ADVOCATES' PROCLAMATION NO.../2019

(Draft)

WHEREAS it is of paramount importance to adequately regulate the advocates' profession in the light of global and national changes;

WHEREAS, with due recognition that the Ethiopian legal infrastructure has lagged behind its rapid socio-economic transformation, the Government of the Federal Democratic Republic of Ethiopia has embarked on a fundamental and wide-ranging effort of restructuring and reforming the existing laws and legal institutions;

WHEREAS, as in many areas of the law, the existing regulations of the advocate's profession in Ethiopia are insufficient to address contemporary challenges that the new economic and social realities bring to bear;

WHEREAS, to align the reality in the legal practices market and the legal framework guiding it, a legislative guidance has become necessary;

WHEREAS, informed by the experiences of many different jurisdictions from different legal traditions, the need to lay a legal foundation that responds to many questions in the field is recognised;

WHEREAS public interest calls for a stable advocates' profession with strong and independent regulatory institutions as part of the administration of justice to advance the rule of law and the uniform protection of human rights, including access to justice, throughout Ethiopia;

WHEREAS it is crucial for a society governed by the rule of law that the advocates' profession has a self-regulatory power under a statutory framework;

NOW, THEREFORE, in accordance with Article 55 (1) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows.

SECTION ONE

GENERAL

Sub-section One - General

Article 1
Short Title

This Proclamation may be cited as the "Advocates' Proclamation No..../2019".

Article 2
Definitions

In this Proclamation, unless the context requires otherwise:

1/ "Constitution" means the Constitution of the Federal Democratic Republic of Ethiopia;

2/ "Advocate" means an individual to whom a license is issued in accordance with this Proclamation in order to engage in legal practice;

3/ "Legal practice" means "any service that could be provided by an advocate including:

a) advising a client on legal issues;

b) drafting a legal document and/or executing a document on behalf of a client;

c) representing a client before any governmental or non-governmental body, including courts, administrative tribunals, quasi-judicial bodies, arbitration tribunals and other alternative dispute resolution forum; and

d) subject to a special license requirement, notarizing a document";

4/ "Federal Attorney General" means the government body established in accordance with the Federal Attorney General Establishment Proclamation No. 943/2016;

5/ "Documents Authentication and Registration Agency" means the government body established in accordance with the Documents Authentication and Registration Proclamation No. 922/2016;

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6/ "Federal Bar" means the body established pursuant to Article 70 of this Proclamation.

7/ "Region" means any regional state referred to in Article 47 (1) of the Constitution, excluding the Addis Ababa and Dire Dawa City Administrations.

8/ Any expression in the masculine gender used in this Proclamation includes the feminine.

Article 3[1]

Scope of Application

This Proclamation shall govern advocates and law firms that engage in legal practice in the City Administrations of Addis Ababa and Dire Dawa or federal courts.

SECTION TWO

OBJECTIVES AND PRINCIPLES OF REGULATION

Article 4

Regulatory Objectives and Principles

[1] An alternative to this Article has been thoroughly disused among the Working Group members. For your proper consideration of the matter, the following is the alternative provision suggested:

Article 3
Scope of Application

1/ This Proclamation shall govern the provision of legal services throughout Ethiopia.
2/ Regional states may by law create regulated quasi-legal-professionals licensed to provide specific legal services with a view to improving access to justice for rural communities.
3/ Regional States may prescribe requirements relating to language proficiency for advocates appearing before courts of their respective region in regional matters.

On the basis of Articles 51(3) and 55(6) of the Constitution, it could be claimed that the Federal Government has jurisdiction to pass this Proclamation and make it applicable throughout Ethiopia. This approach has the advantage of having a uniform standard for the regulation of the advocates' profession. It will also help attain one of the Constitution's objectives of creating one economic and political community in Ethiopia.

1/ In the regulation of advocates, the regulator shall, in so far as it is practicable, strive to serve the following regulatory objectives:
   a) Protection and promotion of the rule of law;
   b) Protection and promotion of human rights, including access to justice;
   c) Protection and promotion of the interests of consumers;
   d) Ensuring fair competition in legal practice;
   e) Encouraging the development of an independent, strong, diverse and effective legal profession;
   f) Promoting and maintaining adherence to professional principles and rules; and
   g) Contributing to building one economic and political community.

2/ The regulatory objectives provided under Sub-article 1 of this Article shall be the objectives for the enactment of codes of conduct and bylaws, licensing of advocates and disciplinary proceedings.

3/ The regulator, in discharging its functions with a view to achieving the regulatory objective above, shall be guided by the following principles:
   a) Cost effectiveness;
   b) Proportionality of means to ends;
   c) Balanced and effective participation of stakeholders;
   d) Facilitative compliance first and enforcement as a last resort;
   e) Independence;
   f) Transparency; and
   g) Consistency and equality.

SECTION THREE

ADMISSION AND LICENSING

Sub-section One - Admission

Article 5

Principle

1/ No person shall engage in legal practice without being licensed by the Federal Bar.

2/ Any person who meets the qualification criteria as provided in this Section is entitled to be admitted to the advocates' profession.

3/ The entry into and continued exercise of the advocates' profession should not be denied in particular by reason of sex, religion, political or other opinion, ethnic or social origin, property, birth or physical disability.

Article 6

Qualification Criteria

Any person is qualified to work as an advocate if he:

a) is a citizen of Ethiopia;
b) holds a Bachelor of Laws degree from an accredited law school in Ethiopia;
c) has successfully completed a two-year period of traineeship as provided in this Section;
d) produces evidence that certifies he has passed the examinations for admission as may be prescribed by the Federal Bar;
e) has good moral character;[2] and
f) is not legally or judicial interdicted from engaging in legal practice.

Article 7

Disqualification

1/ A person shall be disqualified from admission as an advocate if he:

a) is convicted of an offence involving dishonesty and fraud; or

[2] In this regard, the members of the Working Group debated on whether this requirments is necessary or appropriate. On the one hand, it was claimed that the fact that a person has a good moral character should be presumed based on the Constitutionally-protected right to be presumed innocent until proven guilty, hence, an applicant should not be required to show that he has a good moral character. The subjectivity and vagueness of the requirement of "a good moral character" and the resultant risk of abuse by the Federal Bar has also been raised as an additional ground for not inserting it as an admission requirement. On the other hand, it was argued that the requirement should be there to protect the reputation of the profession.

b) has been declared bankrupt in the past five years or his finances are in such a state that insolvency proceedings have been started against the applicant; or

c) had been disbarred and two years have not lapsed since the disbarment decision had come into force; or

d) is dismissed or removed from employment or public office or any charge involving dishonesty and fraud; or

e) has another full-time government or private occupation, except the position of law instructors in higher educational institutions.

2/ An advocate may not concurrently be a member of the legislative or the executive body of the government.

3/ A person shall not be disqualified by race, gender, ethnicity, religion, or any other immutable characteristics from being admitted, qualified or licensed in order to engage in legal practice.

Article 8

Foreign Advocates

No foreign citizen may be admitted as an advocate in Ethiopia unless he:

a) holds a valid identification card of Ethiopian origin;

b) is of good moral character;[3] and

c) is qualified to practice law in a foreign jurisdiction; and

d) produces evidence that certifies he has passed the admission examination as may be prescribed by the Federal Bar.

Article 9

Examination

1/ A written examination for the admission of persons as advocates shall be held at least twice a year. The procedure, agenda and time for holding the examination shall be determined by the Federal Bar.

[3] *Ibid.*

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2/ The written examination shall be held in the working language of the Federal Government.

3/ A person who has successfully completed an admission examination shall receive a certifying document from the Federal Bar.

4/ A certifying document issued pursuant to Sub-article 3 of this Article shall be invalid if a person does not start legal practice within 1 year after passing the examination.

Article 10

Training

1/ The traineeship required for admission shall be fulfilled if an applicant can prove that he has served under the supervision of an advocate, or in a law firm, or as a pleader or went through a practical training program for two (2) years.

2/ An apprenticeship conducted after graduation shall be considered as a traineeship for the purpose of admission. The period of apprenticeship shall be two (2) years. An apprentice shall not be precluded from receiving remuneration from his supervisor.

3/ Where an apprentice attends the course of instruction concurrently with his period of apprenticeship, the period spent in attendance at such course of instruction shall not be counted for the purpose of traineeship.

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Article 11
Application for Admission

1/ Admission to the advocates' profession shall be granted upon the submission of a written application by a person to the Federal Bar.

2/ An application for admission shall be submitted together with documents evidencing the fulfillment of the requirements for admission.

3/ The Federal Bar shall make a decision on an application for admission within one month following the submission of a complete application by the applicant.

4/ A stay of the admission decision is lawful only if procedures are pending that might lead to a rejection of an application.

Sub-section Two - Licensing

Article 12
License

1/ An admission is legally valid only when a license is issued by the Federal Bar.

2/ A person who fulfills the requirements of the law and provides proof of a professional indemnity insurance that meets the requirements of this Proclamation shall be issued a license.

3/ Before the issuance of a license, the applicant shall make a written declaration. Subject to any necessary modifications to conform to the religious beliefs of the applicant, the declaration shall be in the following form:

a. *"I, [applicant's name], do solemnly and sincerely declare and swear that I will truly and honestly conduct myself in the practice of an advocate of the Federal Democratic Republic of Ethiopia according to the best of my knowledge, ability and according to the Constitution and all laws in effect."*

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4/ When the admission committee confirms that the requirements for admission are fulfilled, a license shall be issued by the Federal Bar to the applicant.

5/ The license to be issued to a person may relate to a general or limited practice.

Article 13

Special Advocacy License

1/ A person or an institution that defends the general interests and rights of the society and renders the services free of charge shall be issued with a special advocacy license.

2/ When a special advocacy license is issued to an institution, the institution has the obligation to make sure that the services are rendered by or under the supervision of a licensed advocate.

3/ The institution and the advocate in charge shall be responsible for maintaining the standard and ensuring compliance with the law in rendering the services.

4/ Any person who has an advocacy license and meets the requirements specified in Sub-article 1 of this Article may render advocacy services without a special advocacy license. However, he shall notify the Federal Bar before rendering such a service.

Article 14

Limited Advocacy License

In order to handle and follow up a federal case, a limited advocacy license shall be issued to a person by the Federal Bar upon the fulfillment of the following requirements by a person:

a) he has a region’s high level license;

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b) he is not accused of and penalized for an offense showing an improper conduct and his license has not been revoked or cancelled in the region where he works;

c) he agrees to conduct legal practice in compliance with this Proclamation and the Federal Advocate's Code of Conduct Regulation and to be accountable under the law in the event of showing an improper conduct.

Article 15

Professional Title

1/ Upon admission, the applicant has the right to practice law under the professional title of "Advocate".

2/ The professional title "Advocate" is reserved to those admitted to practice law according to the requirements set by this Proclamation.

Article 16

Notarial Services

1/ The Documents Authentication and Registration Agency shall only register documents that are prepared by advocates.

2/ The Documents Authentication and Registration Agency shall not refused to register any documents referred to in Sub-article 1 of this Article on the ground of formal deficiencies and content.

3/ An advocate bears full responsibility for the formal and substantive validity of any document prepared by him.

4/ A document referred to in Sub-article 1 of this Article shall bear the full name and other identifying information of the advocate who prepared it.

5/ An advocates may provide notarial services by obtaining a special license from the Federal Attorney General.

6/ Admission to the Federal Bar is not sufficient to provide notarial services.

7/ The Federal Attorney General shall issue a directive for regulating advocates who provide notarial services.

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Article 17

Revocation of an Admission and a License

1/ The admission of an advocate shall be revoked if facts become subsequently known that could not have allowed for the admission to be granted.

2/ A license may be revoked if:

a) the license was obtained fraudulently or was issued to a disqualified person or the advocate becomes disqualified after the issuance of the license; or

b) the advocate is debarred.

3/ The admission of an advocate shall be revoked if an advocate does not fulfill specific professional obligations provided in this Proclamation and the Disciplinary Tribunal rules so.

Article 18

Temporary Suspension and Inactivity of Practicing Advocates

1/ Legal practice may be suspended or rendered inactive if any of the conditions provided in this Article is present.

2/ An advocate’s legal practice shall be suspended during his imprisonment.

3/ An advocate's legal practice may be temporarily suspended if a criminal proceeding has been initiated against him for an act that by its nature makes him unworthy of the legal profession or if a disciplinary action has been initiated for a serious violation of his duty and reputation;

4/ If an advocate is elected or appointed to a paid public office, his legal practice shall be inactive while holding that office.

5/ In cases in which an attorney, due to some justified reasons, cannot practice law for a longer period of time, his legal practice shall be inactive for a period of one year.

6/ The decision on the temporary suspension or on the inactivity of legal practice shall be made by the Council.

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7/ If the suspended legal practice is caused by a disciplinary action conducted against an advocate, the duration of the suspension to practice law shall be added to the length of the punishment.

8/ Upon the termination of the inactive period or the temporary suspension to practice law, the advocate shall continue to carry out the legal profession.

Article 19

Renewal

1/ A license shall be renewed annually within one month after its last validity date.

2/ Failure to renew within one month shall result in payment of penalty.

3/ The renewal of a license shall be subject to the production of:

a) a tax clearance of the applicant;

b) renewal of indemnity insurance; and

c) proof of the applicant’s fulfillment of the minimum credit hours of continuing legal education.

Article 20

Register of Advocates

1/ The Federal Bar shall keep a Register of advocates.

2/ The name, physical and electronic address and date of admission of every advocate shall be entered upon the Register in the order of admission.

3/ The Register shall also contain the name and legal address of registered law firms and law offices and the names and addresses of its managing partners and advocates.

4/ The Register must be available online.

Article 21

Termination of the Right to Practice Law

1/ An advocate's right to practice law shall be terminated if he:

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a) loses his Ethiopian citizenship or the status of a foreign national of Ethiopian origin; or
b) loses his capacity; or
c) is permanently disabled to practice law; or
d) loses the right due to a disciplinary measure; or
e) abandons his solo legal practice; or
f) ceases to practice law, without a justified reason, for more than six (6) months; or ;
g) obtains another employment; or
h) receives a non-suspended prison sentence for the duration of more than six (6) months.

2/ Upon the termination of the license of an advocate, his license shall be cancelled and his name shall be deregistered from the Register of Advocates.

SECTION FOUR

ADVOCATES' PROFESSIONAL OBLIGATIONS

Sub-section One - General Obligations

Article 22

Competence and Diligence

An advocate shall always competently and diligently practice law.

Article 23

Independence

1/ An advocate shall be independent in his legal practice.

2/ An advocate shall refrain from actions that may endanger his ability to perform his legal practice independently.

Article 24

Avoidance of Conflict of Interest

An advocate shall refrain from practicing law in a situation that creates or may potentially create conflict of interests.

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Article 25

Professional Secrecy

1/ An advocate shall observe professional secrecy.

2/ The obligation of an advocate provided under Sub-article 1 of this Article pertains to all information that has become known to an advocate in his professional practice, except for obvious facts, publicly known facts and information that do not have to be kept confidential in their nature.

Article 26

Fees Charged by an Advocate

1/ Unless otherwise agreed between an advocate and his client or the legal practice is based on *pro bono*, an advocate is entitled to professional fees and reimbursement of expenses for the services he provides.

2/ An agreement between an advocate and his client regarding fees shall be in writing and contain the amount of fee or its method of calculation, method and type of payment, and the services to be provided.

3/ Unless otherwise agreed, the amount fixed in the agreement between an advocate and his client covers both the professional fee and expenses of an advocate.

4/ In the absence of a written agreement, the amount of fee to be paid and expenses to be reimbursed by a client shall be fixed on the basis of factors to be determined by the Federal Bar.

5/ The court may reduce the amount fixed in the agreement only when it appears that it is unusually excessive and it appears from circumstances that the client agreed to the amount owing to his manifest inexperience in legal matters or extraordinary need.

6/ The provisions of the Civil Code are not applicable in matters regulated by Sub-article 5 of this Article.

7/ The Federal Bar may prescribe the fees to be charged by advocates in respect to specific legal services.

8/ Taking into account the specific nature of certain legal matters and the regulatory objectives, the Federal Bar may determine the conditions under which contingency fees and other fee arrangements may be employed by an advocate.

9/ The Federal Bar shall determine the conditions under which and with whom an advocate may share his professional fees.

Sub-section Two - Continuing Legal Education

Article 27

Objectives

The objectives of continuing legal education are to ensure that:

a) advocates continue their education to have and maintain the requisite knowledge and skill necessary to fulfill their professional responsibilities; and

b) advocates, throughout their careers, remain current regarding the law, their obligations, the standards of the profession and the management of their practices.

Article 28

Mandatory Continuing Legal Education

1/ Every advocate shall annually complete a minimum of 24 hours of continuing legal education.

2/ The continuing legal education shall include, but not limited to, the subjects of:

a) practical and theoretical substantive and procedural laws; and

b) advocates' ethics and the rules of professional conduct.

Article 29

The Continuing Legal Education Board

1/ The Continuing Legal Education Board shall be established by the Federal Bar.

2/ The Board shall consist of 7 members directly appointed by the Federal Bar represented from law schools, the legislature, the judiciary, and other relevant institutions.

3/ The Federal Bar shall appoint the chairperson and vice chairperson of the Board.

4/ The Board may designate other officers and committees as it deems appropriate.

Article 30

Powers and Duties of the Board

The powers and responsibilities of the Board shall be to:

a) administer the relevant rules of this Proclamation and any other law relating to continuing legal education;

b) adopt directives and procedures consistent with these rules;

c) report to the Federal Bar at least annually and at such other times as the Federal Bar shall require;

d) submit a budget proposal for approval by the Federal Bar, to receive monies and to expend funds for the operation of the Board to fulfill its duties under this Proclamation;

e) employ an administrator and such other staff as may be required from time to time;

f) accredit providers of continuing legal education;

g) approve subjects that will receive credit for the purpose of continuing legal education requirements;

h) audit, examine, inspect and review the operations of providers, including instructors, classes, curricula, teaching materials, facilities, income and receipts from CLE to ensure compliance with these rules and other rules adopted by the Board;

i) impose sanctions on continuing legal education providers for violation of this Proclamation or any other applicable law;

j) impose, subject to the approval of the Federal Bar, reasonable fees upon continuing legal education providers for the support of the

Board's operations and to reimburse the Board for expenditures relating to continuing legal education providers generally or to impose reasonable fees upon a continuing legal education provider for expenditures relating to such provider or its operation; and

k) impose, subject to the approval of the Federal Bar, reasonable fees upon advocates to reimburse the Board for expenditures relating to advocates generally or to impose reasonable fees upon a practicing advocate for expenditures relating to such practicing advocate.

Article 31

Accredited Continuing Legal Education Providers

1/ An organization engaged in continuing legal education during the two (2) years immediately preceding its application may apply to the Board for accreditation as a continuing legal education provider.

2/ An accreditation by the Board shall constitute the prior approval of continuing legal education courses offered by such provider, subject to amendment, suspension or revocation of such accreditation by the Board.

3/ The requirement of two (2) years provided in Sub-article 1 of this Article shall not apply until the fourth anniversary of the effective date of this Proclamation.

4/ The Board shall establish by directive the procedures and requirments for the accreditation of continuing legal education providers as well as the sanctions to be imposed for failure to comply with this Sub-section.

Article 32

Financing the Continuing Legal Education Board

1/ The cost of establishing, maintaining and operating the Board shall be paid by the continuing legal education providers through fees per credit established by the Board and paid to the Board at the time of the filing of an enrolment form.

2/ In the discharge of its responsibility, the Board shall adjust as far as possible any fee schedule adopted so as to reduce the financial impact on advocates in the early years of practice and sole practitioners generally.

3/ If payment is not received by a due date to be established by the Board, the Board may impose sanctions on the provider, including revocation of accreditation.

4/ The Board shall annually obtain an independent audit by a recognized auditor of the funds entrusted to it and their disposition and shall file a copy of the audit with the Federal Bar.

Article 33

Reporting Responsibilities

1/ Continuing legal education providers shall enrol attendees in the continuing legal education courses and shall file a written form with the Board or provide an electronic transmission to the Board listing all participants seeking continuing legal education credit under this Proclamation in a format approved by the Board within thirty (30) days of the date of presentation of the course.

2/ The Board shall require verified statements from the continuing legal education providers as to the accuracy of the report it receives.

3/ The Board shall notify each advocate of his continuing legal education status ____ days prior to the end of the compliance period to which the advocate has been assigned and shall provide a final compliance notice after the end of the compliance period.

4/ The compliance period is the one year period between the date of issuance of an advocate's license up to its expiry.

5/ An advocate whose Board report indicates compliance with the continuing legal education requirement may assume that he is in compliance.

6/ If an advocate disagrees with the enrolment or annual reporting forms, he shall within thirty (30) days of the date thereof notify the Board in writing setting forth the matter in dispute.

7/ The Board shall issue directives providing for review of its determination of the continuing legal education credits earned by an advocate and for resolving disputes.

Article 34

Non-compliance with Continuing Legal Education

1/ If an advocate fails to comply with the provisions of this Sub-section or is determined by the Board to be deficient in his continuing legal education requirement, he shall be so notified in writing by the Board of the nature of such non-compliance and shall be given (60) days to remedy such non-compliance.

2/ If the Board finds an advocate not to be in compliance with the provisions of this Sub-section or the rules of the Board, it shall so report to the Federal Bar and recommend that the advocate be placed on suspended status.

Article 35

Waivers and Extensions

1/ The provisions of this Sub-section shall be strictly enforced.

2/ A waiver of the requirement of continuing legal education provided in this Sub-section may be made by the Board, in whole or in part, if a practicing advocate, because of circumstances beyond his control, cannot in any reasonable manner meet the requirement for continuing education in any given reporting year.

3/ An application for waiver shall set forth the reason why an advocate cannot comply with the minimum requirements and the efforts made to comply as well as a plan setting forth how the advocate expects to continue his education during the period of time for which strict compliance is waived.

4/ Waivers may be granted by the Board for such period as it may determine. Upon termination of the waiver, the Board may make such additional educational requirements as it deems appropriate.

5/ The Board may grant an extension of time for the completion of an advocate's continuing legal education requirements upon such terms as the Board shall require.

Sub-section Three – *Pro bono publico* Legal Practice

Article 36

Mandatory *Pro bono publico* Legal Practice

1/ An advocate shall provide *pro bono publico* professional services to those unable to pay.

2/ An advocate shall provide a minimum of fifty (50) hours of *pro bono publico* services every year.

3/ *Pro bono publico* services include legal advice, representations and any other activities for ensuring access to justice and improving the rule of law and the advocate's profession.

4/ An advocate shall keep records of the fulfillment of his *pro bono publico* obligations, including the date, type and hours spent for each service.

SECTION FIVE

LEGAL PRACTICE BY LAW FIRMS

Article 37

Right to Establish a Law Firm

1/ Any licensed advocate has the right to establish a law firm in collaboration with one or more licensed advocates.

2/ The minimum number of licensed advocates required for establishing a law firm shall be two.

Article 38

Form and Liability

1/ A law firm shall take the form of a limited liability partnership.

2/ A law firm shall have its own legal personality.

3/ Subject to Article 53 of this Proclamation, a law firm shall continue in existence in spite of any change in its membership.

4/ Without prejudice to the generality of Sub-article 2 of this Article, a law firm shall have the capacity to:

a) enter into contracts; and

b) own property.

5/ The partners of a law firm shall have limited liability towards third parties, except for liabilities to their clients arising out of matters they personally handle.

6/ The rendering of legal services through a law firm shall not make the legal profession a trade or an investment under Ethiopian trade and investment laws.

Article 39

Scope of Services

1/ A law firm can engage in legal practice in a similar manner as an individual advocate in accordance with this Proclamation and any other applicable law.

2/ A law firm shall primarily engage in practicing law.

3/ Without prejudice to Sub-article 2 of this Article, a law firm can provide other services that are related and complementary to legal practice. The particulars for the application of this Sub-article shall be determined in a regulation to be issued by the Federal Bar for the implementation of this Proclamation.

Article 40

Name and Documents

1/ The partners of a law firm have the right to choose and adopt any word or words as the name of their law firm.

2/ The name of a law firm chosen by the partners could be prohibited from use by the Federal Bar on one of the following grounds:

a) where the chosen name is confusingly similar with the valid name of another law firm; or

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b) where the chosen name is contrary to law or public morality.

3/ The name of a law firm shall contain the words “Limited Liability Partnership” or “LLP”.

4/ All documents issued by or in the name of a law firm shall clearly contain its full name with an indication of its limited liability nature.

Article 41

Requirements and Procedures for Establishment

1/ A law firm shall be established by registering in the Federal Bar.

2/ The following documents shall be submitted to the Federal Bar for establishing a law firm:

a) a completed application form;

b) a memorandum of association signed by the partners;

c) copies of the licenses of the advocate partners; and

d) the proposed name of the law firm.

3/ The Federal Bar shall accept the application and register the law firm within 15 working days following the submission of the application if the application and the documents are consistent with this Proclamation and any other applicable law.

4/ If the Federal Bar concludes that the application or the documents contravene this Proclamation or any other applicable law, it shall reject the application and notify the applicant of the specific contravention that served as the ground for the rejection of the application within 15 working days following the submission of the application.

5/ An applicant whose application for registering a law firm has been rejected in accordance with Sub-article 4 of this Article has the right to resubmit its application to the Federal Bar by rectifying the ground for the rejection of his pervious application.

6/ If an application resubmitted pursuant to Sub-article 5 of this Article is rejected by the Federal Bar, the applicant has the right to submit

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his case for review by the Federal First Instance Court or the competent regional court.

Article 42

Memorandum of Association

1/ The memorandum of association of a law firm shall include the following information:

a) the names, address and nationalities of all partners;
b) the name of the law firm;
c) the head office and, if any, branch of the law firm;
d) the objectives of the law firm;
e) the types and amounts of contribution made by the partners and the methods of their valuation;
f) the share of each partner in the profit and loss of the law firm;
g) the appointment of a manager of the law firm as well as his powers and responsibilities;
h) the duration of the partnership; and
i) other matters that are required to be included by law or the agreement of the partners.

2/ Any provision of the memorandum of association of a law firm that is contrary to the mandatory provisions of this Proclamation and any other applicable law shall be of no effect.

Article 43

Types and Amounts of Contribution

1/ The skills of partners of a law firm shall be the principal type of contribution.

2/ The partners shall make their other contributions in cash or any other type of property that could be contributed for the purpose of establishing a partnership.

3/ The amount of contribution of the partners of a law firm shall be adequate for achieving the objectives of the law firm.

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4/ A contribution made by a partner of a law firm in any form other than in cash shall be valued based on the agreement of all the partners.

Article 44

Rights and Obligations of Partners

1/ Each partner of law a law firm has the right to:

a) participate and vote in the meetings of the law firm;
b) take from the profits or the net proceeds of the winding-up of the law firm in proportion to his shares as determined in the memorandum of association or this Proclamation;
c) evaluate the operations of the law firm and inspect its financial and other documents; and
d) benefit from other rights and interests provided in a memorandum of association, this Proclamation, any other law or arising out of the nature of partnership.

2/ Each partner of law a law firm has the obligation to:

a) pay on time the contribution required from him;
b) diligently work for attaining the objectives of the law firm at all times;
c) refrain from any act or omission that compromises the interests of the law firm whether or not to benefit himself; and
d) discharge his other obligations as stipulated in a memorandum of association, this Proclamation, any other law or arising out of the nature of partnership.

Article 45

Profit and Loss Sharing

Unless otherwise stipulated in a memorandum of association of a law firm, partners shall equally share its profit, loss or net proceeds of its winding-up.

Article 46

Changes in Partners

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1/ Without prejudice to restrictions under any other applicable law, a partner of a law firm shall be paid the value of his shares on the day of his withdrawal.

2/ The benefits of the shares of a partner of a law firm shall be transferred to his heirs or tutor upon his death or incapacity. Unless expressly permitted by the decision of other partners, the heirs or tutor of a partner of a law firm are not entitled to continue as partners in the law firm.

Article 47

Ownership and Structure

1/ Licensed advocates shall own a minimum of three-fourth of the capital of a law firm.

2/ Non-advocates are allowed to own up to one-fourth of the capital of a law firm. The particulars for the application of this Sub-article shall be determined in a regulation to be issued by the Federal Bar for the implementation of this Proclamation.

3/ The details of the structure of a law firm and the rights and duties of advocates who work in a law firm shall be determined in a memorandum of association and the internal rules of a law firm.

Article 48

Prohibitions on Advocates Working in a Law Firm

Any advocate who works in a law firm is prohibited from engaging in the following activities during the currency of his employment or partnership:

a) directly or indirectly becoming a partner or an employee of another existing law firm; or

b) directly or indirectly assisting or cooperating with another existing law firm in any other way, except as may be required for the purpose of carrying out his duties in the law firm in which he works; or

c) practicing law as an advocate on his own account.

Article 49

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Management

1/ A law firm shall be managed by one or more managers appointed by the partners in a memorandum of association or the decision of the partnership.

2/ The manager of a law firm shall be liable towards third parties that arise out of his management.

3/ Joint managers of a law firm shall be jointly and severally liable.

Article 50

Duties of the Manager

1/ The manager of a law firm shall ensure that all employees of the law firm and the law firm itself are compliant with this Proclamation and other applicable laws.

2/ Sub-article 1 of this Article shall not affect the duties of the manager of a law firm as specified in a memorandum of association, the decision of the partnership, the internal rules of a law firm and other applicable laws.

Article 51

Decisions of the Partnership

1/ Unless otherwise stipulated in a memorandum of association of a law firm or any other applicable law, the decisions of a law firm shall be made in the presence of the holders of all voting shares of the firm.

2/ Unless otherwise stipulated in a memorandum of association of a law firm or any other applicable law, the decisions of a law firm shall be taken by the votes of the holders of at least three-fourth voting shares of the firm.

Article 52

Taxation

1/ A law firm shall not be required to pay corporate tax as a corporate body.

2/ A law firm passes through its taxation to its partners. Each partner shall report his share of the firm’s profit or loss.

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Article 53

Perpetuity and Dissolution

1/ The existence of a law firm shall not be affected by the death, withdrawal, incapacity, bankruptcy of or any other change affecting any partner.

2/ A law firm shall be dissolved on one of the following grounds:

a) the agreement of the partners to terminate the partnership; or

b) the law firm is declared bankrupt; or

c) the licenses of all the partners are revoked; or

d) the number of advocate partners has reduced to one, unless another licensed advocate becomes a new partner.

3/ Upon the dissolution of a law firm, it shall be deregistered from the registry kept by the Federal Bar.

Article 54

Liability of a Law Firm and Partners towards Clients

1/ A partner of a law firm shall be personally liable towards a client for the professional malpractice committed by him.

2/ Aside from the partner, the law firm in which he is a partner shall be liable for the professional malpractice.

3/ Other partners in a law firm shall not be liable for the malpractice committed by a partner, unless they jointly provided the service that gave rise to liability.

4/ A law firm shall be jointly liable for a clients' damage caused by a non-partner staff of the firm.

Article 55

Creditors

1/ The creditors of a law firm may claim against all its assets.

2/ The creditors of a law firm may not claim against the personal property of the partners.

Article 56

Obligations of a Law Firm

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Without prejudice to obligations provided in other laws, a law firm shall have the following obligations:

a) to purchase and maintain a valid professional indemnity insurance in addition to the professional indemnity insurances of its individual partners during its operation;
b) to keep proper books and accounts;
c) to keep the information of its clients strictly confidential;
d) to be audited annually; and
e) to comply at all times with this Proclamation, any other applicable law and professional codes of conduct; and
f) to submit copies of amendments of its memorandum of association to the Federal Bar within 15 working days following the day of their signing.

Article 57

Applicability of Other Laws

Other laws that are relevant for a limited liability partnership shall apply to law firms established under this Proclamation in as far as they do not conflict with the provisions of the Proclamation.

SECTION SIX

INSURANCE, CLIENT'S PROPERTY AND LAW OFFICE

Sub-section One - Professional Indemnity Insurance

Article 58

Duty to Maintain Professional Indemnity Insurance

1/ An advocate shall maintain professional indemnity insurance in order to cover any potential liability for a client's damage resulting from his professional malpractice.
2/ A law firm shall maintain professional indemnity insurance in order to cover any potential liability for a client's damage resulting from its partner's professional malpractice.

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3/ The amount of the professional indemnity insurance shall be determined by the Bar, but it shall in no way be less than ETB….for each case of loss.

4/ The Federal Bar shall periodically revise the amount of the professional indemnity insurance to be maintained by advocates and law firms.

Article 59

Duties of Insurer

1/ An insurer that has issued professional indemnity insurance to an advocate or a law firm shall immediately notify the Federal Bar of the termination of its insurance contract and of any changes to the contract that may negatively affect the coverage.

2/ An insurer shall be liable to a person for any damage sustained by the person as a result of its failure to discharge its obligation provided under Sub-article 1 of this Article.

Article 60

Liability Waiver

A higher minimum coverage, possible exclusions of coverage as well as possibilities to limit a client's right to claim damages due to his advocate's negligence between the advocate and the client may be set out in the rules of the Federal Bar.

Sub-section Two – Law Office

Article 61

Law Office

An advocate can maintain a law office.

Article 62

Minimum Requirements

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1/ An advocate shall provide the Federal Bar with the information required under Article for the purpose of registering a law office in the Register of Advocates set out in Article 19 of the Proclamation.

2/ An advocate who has a law office shall maintain the necessary facilities to fulfill all requirements provided in this Proclamation and other rules governing an advocate's conduct.

Article 63

Exceptions

1. An advocate employed by a law firm does not need to maintain his own law office if he can be contacted under that law firm.

2. An advocate who has a law office has all other rights and obligations that apply to an advocate.

Sub-section Three - Holding Client's Property

Article 64

General Obligation

1/ An advocate shall hold the property of his clients or third persons that is in his possession or under his administration in connection with a professional service separately from his own property.

2/ Complete records of such property shall be kept by an advocate and shall be preserved for a period of … years after termination of the professional service.

Article 65

Property Other than Funds

Property of an advocate's clients or third persons in his possession or under his administration other than funds shall be identified as such and appropriately preserved.

Article 66

Client Trust Accounts

1/ Funds of an advocate's clients or third persons in his possession or under his administration shall be kept in a separate account.

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2/ The Federal Bar can require advocates to hold trust accounts that remit interests to the Ethiopian Interest on Advocates' Trust Accounts for Access to Justice Program (EIATAAJP).

3/ An advocate shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the advocate only as fees are earned or expenses incurred.

4/ Upon receiving funds or other property in which a client or third person has an interest, an advocate shall promptly notify the client or third person.

5/ Except as stated in this Proclamation or otherwise permitted by law or by agreement with the client, an advocate shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render full account regarding such property.

Sub-section Four - Oversight over Non-advocate Staff

Article 67

Oversight

An advocate with managerial and/or direct supervisory authority over non-advocate staff shall make reasonable efforts to ensure that the non-advocate staff's conducts are compliant with this Proclamation and other applicable laws.

Article 68

Liability

1/ An advocate shall be liability for the conduct of his non-advocate staff's conduct that violates this Proclamation.

2/ Responsibility is excluded under Sub-article 1of this Article if the advocate would not be liable according to the law of representation, especially if the advocate has taken reasonable remedial action.

Article 69

Contribution to Training

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An advocate shall contribute to the training of trainee advocates by:

a) providing practical training in his law office; and

b) participating as a lecturer in courses.

SECTION SEVEN

INSTITUTIONS OF REGULATION

Sub-section One – The Federal Bar of Ethiopia

Article 70

Establishment

1/ The Federal Bar of Ethiopia (hereinafter referred to as "Federal Bar") is hereby established as an independent body.

2/ The Federal Bar shall have its own legal personality.

3/ The Federal Bar shall be composed of all advocates admitted to it and law firms registered by it.

4/ The Federal Bar shall have its head office in Addis Ababa.

Article 71

Relationship with the Government

1/ The Federal Bar shall maintain its relationship with the government through the Federal Attorney General.

2/ The government shall support the Federal Bar by providing financial and other relevant assistance.[4]

Article 72

[4] An alternative to this approach is to specifically oblige the federal government to allot a specific amount of budget to the Federal Bar annually for a specific period of time or permanently. These options must be assessed. In this regard, the government's stance taken with respect to supporting the National Academy of Sciences and the Red Cross could be examined.

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Purposes

1/ The purposes of the Federal Bar are to:

a) coordinate its members' activities;

b) collect its members' opinions in order to communicate them to public authorities;

c) contribute for the development of the advocates' profession and the legal system in Ethiopia;

d) ensure that its members always practice law in accordance with this Proclamation and other applicable laws; and

e) work towards the harmonization of advocates' practice throughout the country.

2/ The Federal Bar shall promote and observe public interests in all its measures and decisions.

Article 73

Structure

The Federal Bar shall contain the following organs:

a) the General Assembly;

b) the Council;

c) other subsidiary bodies as established in this Proclamation and as may be deemed necessary for attaining the objectives of this Proclamation; and

d) the Secretariat.

Sub-section Two – The Council

Article 74

The Council

The Federal Bar shall have a Council consisting of seven voting members.

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Article 75

Term of Office

1/ The members of the Council shall hold office for a term of three years and may be re-elected twice.

2/ A vacancy in the Council caused due to the death, resignation, disqualification or any other similar reason shall be filled through election.

Article 76

Representation

The Council shall represent the advocates' profession.

Article 77

Election and Eligibility

1/ Without prejudice to Article 78 of this Proclamation, the members of the Council shall be elected by the members of the Federal Bar.

2/ A member of the Federal Bar who has not been a member of the Council for more than two terms in a row immediately prior to an election is eligible to be elected for the Council.

Article 78

Right of Attendance

1/ The Federal Attorney General has the right to appoint one person as a non-voting member of the Council.

2/ The immediate former President of the Federal Bar shall have the right to attend the Council's meetings as a non-voting member even if he is not elected to be a member of the Council.

3/ The Chief Executive Officer of the Secretariat shall be a non-voting member of the Council.

Article 79

General Obligations of the Council

The Council shall have the obligations to:

a) manage the Federal Bar; and

b) discharge the obligations and exercise the rights assigned to it by law in the interest of the public.

Article 80

Specific Obligations of the Council

The Council shall, in particular, have the obligations to:

a) support members with questions regarding professional conduct;
b) mediate between members of the Federal Bar in cases of disputes between them, when it is asked to do so;
c) monitor the professional obligations of the members of the Federal Bar and to take disciplinary actions if necessary;
d) monitor the fulfillment of the continuing legal education and *pro bono publico* requirements;
e) take cognizance of anything affecting the Federal Bar or the professional conduct of its members and to bring before a General Assembly any matter that is material to the Federal Bar or to the regulation of the profession and make any recommendations and take such action as it thinks fit in relation thereto;
f) elect the officers of the Council;
g) appoint the President of the Federal Bar;
h) convene the annual general meeting of the members of the Federal Bar;
i) convene an extraordinary general meeting if one-tenth of the members of the Federal Bar submit a written request that they wish for an issue to be discussed in such a meeting;
j) give account to the general assembly once a year;
k) form one or more committees whose obligation shall be to prepare the positions and decisions for the Council;
l) organize the practical training, theoretical education and examination of trainee advocates intending to apply for admission to the advocate profession;
m) appoint officers of committees; and

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n) perform other obligations assigned to the Federal Bar or the Council in other provisions of this Proclamation or any other law.

Article 81

Powers of the Council

The Council shall have the powers to:

a) assign specific obligations mentioned in Article 79 to individual members of the Council; and

b) issue reprimands.

Article 82

Officers of the Council

1/ There shall be a President, a Vice-President and a Treasurer of the Council.

2/ The President of the Federal Bar or, in his absence, the Vice-President shall be the chairperson of the Council and shall preside at all meetings of the Council and the Federal Bar.

3/ The Treasurer shall be responsible for the overall management of the financial resources and assets of the Federal Bar and for submitting annual, as may be necessary, quarterly financial reports of the Federal Bar to the General Assembly.

Article 83

Bylaws

The bylaws of the Federal Bar shall regulate further details of the procedure under which a Council meeting shall take place and decisions are made.

Article 84

Reprimands

1/ The Council may reprimand an advocate for violation of professional rules that constitutes a "Lesser Misconduct”' as defined in Article 108 of this Proclamation.

2/ The Council shall not issue a reprimand if disciplinary or criminal proceedings against the advocate have commenced, or if more than

two years have passed since the violation. A reprimand may not be issued while such proceedings are pending.

3/ An advocate may file objection against a notice of reprimand to the Council within one month after having been served a note of reprimand.

4/ The Disciplinary Tribunal shall be informed about the reprimand.

Article 85

Appeal

If an objection against the notice of reprimand is dismissed, the advocate may appeal to the Disciplinary Tribunal.

Article 86

Due Process of Law

The by-laws of the Council shall provide procedural rules to guarantee due process of law.

Article 87

Committees of the Council

1/ The number and term of office of the members of a committee of the Council shall be fixed by the Council.

2/ Necessary committees shall be maintained as standing committees of the Council.

3/ Necessary committees are:

a) the Training Committee;

b) the Admission Committee;

c) the Disciplinary Committee; and

d) the Interest on Advocates' Trust Accounts Committee.

4/ A committee of the Council may include persons who are not members of the Council**.**

5/ The committees provided in Sub-article (3) 3/a), 3/b) and 3/c) of this Article shall have one third of their members appointed by the Federal Attorney General as special representatives of the public interest.

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Article 88

Training Committee

The purpose of the Training Committee shall be to prepare measures and decisions of the Council regarding:

a) registration of trainees;
b) curricula of instruction courses;
c) contents of practical training; and
d) nature and contents of admission examinations.

Article 89

Admission Committee

The purpose of the Admission Committee shall be to enable the Council to take swift admission decisions, while ensuring the applicants' right to be heard.

Article 90

Disciplinary Committee

The purpose of the Disciplinary Committee shall be to prepare measures and decisions of the Council with regards to reprimands.

Article 91

Interest on Advocates' Trust Accounts Committee

The purpose of the Interest on Advocates' Trust Accounts Committee is to prepare measures and decisions of the Council regarding the administration of assets and the allocation of funds by advocates.

Sub-section Three – Annual General Meeting

Article 92

Obligations of the Annual General Meeting

The annual general meeting shall have the obligation to:

a) Elect the members of the Council;
b) Elect members of the Code of Conduct Board;
c) Determine the membership fees, which include dues payable to the Federal Bar and fees to entertain the disciplinary institutions mentioned in this Section;

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d) Determine, if necessary, levies;
e) Adopt the by-laws and procedural rules specified in this Proclamation;
f) Pass a resolution regarding the exoneration of the Council; and
g) As a self-governing body, discuss matters of general importance to the members and access to justice.

Article 93

Convening and Procedure

1/ The annual general meeting shall be convened in a way that every member of the Federal Bar can take notice of the invitation.
2/ At least twenty days' prior notice of the annual general meeting shall be given to all members of the Federal Bar.
3/ The agenda shall be published together with the notice announcing the general meeting.
4/ No resolutions may be taken regarding matters that have not been properly announced.
5/ If the Council fails to convene an extraordinary general meeting within ten days after receiving a request in accordance with Article 79(i) of this Proclamation, the members requesting may convene the meeting within two months after the Council received their request.
6/ In every general meeting, every member of the Federal Bar present shall have one vote.

Article 94

By-laws

The by-laws of the Federal Bar shall regulate further details of the manner of convening a general meeting and the procedure under which a general meeting shall take place.

<u>Sub-section Four - Federal Clients' Complaint Office</u>

Article 95

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Establishment

1/ The Federal Clients' Complaints Office is hereby established within the Federal Attorney General.

2/ The Federal Clients' Complaints Office shall have the powers to:

a) receive information and complaints regarding the conduct of advocates;

b) provide assistance to complainants in stating their complaints;

c) provide information to complainants about the available legal remedies; and

d) determine whether the facts stated in a complaint or other information regarding the conduct of an advocate provides grounds for further action.

Article 96

Directive, procedural rules

The Federal Attorney General shall issue a directive to provide for procedural rules for the Federal Clients' Complaints Office.

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Sub-section Five - Federal Disciplinary Tribunal

Article 97

Establishment

1/ The Federal Independent Advocates' Disciplinary Tribunal (hereinafter referred to as "Disciplinary Tribunal") is hereby established.

2/ The Disciplinary Tribunal shall be administered by the Federal Bar.

Article 98

Purpose

The Disciplinary Tribunal has the purpose of prosecuting and adjudicating advocates' or law firms for the violation of this Proclamation or other professional rules.

Article 99

Members

1/ The Disciplinary Tribunal shall consists of 9 members.

2/ 5 (five) of the members of the Disciplinary Tribunal shall be elected from members of the Bar on the basis of their competence, integrity and experience through a secret ballot and the remaining 4 (four) shall be appointed by the Attorney General in accordance with the following composition:

a) 1 (one) member from the Ethiopian Chamber of Commerce;

b) 1 (one) member from the Council of Civil Society Organizations;

c) 1 (one) member from federal courts; and

d) 1 (one) member from the Attorney General.

Sub-section Six - Code of Conduct

Article 100

Purpose

1/ The purpose of a code of conduct of advocates is to regulate professional conduct in the interest of the improvement of the law, access to justice, and the administration of law and justice.

2/ Codes of conduct shall not restrict the advocate's independence.

Article 101

General Rule

The details regulating professional rights and obligations provided in this Proclamation as general principles shall be regulated in a code of conduct for the advocates' profession.

Article 102

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Specific Regulations

Without prejudice to the generality of Article 100 of this Proclamation, a code of conduct shall contain regulations concerning:

a) practical training, theoretical education and possible examination of trainee advocates intending to apply for admission to the advocate profession;
b) an advocate's communication with his client;
c) fees;
d) keeping records;
e) an advocate's relationship to former client;
f) an advocate's relationship to prospective client;
g) an advocate's relationship to the tribunal;
h) an advocate's relationship to opposing party and counsel;
i) clients with special needs;
j) dealing with unrepresented person;
k) declining or terminating a advocate-client relationship;
l) sale of law practice;
m) ownership and organization of law firms;
n) communication concerning an advocate's services; and
o) reporting of professional misconduct.

Article 103

Disciplinary Committee

The purpose of the Disciplinary Committee shall be to prepare measures and decisions of the Council with regards to reprimands.

Sub-section Six - Code of Conduct Board

Article 104

Purpose

The Federal Bar shall have a Code of Conduct Board to adopt and amend a code of conduct for the advocates' profession.

Article 105

Members' Composition, Election and Tenure of Office

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1/ The Code of Conduct Board shall consist of 11 members six of whom shall be elected from among members of the Federal Bar through secret ballots considering their integrity, competence, experience and gender balance.

2/ The provisions of 75(2) shall apply to members of the Code of Conduct Board.

3/ Four members of the Code of Conduct Board shall be appointed by the Federal Attorney General.

4/ The President of the Federal Bar shall be the Chairperson of the Board.

Article 106

Eligibility

1/ Articles 6 shall apply to members of the Code of Conduct Board.

2/ Members of the Code of Conduct Board appointed by the Federal Attorney General shall hold a minimum of Bachelor of Laws degree.

Article 107

By-laws

The by-laws of the Federal Bar shall regulate further details of the procedure under which the Code of Conduct Board shall work and how the Code of Conduct is to be published.

Sub-section Six - Offences and Sanctions

Article 108

Grounds for a Disciplinary Action

It shall be a ground for a disciplinary action for an advocate to:

a) Violate or attempt to violate this Proclamation or any other rules regarding professional conduct of advocates;

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b) Engage in a conduct violating the applicable advocates' profession laws of other jurisdictions in which the advocate is admitted;

c) Willfully violate a valid order of the Disciplinary Tribunal imposing a disciplinary action or willfully fail to appear before disciplinary counsel for admonition or willfully fail to comply with a summons validly issued or knowingly fail to respond to a lawful demand from a disciplinary authority, except that this rule does not require disclosure of information otherwise protected by applicable rules relating to confidentiality.

Article 109

Lesser Misconduct

1/ A lesser misconduct is a misconduct that does not warrant a sanction restricting the respondent's license to practice law.

2/ A misconduct shall not be considered as a lesser misconduct if it involves one of the following:

a) the misappropriation of funds;

b) it results in or is likely to result in substantial prejudice to a client or other person;

c) the respondent has been publicly disciplined in the last three years;

d) it is of the same nature as misconduct for which the respondent has been disciplined in the last five years;

e) it involves dishonesty, deceit, fraud or misrepresentation by the respondent;

f) it constitutes a "serious crime" as defined in Article 109 of this Proclamation; or

g) it is part of a pattern of similar misconducts.

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Article 110

Serious Crime

A "serious crime" is any crime that adversely reflects on an advocate's honesty, trustworthiness or fitness as an advocate in other respects or any crime a necessary element of which, as determined by the statutory definition of the crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, or an attempt, conspiracy or solicitation of another to commit a serious crime.

Article 111

Sanctions

1/ Misconducts shall be grounds for one or more of the following sanctions:

a) Disbarment by the Disciplinary Tribunal;
b) Suspension for an appropriate fixed period of time not in excess of three years;
c) Probation; or
d) Reprimand.

2/ Written conditions may be attached to an admonition or a reprimand.

3/ Failure to comply with the written conditions shall be grounds for reconsideration of the matter and prosecution of formal charges against the respondent.

4/ In imposing a sanction after a finding of an advocate’s misconduct, the following factors shall be considered:

a) Whether an advocate has violated a duty owed to a client, to the public, to the legal system, or to the profession;
b) Whether an advocate acted intentionally, knowingly, or negligently;
c) The amount of the actual or potential injury caused by an advocate's misconduct; and

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d) The existence of any aggravating or mitigating factors.

5/ The disposition of an advocate disciplinary action shall be public in cases of disbarment, suspension, probation, and reprimand.

6/ In all cases of public disciplinary action by the Disciplinary Tribunal, the latter shall issue a written opinion setting forth its justification for imposing the sanction in that particular case.

Sub-section Six - Disciplinary Proceedings

Article 112

Procedural and Evidentiary Rules

1/ Disciplinary proceedings are neither civil nor criminal but are *sui generis.*

2/ Except as otherwise provided in this Proclamation, the rules of civil procedure and the rules of evidence in civil matters apply in the discipline proceedings taking into account the parties' due process rights.

3/ Formal charges of misconduct, lesser misconduct, petitions for reinstatement and readmission, and petitions for transfer to and for disabling inactive status shall be established by clear and convincing evidence.

4/ The burden of proof in proceedings seeking disciplinary actions lies on the Disciplinary Tribunal.

Article 113

Discipline by Consent

1/ An advocate against whom formal charges have been made may tender to the Disciplinary Tribunal a conditional admission to the petition or to a particular count thereof in exchange for a stated form of disciplinary action.

2/ A tendered conditional admission shall be approved or rejected by the Disciplinary Tribunal.

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3/ If the stated form of disciplinary action is rejected by the Disciplinary Tribunal, the admission shall be withdrawn and cannot be used against the respondent in any subsequent proceedings.

4/ The extent of disciplinary action to be imposed shall be subject to review.

5/ If an agreement providing for admonition or probation is reached prior to the filing of formal charges, it shall be approved by the chair of Disciplinary Tribunal.

6/ A advocate who consents to a stated form of discipline shall present to the Disciplinary Tribunal an affidavit stating that he or she consents to the disciplinary action and that:

a) The consent is freely and voluntarily rendered and that the advocate is not being subjected to coercion or duress and the advocate is fully aware of the implications of submitting the consent;

b) The advocate is aware that there is presently pending an investigation into, or proceeding involving, allegations that there exist grounds for disciplinary action, the nature of which shall be specifically set forth;

c) The advocate acknowledges that the material facts so alleged are true; and

d) The advocate consents because the advocate knows that, if charges predicated upon the matters under investigation were filed, or if the pending proceeding were prosecuted, the advocate could not successfully defend against them.

7/ In all other instances in which proposed disciplinary action has been approved, the Disciplinary Tribunal shall enter the order disciplining the advocate on consent.

Article 114

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Reinstatement after Short Duration

A advocate who has been suspended for six months or less pursuant to disciplinary proceedings shall be reinstated at the end of the period of suspension by filling application with an affidavit stating that he has fully complied with the requirements of the suspension order and has paid any required fees and costs.

Article 115

Reinstatement after Long Duration

1/ The Code of Conduct Bard shall issue rules for an advocate suspended for more than six months or a disbarred advocate to submit petition, service petition, criteria for reinstatement and readmission, review of petition, setting the time for hearing and decision to be made by the Disciplinary Tribunal and conditions of reinstatement or readmission for the reinstatement or readmission.

2/ The decision of Disciplinary Tribunal is subject to a court review.

3/ No advocate shall generally be permitted to reapply for reinstatement or readmission within one year following an adverse judgment upon a petition for reinstatement or readmission.

Article 116

Review by Court

The Federal High Court may, upon petition by the respondent, review questions of law or fact in 30 days following the decision of the Disciplinary Tribunal.

Article 117

Notice

1/ Within [ten] days after the date of the Disciplinary Tribunal‘s order imposing a disciplinary action, the respondent who is disbarred, placed on interim suspension, or suspended for more than [six months] shall notify or cause to be notified by registered or certified mail, return receipt requested:

a) All clients being represented in pending matters;

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b) Any co-counsel in pending matters; and

c) Any opposing counsel in pending matters, or in the absence of opposing counsel, the adverse parties, of the order of the Court and that the advocate is therefore disqualified to act as advocate after the effective date of the order. The notice to be given to the advocate(s) for an adverse party, or, in the absence of opposing counsel, the adverse parties, shall state the place of residence of the client of the respondent.

2/ The Disciplinary Tribunal may direct the issuance of notice to such financial institutions or others as may be necessary to protect the interests of clients or other members of the public.

3/ The respondent shall deliver to all clients being represented in pending matters any papers or other property to which they are entitled and shall notify them and any counsel representing them of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property.

4/ Orders imposing disbarment, suspension, or transfers to disability inactive status are effective on a date [15] days after the date of the order, except where the Disciplinary Tribunal finds that immediate disbarment or suspension is necessary to protect the public.

5/ The respondent shall refund within [ten] days after entry of the order any part of any fees paid in advance that has not been earned.

6/ In the event the client does not obtain another advocate before the effective date of the disbarment or suspension, it shall be the responsibility of the respondent to move in the Board or agency in which the proceeding is pending for leave to withdraw. The respondent shall in that event file with the Board, agency or tribunal before which the litigation is pending a copy of the notice to opposing counsel or adverse parties

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Sub-Section Seven - Fees and Costs in Proceedings

Article 118

Administrative Fees

The Federal Bar may charge administrative fees for official acts in order to cover costs of its administration, in particular for the processing of applications to the advocates' profession.

Article 119

Costs of Disciplinary Proceedings

The disciplinary bodies mentioned in Error: Reference source not foundthis Seven of the Proclamation may charge costs as determined in their respective by-laws and procedural rules.

SECTION EIGHT

MISCELLEANOUS

Article 120

Subsidiary Laws

Without contradicting this Proclamation, the Federal Bar has the power to issue regulations and/or bylaws for the implementation of the rules of the Proclamation.

Article 121

Transitional Provision

The Federal Attorney General shall continue the regulation of advocates pursuant to the existing laws until the Federal Bar is established and assumes its powers and responsibilities provided in this Proclamation.

Article 122

Accreditation of Law Schools or Law Faculty

1/ The Federal Bar shall not establish and maintain an accreditation of law schools scheme until December 31, 2023.

2/ Until December 31, 2027, an applicant for admission to the advocates' profession does not have to fulfill the requirement to hold a Bachelor of Laws degree from an accredited law school or law faculty.

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3/ Applicants who have not had a reasonable chance to acquire a Bachelor of Laws degree from an accredited law school or law faculty can be exempted from this requirement.

Article 123

Re-registration

An advocate who is licensed to practice law prior to the effective date of this Proclamation shall re-register within six months following the effective date of this Proclamation.

Article 124

Repealed and Inapplicable Laws

1/ The following laws are hereby repealed by this Proclamation:

a) Federal Courts Advocates' Licensing and Registration Proclamation No. 199/2000;

b) Federal Courts Advocates' License, Exam. Registration and Registration of Law Firm Fees Council of Ministers Regulations No. 65/2000; and

c) Federal Court Advocates' Code of Conduct Council of Ministers Regulations No. 57/1999.

2/ Any law inconsistent with the provisions of this Proclamation shall not be applicable to matters covered under this Proclamation.

Article 125

Effective Date

This Proclamation shall enter into force in 6 (six) months following the date of its publication in the Federal Negarit Gazeta.

DONE AT ADDIS ABEBA, ON ...TH, DAY OF ... 2019

SAHLEWORK ZEWDE

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PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC

OF ETHIOPIA

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