specified in the Second Schedule to this Act and on the payment of such fees as may be determined, from time to time, by the Council.

[Second Schedule.]

(4) An applicant for registration under this Act shall satisfy the Council that he-

- (a) is of good character;
- (b) has attained the age of twenty-one years;
- (c) has not been convicted in Nigeria or elsewhere of any criminal offence; and
- (d) is a current member of the Nigerian Mining and Geosciences Society.

(5) A person shall be entitled to be registered provisionally under this Act if-

- (a) he holds a certificate recognised by the Council; or
- (b) he has passed an examination conducted or approved by the Council, and has not had two years' post-qualification practical experience in the profession or served for less than the same period in a recognised mining engineering or geosciences institution or organisation.

(6) Any entry made in the register, under subsection (5) of this section, shall show that the 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.

(7) The Council shall, from time to time, publish in the Gazette particulars of the qualifications for the time being accepted for registration under this Act.

(8) The Council shall cause any person registered as a mining engineer or geoscientist to be issued a certificate of registration as specified in the Third Schedule to this Act.

[Third Schedule.]

12. Temporary registration

(1) Where a person satisfies the Council-

(a) that he has been selected for employment for a specified period in a capacity in which a registered person under this Act would normally be employed and that he is or intends to be in Nigeria temporarily for the purposes of serving for that period in the employment in question;

(b) that he holds or has passed examinations necessary for obtaining some qualifications granted outside Nigeria which is for the time being accepted by the Council for the purpose of this section as respects the capacity in which, if employed, he is to serve; and

(c) he pays any fees prescribed for registration, the Council may, if it thinks fit, give a direction that the person shall be temporarily registered.

(2) The temporary registration of a person shall continue only while he is in such employment as is mentioned in subsection (1) (a) of this section and shall cease-

(a) on the termination of the period of employment specified to the Council under that subsection; or

(b) on the termination of the said employment before the end of the period,

whichever first occurs, but nothing in this subsection shall preclude the Council from giving a further direction under subsection (1) of this section in respect of a special period whose commencement coincides with the termination of another such period.

(3) A person who is temporarily registered shall in relation to the employment mentioned under subsection (1) (a) of this section, and to things done or omitted to be done in the course of that employment, be deemed to be fully registered but in respect of other matters to be treated as not so registered.

(4) If there is doubt as to whether a person's employment has been terminated, the decision of the Council shall be conclusive for purposes of subsection (2) of this section.

(5) The Registrar, as directed from time to time by the Council, shall remove from the register the name of any person ceasing to be entitled to the benefit of this section.

PART VI

Training

13. Approval of courses

(1) Subject to subsection (2) of this section, the Council may approve for the purposes of section 11 of this Act-

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

(2) The Council shall, from time to time, publish in the Gazette a list of qualifications relating to the profession approved by it for the purposes of subsection (1) of this section.

(3) 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 the person by whom the course is conducted or the qualification is granted or the institution is controlled, as the case may be;
- (b) afford each person an opportunity of making to the Council representations with regard to the proposal; and
- (c) take into consideration any representations made as respects the proposal in pursuance of paragraph (b) of this subsection.

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

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

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

14. Supervision of institution and 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 examinations as a result of which approved qualifications are granted,

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

(2) It shall be the duty of a 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 matters 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 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 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 examination to which the report relates, requesting that person to make an observation 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.

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

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

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

PART VII

Privileges of registered persons and offences by unregistered persons

16. Certificate invalid if given by unregistered person

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

17. Appointment not to be held by unregistered person

(1) Subject to the provisions of this Act, a person who is not registered in accordance with this Act, shall not be entitled to hold any appointment in the public service of the Federation or of a State or in any public or private establishment, body or institution, if the holding of such appointment involves the performance by him in Nigeria of any act pertaining to the relevant profession for gain.

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

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

Any person, not being registered on any register established under section 9 of this Act, who holds himself out to be so registered or uses any name, title, description or symbol calculated to lead any person to infer that he is so registered, shall be guilty of an offence and liable on conviction for a first offence to a fine of not less than one hundred naira or not more than two hundred naira or to imprisonment for a term of six months or to both such fine and imprisonment, and on conviction for a second or any subsequent offence to imprisonment for a term of not less than one year or more than three years.

19. Recovery of fees

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

20. Offences

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

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

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

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

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

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

21. Burden of proof

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

PART VIII

Discipline

22. Establishment of the Disciplinary Committee and the Investigating Panel

(1) There shall be established a Disciplinary Committee to be known as the Registered Mining Engineers and Geoscientists Disciplinary Committee (in this Act referred to as "the Disciplinary Committee") which shall be charged with the duty of considering and determining any case referred to it by the Investigating Panel established by the following provisions of this Act.

(2) The Disciplinary Committee shall consist of the Chairman of the Council and four other members of the Council holding office by virtue of paragraphs (a), (c) and (d) of section 2 (1) of this Act.

(3) There shall be established a body to be known as the Registered Mining Engineers and Geoscientists Investigating Panel (hereafter in this Act referred to as "the Investigating Panel") which shall be charged with the duty of-

(a) conducting a preliminary investigation into any case where it is alleged that a person registered has misbehaved in his capacity as a mining engineer or geoscientist or should

for any other reason be the subject of proceedings before the Disciplinary Committee; and

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

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

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

[Fourth Schedule.]

23. Proceedings of the Disciplinary Committee

(1) At any meeting of the Disciplinary Committee three members shall form a quorum.

(2) The Chairman or, in his absence, such other person as may be determined by the Disciplinary Committee shall preside at any meeting of the Disciplinary Committee.

(3) Any question proposed for decision by the Disciplinary Committee shall be determined by the majority of the members present and voting at a meeting of the Disciplinary Committee at which a quorum is present.

(4) At all meetings of the Disciplinary Committee, each member present shall have one vote on a question proposed for decision by the Disciplinary Committee and, in the event of an equality of votes, the Chairman shall have, in addition to a deliberative vote, a casting vote.

24. Penalties for unprofessional conduct

(1) Where-

(a) a person registered under this Act is convicted by any court or tribunal in Nigeria or elsewhere having power to award punishment for an offence (whether or not an offence punishable with imprisonment) which, in the opinion of the Disciplinary Committee, is incompatible with the status of such person; or

(b) a registered person is judged by the Disciplinary Committee to be guilty of infamous conduct in a professional respect; or

(c) the Disciplinary Committee is satisfied that the name of any person has been fraudulently registered,

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

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

- (a) ordering the Registrar to strike the person's name of the relevant part of the register;

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

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

- (3) In any inquiry under this section, any finding of fact which is shown to have been made in
 - (a) any criminal proceedings in a court in Nigeria; or
 - (b) any civil proceedings in a court in Nigeria,

shall be conclusive evidence of the fact found.

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

(5) A certificate under the hand of the chairman that any costs have been ordered to be paid by a person under this section of this Act shall be conclusive evidence thereof.

25. Restoration of names to the register

(1) Where the name of a person has been struck off from the register in pursuance of a direction given under section 24 of this Act, the Disciplinary Committee may, if it thinks fit, at any time direct the restoration of his name to the register.

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

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

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

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

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

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

27. Appeal to the Federal High Court

(1) Where the Disciplinary Committee-

- (a) makes a finding and imposes a penalty on a registered person under section 24 of this Act; or
- (b) rejects an application for restoration of a name to a register under subsection (2) of section 25 of this Act; or
- (c) directs the striking off an entry from a register under subsection (1) of section 26 of this Act, the Registrar shall give the person to whom the proceedings relate, notice in writing thereof and such person may, within twenty-eight days from the date of service on him of the notice, appeal to the Federal High Court.

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

(3) No direction for the striking off of the name of a registered person from a register under section 24 or 26 of this Act shall take effect, until the expiration of the time for appealing or if an appeal is brought, until such time as the appeal is disposed of, withdrawn or struck out for want of prosecution, as the case may be.

(4) The Federal High Court may, on an appeal under this section-

- (a) confirm, vary or set aside any finding of fact, penalty imposed or direction given by the Disciplinary Committee; or
- (b) confirm the rejection of the Disciplinary Committee of the application for restoration or direct the restoration of the name to the register; or
- (c) remit the matter to the Disciplinary Committee for further consideration; or

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

PART IX

Supplementary

28. Regulations, etc.

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

- (a) the power to make provisions for such incidental and supplementary matters as the authority making the instrument considers expedient for the purpose of the instrument; and
- (b) the power to make different provisions for different circumstances.

29. Interpretation

In this Act, unless the context otherwise requires-

"certificate of registration" means a certificate of registration issued under section 11 (8) of this Act;

"Council" means the Council of Nigerian Mining Engineers or Geoscientists established under section 1 of this Act;

"member" means a member of the Council and includes the Chairman;

"Minister" means the Minister charged with the responsibility for matters relating to mines; and **"Ministry"** shall be construed accordingly;

"profession" means the profession of mining engineering or geosciences, as the case may be;

"register" means the register maintained under section 9 of this Act and "registered" shall be construed accordingly;

"Registrar" means the Registrar appointed under section 8 of this Act;

"student" means a person receiving basic training in the professions covered by this Act in an approved training school.

30. Short title

This Act may be cited as the Council of Nigerian Mining Engineers and Geoscientists Act.

SCHEDULES

FIRST SCHEDULE

Supplementary Provisions relating to the Council

Qualification and tenure of office

1. (1) A person other than a person appointed under paragraphs (a), (b), (c), (d), (e), (g), (i) and (j) of section 1 of this Act shall not be a member of the Council unless he is a citizen of Nigeria and is fully registered (or, in the case of the first members of the Council, is eligible for registration) as a member of the profession.

(2) Where a member of the Council ceases to hold office before the date when his term of office would have expired by the effluxion of time, the body or person by whom he was appointed or elected shall, as soon as may be, appoint or, as the case may be, elect a person to fill the vacancy for the residue of the term aforesaid, so however that the foregoing provisions of this sub-paragraph shall not apply where a person holding office as a member of the Council ceases to hold office at a time when the residue of this term does not exceed one year.

2. (1) A member of the Council other than a public officer may resign his appointment by a letter addressed to the Minister and the resignation shall take effect from the date of the receipt of the letter by the Minister.

(2) The Minister may appoint any person who is a registered member of the profession to be a temporary member during a long absence or the incapacity from illness of any member, and that person, may, while the appointment subsists, exercise the functions of a member under this Act.

(3) The foregoing provisions of this section shall be without prejudice to the provisions of section 11 of the Interpretation Act which relates to appointments.

[Cap. 123.]

Proceedings of the Council

3. Subject to the provisions of this Act and of section 26 of the Interpretation Act, the Council may make standing orders regulating the proceedings of the Council or of any committee thereof and may elect a temporary vice-chairman in the absence of the chairman for the conduct of the affairs of the Council.

- 4.** The quorum of the Council shall be five and the quorum of any committee of the Council shall be determined by the Council.
- 5.** At any time while the office of the chairman is vacant or the chairman is in the opinion of the Council temporarily or permanently unable to perform the functions of his office, the vice-chairman shall perform those functions and references in this Schedule to the chairman shall be construed accordingly.
- 6.** (1) Subject to the provisions of any applicable standing orders, the Council shall meet whenever it is summoned by the chairman and, if the chairman is required to do so, by notice given to him by not less than six other members, he shall summon a meeting of the Council to be held within twenty-one days from the date on which the notice is given.
- (2) At any meeting of the Council, the chairman, or in his absence the vice-chairman, shall preside but if both are absent, the members present at the meeting shall appoint one of their number to preside at that meeting.
- (3) Where the Council wishes to obtain the advice of any person on a particular matter, the Council may co-opt him as a member for such period as it thinks fit; but a person who is a member by virtue of this sub-paragraph, shall not be entitled to vote at any meeting of the Council and shall not count towards a quorum.
- (4) Notwithstanding anything to the contrary, the first meeting of the Council shall be summoned by the Minister who may give such directions as to the procedure to be followed at that meeting as he may deem fit.

Committees

- 7.** (1) The Council may appoint one or more committees to carry out on behalf of the Council such of its functions as the Council may determine.
- (2) A committee appointed under this sub-paragraph (1) of this paragraph shall consist of the number of persons determined by the Council and not more than one third of those 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 Council shall be authenticated by the signature of the chairman or of some other member authorised generally or specially by the Council to act for that purpose.

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

SECOND SCHEDULE

[Section 11 (3).]

Application for registration as a mining engineer or geoscientist

To the Registrar,

Council of Nigerian Mining Engineers and Geoscientists

PART I

(to be completed by applicant)

I.....

(name in full, in block letters)

(present occupation)

of.....

(full postal address)

wish to be registered as a *mining engineer or geoscientist under the Act.

I was born on theday of20

atand my nationality is

..... by *birth or nationalisation.

A full and accurate statement of my training and experience is given in Part II of this Form. *Delete where not applicable.

PART II - STATEMENT OF TRAINING AND EXPERIENCE

A.-TRAINING

GENERAL EDUCATION

<i>Dates</i>	<i>Schools attended</i>	<i>Certificate obtained</i>

SECOND SCHEDULE- continued

B.-PROFESSIONAL EDUCATION

<i>Dates</i>	<i>Names of institution attended</i>	<i>Diploma or other qualification obtained</i>

PROFESSIONALS EXPERIENCE

	<i>Appointments held and particulars of work done</i>
<i>Dates</i>	

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C.-MEMBERSHIP OF PROFESSIONAL BODIES

.....
.....
.....
.....

Any other relevant information, for example, membership of boards, societies, clubs, etc .

.....
.....
.....
.....

I certify that the information given in this form is correct and represents details of my training, professional experience and the other matters contained herein .

.....

Signature of applicant

THIRD SCHEDULE

[Section 11 (8).]

Certificate of registration

This certifies that.....

of.....

has been registered as a *mining engineer or geoscientist under section 11 of the Council of Nigerian Mining Engineers and Geoscientists Act and is entitled to practise as a *mining engineer or geoscientist.

Date of registration.....

Dated thisday of20.....

Fee ₦200.00

.....
Registrar

*Delete where not applicable

FOURTH SCHEDULE

[Section 22 (5).]

Supplementary Provisions relating to the Disciplinary Committee and

Investigating Panel

The Disciplinary Committee

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

(2) The rules shall in particular provide-

- (a) for securing that notice of 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 Committee;

- (d) for enabling any party to the proceedings to be represented by a legal practitioner;
- (e) subject to the provisions of section 24 (2) (d) of this Act, as to the costs of proceedings before the Disciplinary Committee;
- (f) for requiring, in a case where it is alleged that the person who is the subject of the proceedings is guilty of infamous conduct in any professional respect, that where the Disciplinary Committee 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;
- (g) for publishing in the Gazette notice of any direction of the Disciplinary Committee which has taken effect providing that a person's name shall be struck off a register.

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

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

- (a) that where an assessor advises the Disciplinary Committee on any question of law as to evidence, procedure or any other matters specified by the rules, he shall do so in the presence of every party or person representing a party to the proceedings who appears thereat or, if the advice is tendered while the Disciplinary Committee is deliberating in private, that every such party or person as aforesaid shall be informed of what advice the assessor has tendered;
- (b) that every such party or person as aforesaid shall be informed if in any case the Disciplinary Committee does not accept the advise 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

3. (1) The quorum of the Investigating Panel shall be three.

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

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

Miscellaneous

4. (1) A person ceasing to be a member of the Disciplinary Committee or the Investigating Panel shall be eligible for appointment as a member of the body concerned.

(2) A person may, if otherwise eligible, be a member of both the Disciplinary Committee 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 Committee with respect to that case.

(3) The Disciplinary Committee or 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 any member of that body or (subject to sub-paragraph (2) of this paragraph) by reason of the fact that any person who was not entitled to do so took part in the proceeding of that body.

(4) The Disciplinary Committee and the Investigating Panel may each sit in two or more places.

(5) Any document authorised or required by virtue of this Act to be served on the Disciplinary Committee or the Investigating Panel shall be served on the Registrar.

(6) Any expenses of the Disciplinary Committee or the Investigating Panel shall be defrayed by the Council.

COUNCIL OF NIGERIAN MINING ENGINEERS AND GEOSCIENTISTS ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
