

# AN OVERVIEW OF THE LEGAL PRACTITIONERS (REMUNERATION FOR BUSINESS, LEGAL SERVICES AND REPRESENTATION) ORDER, 2023.



## INTRODUCTION

The issue of reasonable remuneration for legal services has been one of consistent controversy and debate. It is of significant concern as legal practitioners invest substantial time, effort, and skill into rendering services which are not adequately remunerated.

Legal regulatory bodies have attempted to reevaluate compensation structures and ensure they align with the value lawyers bring to their work over the years. It can be said that this reevaluation inspired the reconstitution of the Legal Practitioners Remuneration Committee (LPRC) who were responsible for the draft of the Legal Practitioners Remuneration (For Business, Legal Service and Representation) Order, 2023 (the 2023 Order). This paper seeks to explore the innovations which the 2023 order brought about.



# BACKGROUND TO THE 2023 ORDER

The Legal Practitioners Remuneration Committee was established by the Legal Practitioners Act to amongst other things, regulate and standardize the remuneration of legal practitioners in Nigeria. By virtue of Section 15, the Committee is made up of the Honourable Attorney- General of the Federation and States, NBA President and Three (3) other members of NBA.

Several Practitioners were of the view that giving the current national and economic realities, the scale of charges as contained in the Legal Practitioners Remuneration Act 1990 were long overdue for review. Thus, by the combined efforts of the President of the 31st President of the Nigerian Bar Association; Yakubu Chonoko Maikyau, OON, SAN and the then Attorney General of the Federation, the Legal Practitioners Remuneration Committee was reconstituted and inaugurated on the 15th of May, 2023.

The Committee considered the draft Remuneration Order which had been presented to it and had been prepared by an earlier created ad-hoc committee chaired by Oluseun Abimbola, SAN. The said draft was consequently passed as the Legal Practitioners Remuneration (for Business, Legal Service and Representation) Order, 2023.

The 2023 Order which was issued by the Nigerian Bar Association (NBA) on the 16th day of May, 2023 provides guidelines for the remuneration of legal practitioners in Nigeria. These guidelines are set to ensure fair compensation for the work and expertise lawyers provide, ultimately benefiting both legal professionals and the individuals who rely on their services.

## The Nature and Scope of Legal Practitioners Remuneration (for Business, Legal Service and Representation) Order, 2023.

The Order covers legal practitioners' remuneration for business, legal services, and legal representation. It replaced the revoked order of 1991 which covered only remuneration for legal documentation and other land matters.

The remuneration is specified in five different scales, depending on the type of service rendered. Scale 1 sets out remuneration for consultation and legal opinion, Scale 2 sets out guidelines for incorporations, or registration of Companies and Business Names, Scale 3 sets out guidelines for litigation, Scale 4 sets out guidelines for property transaction and Scale 5 sets recommendation for hourly rates.

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<sup>1</sup> Legal Practitioners Act, Chapter L11 (Cap. L11), Laws of the Federation of Nigeria 2004

<sup>2</sup> Halima Abiola, "Legal Practitioners Remuneration Order, 2023 and Rules of Professional Conduct for Legal Practitioners, 2023: A Message from the NBA President" < Legal Practitioners Remuneration Order, 2023 and Rules of Professional Conduct for Legal Practitioners, 2023: A Message from the NBA President - The Loyal Nigerian Lawyer >, accessed 1 January, 2024

## Comparative Analysis of the 2023 and 1990 Order with Respect to New Developments in the repealed Statute.

### 1. Remuneration with Respect to other Matters:

Paragraph 2 of the Order states:

The scale of charges for any business or service not provided in this Order shall be such as may be fair having regard to the circumstances of each case and in particular to:

- (a) the complexity of the matter or the difficulty or novelty of the questions raised;
- (b) the skill, labour, experience, specialized knowledge and responsibility involved on the part of the legal practitioner;
- (c) the number and importance of the documents prepared or perused, without regard to length;
- (d) the time expended by the legal practitioner on the business or service;
- (e) the place and the circumstances in which the business or service, or a part thereof is transacted or carried out;
- (f) the turnaround time required by a client for completion of the business;
- (g) the amount of money or value of property involved; and
- (h) the importance attached to the business by the client.

From the foregoing, it is evident that the Order particularized the factors to be considered in applying the scale of charges for businesses or services that have not being particularly mentioned by the Order.

This is commendable as it leaves little or no room for ambiguity or unfairness of charges.

## **2. A Legal practitioner may elect to charge differently:**

A notable modification of one of the provisions of the 1991 Order (Paragraph 5 of the old Order), is the Paragraph 5 of the extant Order wherein a legal practitioner has the prerogative to charge differently from the already designated scale of charges for different businesses and services rendered.

However, it must be noted that this election is subject to the itemized rules laid down in Paragraph 2, and is also attached with the proviso that it must not be lower than the minimum set out in the relevant or appropriate Scale.

## **3. Legal Practitioner to Issue Terms of Engagement in Writing**

### **Paragraph 7 of the 2023 Order introduces a concept of "terms of engagement"**

A legal practitioner shall within 14 days from the date of instructions issue to the client written terms of engagement. Where the lawyer fails to do so, and a dispute arises between the legal practitioner and the client relating to fees, the provisions/fees contained in the scales specified shall apply.

Where certain fees were not ascertainable at the time of the issuance of the letter of engagement, it must be stated therein.

Paragraph 7 (b) goes further to state that where fees become ascertainable, or when the scope of work becomes broader, the lawyer may issue another term of engagement to cover new facts.

## **4. Legal Practitioner Charging Remuneration Lower than as Prescribed in Scales 1 to 5**

Paragraph 10 reiterates the obligatory nature of the remuneration prescribed by the Order for businesses and services rendered by a legal practitioner.

It furnishes the procedure to be followed where a legal practitioner intends to charge or agree to any remuneration for any business or service which is lower than the amount specified for any of the businesses or services in Scales 1- 5.

The procedure entails an application in writing to the Remuneration Committee of the Bar Association for an approval or refusal of the proposed remuneration.

The application must disclose to the committee the circumstances necessitating the intention to charge the lower remuneration.

The committee on receipt of the application would investigate accordingly and either approve or refuse the application and the legal practitioner shall act accordingly.

## **5. Committee to Receive Report on Remuneration**

Paragraph 11 encourages report to the Remuneration Committee of any breach or contravention of the Order.

Legal practitioners who, upon investigation, are found to have erred will be reported to the Legal Practitioners Remuneration Committee.

## **6. Exemption of Gratuitous Service**

The Order includes an exemption to all that had been said in the Order. Paragraph 12 of the Order



recognizes the right of lawyers to do pro bono legal services under the Legal Aid Act, 2011 or render free services to family members.

Any lawyer offering gratuitous services on grounds of consanguinity or affinity shall submit to the Remuneration Committee within 7 days an affidavit disclosing the facts and circumstances justifying such gratuitous service to the client.

### **7. State Bands**

A commendable inclusion made by the 2023 Order was the consideration given to location in the determination of remuneration. In Paragraph 14 of the order, for the purpose of remuneration of legal practitioner, Nigeria was divided into three state bands. State band 1 being states located in the eastern and northern part of the country, State band 2 being states located in the southern and western parts and State band 3 the Federal Capital Territory and Lagos. The recommended minimum charges and fees differ across the different state bands.

## **CONCLUSION**

The long-standing controversy on legal practitioners' remunerations for legal services is one that has produced varying opinions on the topic. Particularly, there have been opposition on the characterization of legal practitioners' fees to a scale of charges. In contrast, many have canvassed for the continued existence of Remuneration Orders as it creates order and certainty in the remuneration for legal services.

I align myself with the latter opinion and I commend the Legal Practitioners Remuneration Order, 2023 in its efforts to particularize the scales of charges to include factors such as the type of services offered, the years of experience and the status of the legal practitioner, and also the consideration given to location (state bands). Indeed, I opine that the 2023 Order is a step in the right direction towards regulating the fees charged by legal practitioners for their services and putting a rest to this age long debate.

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