

# **The Bar Council of India Rules**

*as amended by*

**The Bar Council of India Resolution No. 154/2014,  
dated 2-3-2015**

*alongwith*

★ **The Bar Council of India Training Rules, 1995**

★ **The Advocates (Right to Take up Law  
Teaching) Rules, 1979**

★ **Model Schemes for Welfare of Advocates  
Framed by Bar Council of India**

★ **The Bar Council of India Advocates Welfare  
Scheme, 1998**

★ **The Advocates Act, 1961**

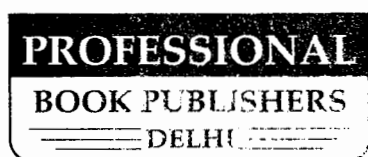
★ **The Bar Councils (Validation of State Laws)  
Act, 1956**

★ **The Certificate and Place of Practice  
(Verification) Rules, 2015**

★ **Notification**

*with*

**Short Comments**



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  6. Advocates (Amendment) Act, 1964 (21 of 1964)
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  12. Madras State (Alteration of Name) (Adaptation of Laws on Union Subjects) Order, 1970
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  14. Laccadive, Minicoy and Amindivi Islands (Alteration of Name) Act, 1973 (34 of 1973)
  15. Advocates (Amendment) Act, 1973 (60 of 1973)
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  25. Uttar Pradesh Reorganisation Act, 2000 (29 of 2000)
  26. North-Eastern Areas (Reorganisation) and Other Related Laws Act, 2012 (26 of 2012)
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# THE BAR COUNCIL OF INDIA RULES

*Rules made by the Bar Council of India in exercise of its rule-making powers under the Advocates Act, 1961.*

## PART I

### DEFINITIONS

**Definitions.**—In these rules, unless the context otherwise requires,—

- (a) "Act" means the Advocates Act, 1961, as amended from time to time;
- (b) "Advocate" means an Advocate entered in any roll under the provisions of the Act;
- (c) "casual vacancy" means a vacancy caused otherwise than by the expiry of the term;
- (d) "Chairman" means the Chairman of the Bar Council of India;
- (e) "clear days" means that time is to be reckoned exclusive of both the first and the last days.

*Illustration.*—The election of members to a State Council is fixed for the 15th January, 1965. Under the rules of the State Council, ballot papers have to be despatched 10 clear days before the date of election. Consequently the last date for the despatch of ballot papers will be 4th January, 1965;

- (f) "Council" means the Bar Council of India;
- (g) "prescribed" means prescribed by the rules;
- (h) "Rules" means the rules made by the Council;
- (i) "Secretary" means the Secretary of the Bar Council of India and includes any person howsoever designated and entrusted for the time being with the duties of the Secretary;
- (j) "State Council" means a Bar Council constituted under section 3 of the Act;
- (k) "Vice-Chairman" means the Vice-Chairman of the Bar Council of India.

## PART II

### MATTERS RELATING TO THE BAR COUNCIL OF INDIA

#### CHAPTER I

*[Rules under section 15(2)(c), (d), (f) and (g) read with sections 4 and 10-B of the Act]*

#### A. ELECTION OF MEMBERS OF THE COUNCIL

1. Notice of every meeting of the Council and committees shall ordinarily be sent by the Secretary not less than 15 days before the date of the meeting except when the Chairman requires a meeting to be called on short notice on grounds of urgency. If any five or more members of the Council require in writing, a meeting to be called on short notice of not less than 10 days for consideration of specified matters, the Secretary shall convene the meeting on such date as requisitioned and the agenda for such meeting shall include matters specified by such members. No proceeding shall be invalidated merely on the ground that the rule relating to notice is not strictly complied with.

2.(1) The notice and agenda for the first meeting of the State Council held after the election of its members on the expiry of the term of its members elected at the previous election under section 8 of the Act may include the election of a member of the State Council to the Council under section 4(1)(c) of the Act.

(2) Every such election shall be held not later than 30 days after the first meeting of the State Council after election under section 8 of the Act.

3. The election of a member of the Council shall be conducted by the Secretary of the State Council who shall act as the Returning Officer.

4. A person elected as a member of the Council under section 4(1)(c) of the Act shall cease to be such member—

(a) from the date when he ceases to be a member of the State Council as mentioned in section 4(3)(ii) of the Act;

(b) on the acceptance by the Council of his resignation.

5.(1) In the case of a vacancy in the office of the member of the Council arising for any reason mentioned in rule 4(a) of this Chapter or on account of death, intimation of the vacancy shall be given by the Secretary of the State Council to the Secretary of the Council forthwith, and

(2) The election to fill the vacancy under rule 4(a) or (b) shall be held within 30 days from the date of the vacancy.

6.(a) If the State Council does not take steps in time for the holding of the election as referred to in these rules, and

(b) in the case of a vacancy of the member of the Council arising under section 10-B of the Act,

the Secretary of the Council shall call upon the concerned State Council requiring it to elect its member to the Council within 30 days of such notice.

7. Every notice by the Secretary of the State Council fixing a date for the election of a member to the Council under these rules shall be sent not less than 15 clear days before the date fixed for the election. A copy of the said notice shall be sent simultaneously to the Secretary of the Council.

8. (1) The name of each candidate for the election shall be proposed by one member and seconded by another member of the State Council at the meeting. No member shall propose or second more than one name.

(2) If only one candidate has been duly nominated, the Returning Officer shall declare him elected.

(3) Any nominated candidate can withdraw before the voting takes place.

(4) If the number of candidates duly nominated is more than one, there shall be an election by secret ballot. The Returning Officer shall provide voting papers with the names of the candidates typed. Each voting paper shall bear the signature of the Returning Officer.

(5) A voter in giving his vote shall place in his voting paper the mark "X" against the name of the candidate of his choice.

The voting paper shall not be signed by the voter and in the event of any erasures, obliterations or alterations in the voting papers, or of the voting paper purporting to have been signed by the voter, the voting paper shall be deemed to have been defaced and the vote purporting to have been given

thereby shall not be taken into account for the purposes of the election. Subject to the provisions of rule 10, the decision of the Returning Officer whether the voting paper has or has not been defaced shall be final.

A voting paper shall be invalid on which—

(a) the mark "X" is not made, or

(b) the mark "X" is set opposite the name of more than one candidate or is so placed as to render it doubtful to which candidate it is intended to apply, or

(c) the mark "X" and any other mark or figures are set opposite the name of the same candidate, or

(d) there is any mark in writing by which the voter can be identified.

(6) The Returning Officer shall count the valid votes immediately after the close of voting in the presence of the candidates or their nominees who may choose to be present.

(7) The candidate securing the largest number of votes shall be declared elected by the Returning Officer.

In the case of two or more candidates securing an equal number of votes, the Returning Officer shall decide the election by drawing lots.

(8) Immediately after the declaration of the result, the Returning Officer shall put the ballot papers used for voting in the election in a separate cover, have the cover closed and sealed with his signature and that of all the contesting candidates if they desire to do so.

(9) The result of the election shall be communicated forthwith to the Secretary of the Council and sent to the State Gazette or Gazettes concerned for publication.

9. (1) In case of a dispute arising out of the election, any of the contesting candidates, or any other member of the State Council, may challenge the election by a petition which shall be filed with, or despatched by registered post to the Secretary of the Council within 10 clear days of declaration by the Returning Officer of the result of the election as mentioned in rule 8(7). The petitioner shall also send copies of the petition to all the contesting candidates and to the Secretary of the State Council.

(2) As soon as possible after the receipt of the copy of the petition under sub-rule (1), the Secretary of the State Council shall send the sealed cover containing the ballot papers referred to in rule 8(8) above, and all other papers and records relating to the election to the Secretary of the Council.

10. (1) The Council may reject any petition received under rule 9 if, in its opinion, there is no *prima facie* case.

(2) If the Council is of the opinion that there is a *prima facie* case, either the Council or a Committee of the Council comprising not more than 3 members of the Council constituted therefor shall, after hearing all the parties concerned, determine the said dispute.

(3) The Council, or the Committee, as the case may be, shall have all or any of the following powers:—

(a) to dismiss the petition;

(b) to set aside the election;

(c) to declare any candidate as having been duly elected;

(d) to order a fresh election; and

(e) to make an order as to costs.

(4) A copy of the Order of the Council or the Committee may be sent to the State Council.

(5) The State Council concerned shall cause such fresh election to be held as may be ordered under sub-rule (3) of this rule.

(6) The parties shall be entitled to obtain copies of the order or the decision of the Council or of the Committee, as the case may be, on payment of the charges, if any, prescribed therefor under the rules of the Council. The Chairman of the Council or the President of the Committee, as the case may be, may also permit copies of any other part of the record of the enquiry to be furnished on payment of such charges as may be prescribed during the pendency of the election petition.

#### B. EXPIRY OF TERM OF OFFICE OF CHAIRMAN, VICE-CHAIRMAN AND MEMBERS OF COMMITTEES OF THE COUNCIL

<sup>1</sup>[11. A member of the Council elected as Chairman or Vice-Chairman or member of any Committee of the Council, shall cease to hold office as such Chairman, Vice-Chairman or member of Committee on the expiry of his term as a member of the Bar Council of India.]

<sup>2</sup>[11-A. No member shall have the right to resign from the membership of the Bar Council of India on grounds which are not considered genuine or for the purpose of sharing the terms fixed by the Statute.]

#### C. ELECTION OF CHAIRMAN AND VICE-CHAIRMAN

12.(1)(a) The election of the Chairman and Vice-Chairman shall be held at a meeting of the Council.

(b) At every such meeting for the election of the Chairman, the Vice-Chairman, if he is not a candidate, shall preside. In the absence of the Vice-Chairman, a member of the Council who is not a candidate, elected by the members present, shall preside.

(c) In the case of the election of the Vice-Chairman, the Chairman, or in his absence the Vice-Chairman, if he is not a candidate, shall preside.

In the absence of the Chairman and the Vice-Chairman, any member of the Council who is not a candidate, elected by the members present, shall preside.

(d)(i) The name of the candidate for the election shall be proposed by one member and seconded by another member at the meeting.

(ii) No member shall propose or second more than one name.

(iii) If only one member has been duly nominated, he shall be declared elected.

(iv) Any candidate nominated may withdraw before voting takes place.

(e) If the number of candidates duly nominated is more than one, there shall be an election by secret ballot.

1. Added by Resolution No. 83/1997, dated 10-8-1997.

2. Added in December, 1998.

(f) The Secretary shall provide voting papers with the names of the candidates. Each voting paper shall bear the signature of the Secretary.

(g) A voter in giving his vote shall place on his voting paper a mark "X" against the name of the candidate of his choice.

The voting paper shall not be signed by the voter and in the event of any erasures, obliterations or alterations in the voting paper, or of the voting paper purporting to have been signed by the voter, the voting paper shall be deemed to have been defaced, and the vote purporting to have been given thereby shall not be taken into account for the purposes of the election. The decision of the Chairman of the meeting whether the voting paper has or has not been defaced shall be final.

A voting paper shall be invalid on which—

(i) the mark "X" is not made, or

(ii) the mark "X" is set opposite the name of more than one candidate or is so placed as to render it doubtful to which candidate it is intended to apply, or

(iii) the mark "X" and any other mark or figures are set opposite the name of the same candidate, or

(iv) there is any mark in writing by which the voter can be identified.

(v) The Secretary shall count the valid votes immediately after the close of the voting.

The member securing the largest number of votes shall be declared elected. In the case of two or more members securing an equal number of votes, the Chairman of the meeting shall decide the election by drawing lots.

<sup>3</sup>[(2) The Chairman or the Vice-Chairman shall hold office for a period of two years, or until his term of office as member of the Bar Council of India ceases, whichever is earlier.]

(3) The Chairman or the Vice-Chairman may resign his office by letter addressed to the Secretary of the Council. Such resignation shall take effect from the date of the acceptance thereof by the Council or from such other date as the Council may fix:

Provided that in the eventuality of mid-term poll of the office of the Chairman or Vice-Chairman, the term shall be of the residuary term.

13. If the Chairman or the Vice-Chairman ceases to be a member of the Council for any reason, the vacancy shall be filled up by election as far as possible at the next meeting of the Council.

14. The result of the election of the Chairman or the Vice-Chairman shall be sent forthwith to the Gazette of India for publication.

#### D. POWERS AND DUTIES OF THE CHAIRMAN AND VICE-CHAIRMAN

15. Save as otherwise provided in these rules, and subject to the resolutions of the Council, the Chairman shall exercise general control and supervision over the affairs of the Council.

16. He shall preside over the deliberations of the Council and of all Committees of which he is a member.

17. Save as otherwise decided at a meeting of the Council or the Committee, as the case may be, he shall cause the meetings of the Council or the Committee convened at such time as he may fix. He shall also settle the items for agenda for the meetings of the Council.

18. He shall have power to pass interim orders in revisional and other matters arising out of the supervisory jurisdiction of the Council.

19. He shall have power to punish any employee of the Council by way of censure or reprimand and may initiate proceedings for suspension, removal or dismissal.

20. He shall be the authority to sanction the disbursement of salaries of the staff and to order payment of any bill outstanding against the Council.

21. The Vice-Chairman shall exercise all the powers and discharge all the functions of the Chairman in his absence and under his direction.

\*[22. On a motion of "No Confidence" being passed by Bar Council of India by a Resolution passed by majority of not less than 3/4th of the Members present and voting and such majority passing "No Confidence Motion" is more than 2/3rd of the total number of members constituting the Bar Council for the time being, the Chairman or Vice-Chairman or any other office bearer against whom the motion is passed shall cease to hold office forthwith.

Notwithstanding anything contained in the Act or the rules made thereunder, the Chairman or Vice-Chairman shall not preside over the meeting in which motion of "No Confidence" is discussed against him and such meeting shall be convened on a notice of at least one month. The Chairman or the Vice-Chairman shall have the right to vote, speak or take part in the proceeding of the meeting.]

## CHAPTER II

### MEETINGS OF COUNCIL AND ITS COMMITTEES OTHER THAN THOSE OF THE DISCIPLINARY COMMITTEES

*[Rules under section 15(2)(h) and (j) of the Act]*

1. Notice of every meeting of the Council and the Committees shall ordinarily be sent by the Secretary not less than 15 days before the date of the meeting, except when the Chairman or any two members require a meeting to be called on short notice on grounds of urgency. No proceedings shall be invalidated merely on the ground that the rule relating to notice is not strictly complied with.

2. Notice of the meeting shall specify the time and place of the meeting and shall contain the agenda fixed for the meeting.

3. No member shall be entitled to bring forward for the consideration of the meeting any matter of which he has not given ten days' notice to the Secretary, unless the Chairman, in his discretion, permits him to do so.

4. The minutes of the previous meeting shall ordinarily be read and recorded at the subsequent meeting.

5. The quorum for the meeting of the Council shall be seven and for all other Committees except the Executive Committee and the Legal Education Committee, the quorum shall be two. The quorum for the Executive Committee and the Legal Education Committee shall be four.

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4. Added by Resolution No. 52, dated 8-11-1998, published in the Gazette of India, Ext., Pt. II, S. 4, dated 26-12-1998.

6. If urgent action by the Council or by any Committee of the Council other than a Disciplinary Committee becomes necessary, the Chairman of the Council or of such Committee, as the case may be, may permit the business to be transacted by circulation of papers to the members of the Council or the Committee, as the case may be. The action proposed to be taken shall not be taken unless agreed to by a majority of the members of the Council or the Committee, as the case may be. The action so taken shall be forthwith intimated to all the members of the Council or the Committee concerned. The papers shall be placed before the next meeting of the Council or the Committee concerned for confirmation.

7. The Council or any Committee may adjourn from day to day or any particular day, without further notice.

8. A member shall address the chair when speaking at a meeting of the Council and he shall be entitled to speak only once on each subject, unless otherwise required or permitted by the Chairman to do so.

9. Save as otherwise provided in these rules, the decision on any matter shall be by majority, and in the case of equality of votes, the Chairman of the meeting shall have a second or casting vote.

10. No matter once decided shall be reconsidered for a period of three months unless the Council by a two-third majority of the members present so permits.

11. Any Committee may refer for advice any matter to the Council.

12. In the absence of the Chairman and the Vice-Chairman at any meeting, a member chosen by members present shall preside at the meeting.

### CHAPTER III

#### CONSTITUTION, FUNCTIONS AND PROCEDURE OF COMMITTEES OF THE BAR COUNCIL OF INDIA

*[Rules under sections 9, 9-A, 10 and 15(2)(i) and (j) of the Act]*

1. The Council may appoint from amongst its members, one or more Committees as it may deem necessary, in addition to those specified in the Act and delegate such powers, duties and functions to such Committees as it deems fit.

2. Any casual vacancy in the above Committees shall be filled up by the Council.

3. Save where the Chairman or the Vice-Chairman is a member of the Committee or the Sub-Committee, the Committee or the Sub-Committee shall choose its Chairman for the meeting, unless at the time of the constitution thereof the name of the Chairman has been specified.

4. Unless otherwise determined at the time of election, the term of the members of the Committees of the Council shall be as follows:—

(a) Executive Committee	2 years
(b) Disciplinary Committee	3 years
(c) Legal Education Committee	4 years
(d) Legal Aid Committee	2 years
(e) Advocates Fund Committee	2 years
(f) Any other Committee not falling under the above clause	2 years.

### **The Executive Committee**

5. (1) The procedure for the election of the members of the Executive Committee shall be by secret ballot and in accordance with the rules in so far as they are applicable, laid down in rule 12, Chapter I, Part II.

(2) A casual vacancy in the Committee shall be filled up by election by the Council.

<sup>5</sup>[(3) The Committee shall elect its own Chairman and Vice-Chairman. The Chairman shall preside over the deliberations of the Committee and in his absence the Vice-Chairman shall preside.]

(4) The Committee shall be the executive authority of the Council and shall be responsible for giving effect to the resolutions of the Council. It shall have powers—

- (a) to manage the funds of the Council;
- (b) to invest the funds of the Council in the manner directed by the Council from time to time;
- (c) to grant leave to members of the staff, other than casual leave;
- (d) to prescribe books of account, registers and files for the proper management of the affairs of the Council;
- (e) to appoint and supervise the work of the members of the staff and prescribe their conditions of service;
- (f) to appoint auditors and fix their remuneration;
- (g) to consider the annual audit report and place it before the Council with its comments for its consideration;
- (h) to maintain a library and under the directions of the Council publish any journal, treatise or pamphlets on legal subjects;
- (i) to prepare and place before the Council, the annual administration report and the statement of account;
- (j) to provide for proper annual inspection of the office and its registers;
- (k) to authorise the Secretary to incur expenditure within prescribed limits;
- (l) to fix travelling and other allowances to members of the Committees of the Council, and to members of the staff;
- (m) to delegate to the Chairman and/or the Vice-Chairman any of its aforementioned powers;
- (n) to do all other things necessary for discharging the aforesaid functions.

### **The Legal Education Committee**

6. (1) The procedure for the election of the Members of the Legal Education Committee shall be by secret ballot, and in accordance with the rules, in so far as they are applicable, laid down in rule 12, Chapter I, Part II.

(2) The names of the remaining five members of the Committee to be co-opted shall be proposed and seconded by the members of the Council. In case more than five persons are proposed they shall be chosen by a show of hands.

If there is equality of votes, the Chairman of the meeting shall have a casting vote.

7. A casual vacancy in the Committee shall be filled in by the Council from amongst its members or non-members as the case may be, in the manner specified in rule 6 above.

8. The Committee shall have the following powers and duties:—

(a) to make its recommendations to the Council for laying down the standards of legal education for the Universities;

(b) to visit and inspect Universities and report the results to the Council;

(c) to recommend to the Council the conditions, if any, subject to which foreign qualifications in law obtained by persons other than citizens of India may be recognised for admission as Advocates under the Act;

(d) (i) to recommend to the Council for recognition of any degree in law of any University in the territory of India under section 24(1)(c)(iii) of the Act, and

(ii) to recommend the discontinuance of any recognition already made by the Council.

#### **The Disciplinary Committee**

9. (1) The procedure for the election or co-option of the members of the Disciplinary Committee shall be by secret ballot and in accordance with the rules, in so far as they are applicable, as laid down in rule 12, Chapter I, Part II.

(2) Any casual vacancy shall be filled in by the Council by election or co-option from amongst its members or non-members, as the case may be.

(3) The Chairman or the Vice-Chairman of the Executive Committee shall assign and allocate all matters relating to the Disciplinary Committees amongst them if more than one such Committee is constituted or is in existence.

<sup>6</sup>[(4) In case of the absence of a Bar Council of India's member during the sitting of the Disciplinary Committee of the Bar Council of India, the remaining two members of the said Committee may request any available Bar Council of India member to fill the vacancy caused by such absence and in case of the absence of a co-opted member of a Disciplinary Committee of the Bar Council of India, the other two members may make similar request to any other available co-opted member of a Disciplinary Committee of the Bar Council of India and the Committee so constituted shall be deemed to be a Committee constituted under this rule for the purpose of that meeting and shall have all the powers of a Disciplinary Committee of the Bar Council of India.]

10. For the purpose of determining the seniormost member of a Disciplinary Committee under section 9 of the Advocates Act, 1961, the seniority—

(i) of a Senior Advocate, and

(ii) of an Advocate of the Supreme Court enrolled before 1st December, 1961, shall be determined in accordance with the date of his enrolment under the Bar Councils Act, 1926.

**11. Election of Representatives.**—The procedure for electing its representative to the Press Council of India under Press Council Act, 1965, or for electing any other representative or representatives by or from amongst its

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6. Sub-R. (4) added by Resolution No. 54/1996, dated 2-6-1996 (w.e.f. 2-6-1996).

members to any other statutory body by virtue of any special power conferred under any other enactment or for any other election by the Council provided that any member so requires, shall be in accordance with the same procedure and shall in so far as it may be applicable, be as laid down in rule 12, Chapter I, Part II.

#### <sup>7</sup>[CHAPTER IV

#### QUALIFICATIONS AND CONDITIONS OF SERVICE OF THE SECRETARY, ACCOUNTANT AND OTHER MEMBERS OF THE STAFF

*[Rules under section 15(2)(k) of the Act]*

#### BAR COUNCIL OF INDIA EMPLOYEES SERVICE RULES, 1997

1. These rules shall be called "Bar Council of India Employees Service Rules, 1997".

2. These rules shall come into force from the date to be specified by the Executive Committee.

3. Under the rules, the appointing authority shall mean Executive Committee of the Bar Council of India except in the case of Secretary as provided in Chapter III, rule 5(4)(e) of the Bar Council of India Rules.

4. The qualifications and conditions of service of the Secretary, Accountant and other members of staff are those as specified in Schedule I to these rules.

5. Recruitment shall be by direct appointment/promotion of the employees in the Bar Council of India as provided in the First Schedule to these rules.

6. That for the purpose of direct recruitment, vacancies shall be advertised in atleast one daily newspaper.

7. That recruitment/promotion to the post shall only be made in the case of vacancy.

8. That for recruitment/promotion a person must possess qualifications as provided in Schedule I to these rules.

9. In case it is not possible to find eligible person for promotional post it may be filled by direct recruitment but the person must possess eligibility criteria as prescribed under Schedule I.

10. That for the recruitment to the service of the Bar Council of India the incumbent's minimum age shall not less than 21 years and not more than 35 years on the date of appointment except for the posts of Secretary and Accountant.

11. The Secretary, the Accountant and other members of the staff shall retire on attaining the age of 60 years provided that in case the Executive Committee so recommends and the Council approves, they may be given extension for a period not exceeding two years.

<sup>8</sup>[*Explanation.*—An employee of the Council shall retire on the forenoon of the last day of the month in which he attains the prescribed age of superannuation.

However, an employee whose date of birth is the first of a month, shall retire on the afternoon of the last day of the preceding month.]

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7. Chapter IV in Part II amended w.e.f. 1-4-1997.

8. Added in January, 2001 (w.e.f. 5-1-2001).

12. (i) That promotion shall be made on the basis of seniority-cum-merit upto grades of Assistants.

(ii) For the post of Office Superintendent, other equivalent posts and the other posts in Schedule, the consideration shall be made on the basis of merit-cum-seniority.

13. That it shall be necessary to maintain annual confidential records of all employees of the Bar Council of India. The annual confidential records of the Secretary shall be maintained by the Chairman and records of all other employees shall be maintained by the Secretary who shall place it with his remarks before the Chairman of the Bar Council of India annually and if a person is aggrieved by any adverse communication of remark, he can file an appeal before the Executive Committee of the Bar Council of India.

14. That the post of Chowkidar/Peon/Gardener and Guest Room Attendant shall be inter-changeable regardless of their appointment.

15. The pay scale and allowances of the employees and other conditions of the service shall be as determined by the Executive Committee and approved by the Bar Council of India.

16. (i) The pay scales of the Secretary and members of staff are those as specified in Schedule II to these rules.

(ii) The Secretary and other permanent members of the staff shall be entitled to dearness allowance, house rent allowance and city compensatory allowance at the rate as may be determined from time to time by the Executive Committee and approved by the Bar Council of India.

17. All the permanent employees of the Council shall be entitled to the benefit of provident fund and gratuity in accordance with the rules framed by the Executive Committee and approved by the Bar Council of India.

18. That strength of posts in the Bar Council of India shall be as specified in the Second Schedule to the rules.

19. The posts re-designated shall cease to exist. The post not mentioned in Schedule II shall also cease to exist as soon as the employees holding the post demits the office.

20. (1) That an employee of the Bar Council of India may be placed under suspension if any departmental enquiry is pending or is contemplated against him/her or he/she is involved in any criminal case involving moral turpitude during the course of enquiry for trial.

(2) An employee shall be entitled for substantive allowance of 50% of his basic pay and allowance during the period of suspension and it shall be for the disciplinary authority to pass order on conclusion of enquiry or trial whether an employee is entitled for payment of full salary for the period he has remained under suspension.

(3) The authority which made the order of suspension shall be competent to increase the amount of subsistence allowance by a suitable amount not exceeding 50% of the subsistence allowance admissible during the period if the period of suspension has been prolonged due to the reasons to be recorded in writing not directly attributable to the Council employees.

(4) The amount of subsistence allowance may be reduced by suitable amount not exceeding 50% of the subsistence allowance if the period of suspension has been prolonged due to the reasons to be recorded in writing, directly attributable to the Council employee.

## SCHEDULE I

Sl. No.	Name of post	Method of recruitment	Qualification/Eligibility criteria
1.	Secretary	Direct	<p>(a) be a citizen of India,  (b) be a law graduate or barrister-at-law;  (c) have been either—</p> <p>(i) Registrar of the Supreme Court or a High Court in India, or  (ii) an Advocate with 15 years' practice at the Bar, or  (iii) Secretary of a Bar Council for at least 10 years, or  <sup>9</sup>[(iv) District Judge having five years' experience as District Judge, or  (v) Principal of a recognised Law College having experience as a Principal for five years' and seven years' standing at the Bar, or  (vi) Professor or Reader of Law in a University recognised by the Council with 10 years' standing and having seven years' experience at the Bar, and  (vii) Law Graduate with three years' experience as Assistant Secretary of the Bar Council of India.</p> <p>(d) be ordinarily not less than 40 years and not more than 50 years of age at the time of appointment:  Provided that if at any time the Council considers that a person having the necessary qualifications is not available, it may relax any of the qualifications mentioned in sub-rules (c) and (d) of this rule.]</p>
2.	Asstt. Secretary	By promotion	(i) Office Superintendent (ii) Asstt. Registrar and Accountant with minimum of five years experience in the post.
3.	Asstt. Secretary-Cum-Accounts Officer	By promotion	C.A. plus B.Com. with five years' as Accountant.
4.	Office Supdt.	By promotion	From Assistant Gr. III with six years' experience.
5.	Asstt. Registrar	By promotion	From Assistant Grade III with six years' experience.

Sl. No.	Name of post	Method of recruitment	Qualification/Eligibility criteria
6.	Accountant	Direct	<p>(a) M.Com. of any recognised University in India or its equivalent or a Chartered Accountant,</p> <p>(b) experience as Accountant preferably in limited company or reputed commercial concern for not less than 5 years,</p> <p>(c) ordinarily not less than 30 years of age at the time of appointment:</p> <p>Provided, however, that any of the above qualifications may be waived in the case of a person who had been already in the service of the Council as Deputy or Asstt. Accountant or otherwise and is considered for such appointment as Accountant or if a suitable candidate possessing the above qualifications is not available and the Council considers it fit to appoint him.</p>
7.	Assistant Gr. III	By promotion	<p>(i) From amongst the Assistant Gr. II with 5 years' experience, or</p> <p>(ii) From amongst the Assistant Gr. I with 7 years experience possessing a graduate degree of a recognised University.</p>
8.	Assistant Gr. II	By promotion	(i) From amongst the Assistant Gr. I with 5 years experience in the case of promotion.
	Assistant Gr. II	Direct	(ii) A graduate from a recognised University for direct recruitment.
9.	Assistant Gr. I	Direct 1/4th by promotion	<p>(i) Graduate degree from a recognised University for direct recruitment.</p> <p>(ii) From amongst Peon/Chowkidar and other equivalent post with 10+2 from a recognised Board with pass in the test.</p>
10.	Peon/ Chowkidar/ Gardner	Direct	10th pass

*Notes.*—(a) For posts 2 to 10 if no suitable person is found available for promotion then as per rule 9, the post be filled by direct recruitment.

(b) The Executive Committee may from time to time amend the First Schedule by increasing or decreasing the number of posts.

(c) *Inter se* seniority between the employees of the Bar Council of India and the Bar Council of India Trust is irrelevant.

Sl. No. 7—Steno. To specify qualifying speed in short hand and typing.

Sl. No. 8 and 9—Assistant Gr. I and II—Extra qualification—typing—to specify speed.

Sl. No. 9—Assistant Gr. I(a) Gestetner Operator—To specify minimum qualification.

(b) Electrician—To specify minimum qualification besides Diploma.

*Secretary.*—The Secretary shall be the Chief Executive Officer of the Council and shall perform *inter alia* the following duties:—

- (i) attend all meetings of the Council or of the Committees unless otherwise directed;
- (ii) keep records and minutes of the proceedings of the Council and of its Committees;
- (iii) keep in his custody the property of the Council including the seal of the Council;
- (iv) exercise general control and supervision over the employees of the Council;
- (v) arrange for the deposit of the monies received on behalf of the Council in Bank and see to the security of the cash in hand;
- (vi) act as Secretary of all Committees, and convene meetings of the Council or its Committees, unless otherwise decided by the Council;
- (vii) appoint such temporary staff as may be necessary with the permission of the Chairman to transact urgent work;
- (viii) issue requisite notifications as prescribed and circulars as may be required;
- (ix) attend to the correspondence of the Council and of the Committees;
- (x) act as Registrar of Disciplinary Committees, issue notices and subpoenas and be in-charge of all work in proceedings under Chapter V of the Act including the grant of certified copies of documents and evidence or statements of witnesses;
- (xi) grant certified copies of documents or other proceedings referred to in the Act or in these rules;
- (xii) shall be the custodian of the records, registers, accounts, furniture, library and such other property as the Council might acquire from time to time;
- (xiii) perform such other duties as may be assigned to him by the Council or the Committees, or the Chairman.

*Accountant.*—The Accountant shall be responsible for the maintenance of all the accounts of the Council and he may also be required by the Council or Secretary to discharge such additional work of the Council as may be entrusted to him.

SCHEDULE II  
(REVISED)

Sl. No.	Post	No. of post	Pay scale in Rupees
1.	Secretary	1	4500-150-5100-150-6300-200-6700
2	Asstt. Secretary	2	3000-100-3500-125-4500-EB-150-5100
3.	Asstt. Secretary-cum-Accounts Officer	1	3000-100-3500-125-4500-EB-150-5100
4.	Asstt. Registrar (DC)	1	2000-60-2600-EB-75-2900-100-3500-EB-125-4000
5.	Office Supdt.	1	2000-60-2600-EB-75-2900-100-3500-EB-125-4000
6.	Accountant	1	2000-60-2600-EB-75-2900-100-3500-EB-125-4000
7.	Assistant (Gr. III) (including One Steno, One Asstt. Accountant)	5	1640-60-2600-EB-75-2900-EB-100-3200

Sl. No.	Post	No. of post	Pay scale in Rupees
8.	Assistant (Gr. II) (including one typist)	2	1220-30-1400-50-1650-EB-50-2200
9.	Assistant (Gr. I) (including three Clerks One Gestetner Opr. and one Electrician-cum- Assistant)	5	950-20-1150-EB-25-1400-EB-50-1800
10.	Peon/Watchman/Gardner	8	800-15-1010-EB-25-1400-EB-50-1600 (Posts are interchangeable for duty purposes)
11.	Sweeper	1	800-15-1010-EB-25-1400-EB-50-1600]

## CHAPTER V

### RULES RELATING TO FINANCE

*[Rules under section 15(2)(l), (m) and (n) of the Act]*

1. All monies received on behalf of the Council shall be acknowledged by a receipt signed by the Secretary or any other person authorised by the Executive Committee. Amounts received shall be credited into the account of the Council in the Bank on the next working day of the Bank.

2. The books of account and registers shall be strongly bound and paged. On the 1st or title page, the number of pages of the book or the register shall be entered and the entry shall be signed by the Secretary. Corrections in the entries shall be made in red ink and attested by the Accountant. Erasures shall on no account be permitted.

3. Receipt forms shall be numbered consecutively and bound into books of 50 or 100 forms each. On the front page of each book shall be entered the first and the last number of the receipts in that book be so certified by the Secretary. Receipts shall be in triplicate. The third part shall remain in the book and the second part shall be kept for the record. And the first part shall be given to the payee. All receipts shall be signed by the Secretary or by such person as the Council may direct.

4. Payments of Rs. 50 and over shall ordinarily be by cheque.

5. Bills presented for payment shall be examined by the Accountant and on his being satisfied that the claim is admissible, and the payment is duly authorised by the Secretary, the Accountant shall pay the amount against a receipt. The entry in the account book shall show if the payment is made by cash or by cheque. The bill and the relevant receipt shall be pasted together and shall be numbered consecutively in the year as payment voucher and shall be pasted in the bound book.

6. Salary bills shall be in such form as the Executive Committee may direct.

7. A bill presented for payment three months after the money becomes due shall not be paid without sanction of the Executive Committee.

8. The Executive Committee may fix the amount of a permanent advance to be made to the Secretary and the Accountant, as the case may be.

9. The Accountant shall maintain an acquittance register in the following form/or in such other form as the auditor may direct:—

Name	Designation	Pay	Dearness allowance, etc.	Total salary (add Cols. 3 and 4)	Contribution towards provident fund	Net salary payable (Col. 5 minus 6)
1	2	3	4	5	6	7

Instalment amount towards provident fund loan taken	Amount of interest payable on the principal loan amount outstanding	Total	Signature with date
8	9	10	11

10. All monies received and spent shall be immediately brought into account in the cash book and ledger. The cash book shall be balanced at the close of every month and signed by the Secretary and the Accountant.

<sup>10</sup>[10-A. The Bar Council of India shall have power to borrow money from any Bank or other Financial Institution or others for the purposes of acquiring or construction of any property or building on a specific authorisation of the Bar Council of India.

10-B. That for the purpose of borrowing, the Bar Council of India may authorise any officer or office bearer to sign necessary documents.]

<sup>11</sup>[10-C. The Bar Council of India shall have power to mortgage property belonging to the Council for the purpose of taking loans from Banks and other Financial Institutions.]

11. (1)(i) The Chairman, (ii) the Vice-Chairman, or (iii) any other person authorised by the Council, shall be entitled to incur expenditure sanctioned in the budget without any further authority.

(2) The Chairman and/or the Vice-Chairman or any other person authorised by the Council, shall have authority to spend or incur expenditure of an emergent nature not provided for in the budget not exceeding Rs. 2,000 a month for the purpose of the Council.

12. The Chairman and/or the Vice-Chairman shall be the authority to sanction travelling allowance and daily allowance bills of the members.

13. The accounts of the Council shall be audited once a year.

10. Rr. 10-A and 10-B came into force w.e.f. 11-2-1990.

11. R. 10-C came into force w.e.f. 22-4-1990.

14. The annual statement of income and expenditure of the year so audited shall be laid before the Executive Committee not later than the 31st July each year.

15. The funds of the Council may be invested as follows:—

(i) in the State Bank of India or such other nationalised bank as the Council may decide;

(ii) in any of the securities specified in section 20 of the Indian Trusts Act, 1882, as the Council may decide;

<sup>12</sup>[(iii) in Fixed Deposits with Government companies as defined in the Companies Act, 1956 (1 of 1956).]

16. Budget estimates of Income and Expenditure for the coming year shall be made by the Executive Committee and laid before the Council for approval before the 31st March every year.

17. (1) All cheques other than those mentioned in sub-rule (2) shall be signed or endorsed and all bills, notes or other negotiable instruments shall be drawn, accepted or made on behalf of the Council by two persons, *viz.*, (i) by the Chairman or the Vice-Chairman of the Council and in their absence by such other members as may be authorised by the Council in that behalf, and (ii) the Secretary, and in his absence the Joint or Assistant Secretary, if any, authorised by the Council.

(2) Notwithstanding anything contained in rule 11, Chapter V, Part II, the Council may by resolution open a separate Savings Bank Account in any Bank specified by it or in a Post Office to be operated by the Secretary of the Council.

18. All monies and securities belonging to the Council shall stand in the name of the Council.

19. The Council shall open a Provident Fund account in a Bank authorised by the Council in accordance with the Provident Fund Rules.

#### CHAPTER VI

#### PUBLICATION OF RULES AND OTHER INFORMATION AND DATE OF COMING INTO FORCE OF THE RULES

##### A. MISCELLANEOUS

[Rules under sections 7(m) and 49(j) of the Act]

1. Unless the Council otherwise directs, all rules of the Council shall come into force on the date of their publication in the Gazette of India.

2. Information, *inter alia*, on the following matters shall, unless the Council determines otherwise, be communicated to all the State Councils:—

(i) Election of Chairman, Vice-Chairman.

(ii) Order of the Council under proviso to section 26(1) of the Act, removal of name under section 26-A of the Act and orders on matters dealt with under sections 48-A and 48-B of the Act as are approved by the Council for communication.

(iii) Consent expressed under section 27 of the Act to the enrolment of a person whose application on a former occasion had been refused by a State Council.

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12. Sub-Cl. (iii) added w.e.f. 23-1-1982.

(iv) Decisions of the Council relating to recognition of degrees referred to in section 24(1)(c)(iii), (iii-a) or (iv) of the Act.

(v) Decisions of the Council or its Committees on election disputes under rules 10 of the rules in Chapter I, Part II of these rules.

3. Subject to such directions, specific or general, as may be given by the Council, the Secretary shall send to all the State Bar Councils copies of all final orders of the Disciplinary Committees of the Bar Council of India made under sections 36, 36-B and 37 of the Act.

4. Subject to such directions, specific or general, as may be given by the Council, the Secretary of the Council may furnish certified copies of the orders mentioned in rule 3 on payment of the charge of Re. 1 after deleting the name of the Advocate against whom the enquiry is made for publication in any legal journal or to any Bar Association as may apply therefor:

Provided that copies of the orders mentioned in this rule shall not be issued (a) where an appeal has been filed in the Supreme Court, before the disposal of the appeal, and (b) where no such appeal has been preferred to the Supreme Court, before the expiry of the period of limitation for filing the appeal.

5. Whenever any disciplinary action is taken or confirmed by the Disciplinary Committee or the Council, as the case may be, against an Advocate, information thereof shall be communicated by reference to the name and number of the roll of the Advocates and the date of the enrolment to the following:—

All the State Bar Councils, through the State Bar Council where the Advocate was practising, the High Court, the District Courts, and such Bar Association as the said State Bar Council may deem fit.

#### B. INSPECTION OF RECORDS AND COPIES

6. (1) Save as otherwise directed by the Chairman or the Vice-Chairman of the Council or the Chairman of the Committee concerned, as the case may be, inspection of any of the records in any proceedings of a judicial nature of the Council or of its Committees other than those of a Disciplinary Committee may be permitted to the parties or their counsel, on any working day except during the summer or other vacations of the Supreme Court on presentation to the Secretary of an application duly signed by the applicant or his counsel.

(2) An application for inspection shall be accompanied by the fees prescribed therefor in cash. The Secretary may permit the inspection in his presence or in the presence of any member of the staff authorised by him. The person inspecting shall not be entitled to make copies of the records of which inspection is permitted. He shall, however, be permitted to make short notes in pencil.

(3) Save as otherwise directed by the Chairman or Vice-Chairman of the Council or the Chairman of the Committee concerned, as the case may be, certified copies of the records of a proceeding of a judicial nature of the Council or of its Committees, as the case may be, may be granted to the parties or to their counsel on an application made in that behalf and on payment in cash of the prescribed fees.

## CHAPTER VII

PROCEEDINGS FOR REMOVAL OF NAME FROM ROLL UNDER  
PROVISO TO SECTION 26(1) OF THE ACT

1. Whenever a State Council, or any Committee duly authorised by the State Council has credible information from any source whatever that an Advocate on the roll of the State Council has obtained his enrolment under circumstances which, if established, will render his name liable to be removed by the Council under the proviso to section 26(1) of the Act, it shall be the duty of the State Council or the said Committee to enquire into the matter and report its findings to the Council.

In holding such enquiry the Council or the Committee shall hear the Advocate concerned and otherwise follow the principles of natural justice.

2. In disposing of any proceedings under the said proviso, whether instituted on a report under rule 1 or otherwise, the Council may, if it considers it just and expedient, cause an enquiry into disputed questions of fact to be made by any State Council or Committee thereof or any other Committee consisting of one or more persons it may deem fit. The State Council or the Committee, as the case may be, shall follow the procedure mentioned in rule 1.

## CHAPTER VIII

## ADDITIONAL QUALIFICATION FOR ENROLMENT AS ADVOCATES

Any person who has held office as a Judge of any High Court in India may on retirement, be admitted as an Advocate on the roll of any State Council where he is eligible to practise.

## CHAPTER IX

## REVISION UNDER SECTION 48-A OF THE ACT

1. (1) An application for revision shall be in the form of a petition duly signed setting out the necessary facts, and shall be accompanied by the copy of the order in respect of which the revision is filed, giving the address of the petitioner and the respondent or respondents. It shall be supported by an affidavit and shall be accompanied by the prescribed fee which is payable in cash or could be sent by M.O. The applicant shall file at least 5 more copies of the petition and affidavit, and if there is more than one respondent as many additional copies as are necessary to serve the other respondents.

He shall file translations in English of such of the papers as may be necessary for reference at the time of hearing.

(2) No application for revision shall ordinarily be entertained after 90 days from the date of the order complained of.

2. (1) If the revision petition is in order, the papers shall be called for and the Council, or a Committee of the Council constituted or authorised in this behalf, may direct notice to the respondent. The papers shall not, however, be called for unless so directed by the Council for revision petition against an order of the Disciplinary Committee.

(2) If the Council or the Committee considers that there are no merits in the revision petition, opportunity shall be given to the petitioner to appear before the Council in support of the petition.

3. The Council may, after hearing the petitioner, direct notice to the respondent or dismiss the petition, as it may consider fit.

4. Upon notice being issued under the above rules after giving reasonable opportunity of hearing to the parties, the Council may pass such order on the revision petition as it deems proper.

5. Unless the Council otherwise specially directs, the petitioner and the respondent may appear by Advocates, who shall file a *vakalatnama* signed by the party.

6. A copy of the order on the revision shall be sent to the parties.

#### FORM A

#### SUBJECT TO NECESSARY MODIFICATIONS

(Under rule 3, Chapter IX, Part II of the Rules of the Bar Council of India)

For Revision under section 48-A

THE BAR COUNCIL OF INDIA

NOTICE UNDER SECTION 48-A OF THE ADVOCATE ACT, 1961,  
READ WITH THE RULES IN CHAPTER IX, PART II OF THE RULES OF  
THE BAR COUNCIL OF INDIA

BCI Revision Case No...../20.....

In the matter of .....

.....Petitioner

.....Respondent

Whereas on the application above referred to/*suo motu*/the Bar Council of India having come to the conclusion that in exercise of the powers conferred upon it under section 48-A of the Advocates Act, 1961, it should satisfy itself as to the legality or propriety of such disposal/of the Bar Council or/of the Committee of the Bar Council of/ dated.....(set out the necessary gist of the order).

The respondent is hereby informed that the said application will be heard by the Bar Council of India on.....at (time).....at (place).....and if the respondent does not appear in person or through his Advocate on the said date or on such other date to which the hearing may be adjourned, the matter will be heard and disposed of in his absence.

.....  
Secretary

Date.....

The Bar Council of India

#### CHAPTER X

#### APPLICATION FOR REVIEW UNDER SECTION 48-AA OF THE ACT

1. (1) An application for review made under section 48-AA of the Act shall set out the necessary facts and the grounds for review and be accompanied by an affidavit and the fee prescribed under these rules.

(2) A true copy of the order shall be filed alongwith the application.

(3) If the application for review received is in order, the Council may direct the issue of notice to the petitioner and such other person as it may consider necessary.

(4) A copy of the order on the review application shall be sent free of charge to the petitioner and the other party, if any.

(5) Save as otherwise directed, the parties to whom notice has been issued may appear in person or by Advocate or through authorised agent and if any of

the parties fail to appear pursuant to the notice issued on any date of hearing, the Council may dispose of the application in such manner as it may think fit.

2. The procedure prescribed in the above rules in this Chapter shall apply to the extent to which they are applicable when the Council acts of its own motion.

## CHAPTER XI

### ORDERS OF THE BAR COUNCIL OF INDIA

1. Every decision of the Council under the proviso to section 26(1) or under section 48-A or under any other provisions of the Act shall be signed by the Chairman of the meeting at which the said decision was taken or if so authorised by any other member or the Secretary on behalf of the Council.

2. The Secretary shall send to the party or parties concerned, a copy of the order free of charges.

## PART III

### CERTAIN MATTERS RELATING TO STATE COUNCIL

#### CHAPTER I

#### ELECTORAL ROLL, DISQUALIFICATION OF MEMBERSHIP AND VACATION OF OFFICE

*[Rules under sections 3(4), 10-B, 15(2)(a) and 49(1)(a) and (ab) of the Act]*

1. Every Advocate whose name <sup>13</sup>[with stamp size photographs] is on the Electoral Roll of the State Council shall be entitled to vote at an election.

2. The name of an Advocate appearing in the State Roll shall not be on the Electoral Roll, if on information received or obtained by the State Bar Council concerned on the basis of which it is satisfied that—

(a) his name has at any time been removed;

(b) he has been suspended from practice, provided that his disqualification shall operate only for a period of five years from the date of the expiry of the period of suspension;

(c) he is an undischarged insolvent;

(d) he has been found guilty of an election offence in regard to an election to the State Council by an election tribunal, provided, however, that such disqualification shall not operate beyond the election next following after such finding has been made;

(e) he is convicted by a competent Court for an offence involving moral turpitude, provided that this disqualification shall cease to have effect after a period of two years has elapsed since his release;

(f) he is in full-time service or is in such part-time business or other vocation not permitted in the case of practising Advocates by the rules either of the State Council concerned or the Council;

(g) he has intimated voluntary suspension of practice and has not given intimation of resumption of practice;

<sup>13a</sup>[(h) he has not paid the subscription under rule 40, Chapter II, Part VI of the rules and obtained receipt from the State Bar Council;

13. Added by Resolutions No. 190/2014, dated 29-10-2014 (w.e.f. 30-10-2014).

13a. Sub-Cls. (h) and (i) came into force w.e.f. August, 1997 *vide* Resolution No. 10/97.

(i) he has incurred any disqualification mentioned in the Act or the rules made thereunder;]

<sup>13b</sup>[(j) his name has been included in the list of non-practicing advocates published under Rule 20.4 of the Bar Council of India Certificate of Practice and Renewal Rules, 2014.

*Explanation.*—These amendments shall be applicable only in the cases where the Bar Council of India Certificate of Practice and Renewal Rules, 2014 apply.]

*Explanation.*—If an Advocate who has incurred any disqualification as referred to in rule 2 and does not furnish details about it as required in the notice under rule 4 of these rules within the time specified, shall be deemed to have committed an act of other misconduct as referred to in section 35(1) of the Act.

3. Subject to the provisions of rule 2, the name of every Advocate entered in the State Roll shall be entered in the Electoral Roll of the State Council.

4. (1) In preparing the Electoral Roll, unless the State Bar Council concerned is already maintaining a list of Advocates who are entitled to be voters in terms of rule 2 of these rules, at least 150 days before the date of election, shall publish notice issued by the Secretary of the State Bar Council concerned in prescribed form in the Official Gazette and in two or more local newspapers, one in English and the other in a local language, as may be decided by the State Bar Council, asking each of the Advocates on the Roll of the concerned State Bar Council to intimate the State Bar Council within the time to be specified in the said notice or within such extended time as may be given/allowed by the State Bar Council for reasons to be recorded, as to whether he has incurred any disqualification mentioned in rule 2 of these rules and quote rule 2 of these rules in said notice.

(2) A preliminary Electoral Roll containing the names of all Advocates whose names are required to be included under these rules shall be put up on the notice board of the State Council within 120 clear days before the expiry of the term of the members of the said State Council necessitating the election (and relevant portion thereof shall be sent to such Bar Associations as the Secretary considers fit):

Provided that the Bar Councils whose term of the office already expired or shall expire within 120 days from the date of commencement of these rules shall, as far as possible, publish the Electoral Roll forthwith and fix the elections for a date after not less than 120 clear days from the date of publication of the Electoral Rolls.

(3) Before final publication of the Electoral Roll, a State Bar Council may, if satisfied, on an application made by any particular Advocate giving sufficient reasons, allow his name to be included in the Electoral Roll in question, and on such inclusion the Advocate concerned shall be entitled to take part in the election.

5. The final Electoral Roll shall be prepared after incorporating such changes as may be necessary including the addition of the names of Advocates enrolled after the preparation of the preliminary roll and put up on the notice board of the State Council not more than 75 clear days and not less than 60 clear days before the date of election. (Intimation of such publication shall be given within a week after the publication to the Bar Association aforesaid).

#### **Revision of Electoral Roll**

6. If for any reason the election to the State Council is postponed beyond the date of expiry of the term of its members, the preliminary or the final Electoral Roll shall be revised so as to include therein the names of Advocates enrolled up to 75 clear days before the date of the election.

**Particulars to be maintained in the Electoral Roll**

7. The Electoral Roll of the State Council shall, *inter alia*, contain the following particulars:—

- (i) serial number,
- (ii) number on the State Roll,
- (iii) name of Advocates as on the roll, and
- (iv) address of the Advocates.

**Disqualification for being a candidate in the Election**

8. The nomination of any person who at the date of scrutiny thereof is subject to any of the disqualifications referred to in rule 2, shall be rejected.

**Application of these rules:**

9. These rules shall govern elections of all State Bar Councils to be held after these rules are enforced, and all State Bar Councils holding the elections of their members shall prepare their Electoral Rolls in terms of these rules.

10. An elected member of the State Council shall be deemed to have vacated his office—

(a) if he is suspended from practice, or his name is removed from the roll by an order of a competent authority, or for any reason whatsoever he ceases to be an Advocate,

(b) if he is adjudicated as an insolvent, or

(c) if his name is transferred to the roll of another State Council.

<sup>14</sup>[11. No election shall be called in question for any non-compliance of the provisions of the Act or of any rules made thereunder unless the results of the election in so far as it concerns a returned candidate or candidates have been materially affected.]

**Form of Notice under rule 4**

It is hereby notified that for the purpose of preparing Final Electoral Roll in accordance with rules 2 and 3 of Chapter I, Part III of the rules framed by the Bar Council of India under sections 3(4), 10-B, 15(2)(a), 49(1)(a) and (ab) of the Advocates Act, 1961, for the next election of members to this Council, the particulars as to any of the disqualifications as referred to in clauses (a) to (g) of rule 2 shall be furnished by an Advocate who has incurred them to the State Council within the time specified in the notice issued under rule 4. (Herein below to reproduce rule 2 with *Explanation*).

Dated the .....

.....  
SECRETARY

Number on the State Roll:

1. Name of the Advocate as on the Roll:

(in block letters)

14. Added w.e.f. 2-5-1981.

2. (a) Address of the Advocate:

(as on the State Roll)

(b) Present address:

3. Have you incurred any of the disqualifications mentioned in rule 2 of Chapter I, Part III of the Rules of the Bar Council of India?

4. Are you a member of any Bar Association?

(if so, give the name)

5. Where do you intend to cast your vote?

(if you are not a voter entitled to vote by postal ballot)

I hereby declare and affirm that the foregoing statements are true to my knowledge and I have not concealed anything thereto.

Date.....

.....  
Signature in full.

*Note.*—These rules have come into effect from 1st January, 1991.

## CHAPTER II

### RULES TO SECURE AT LEAST A MINIMUM NUMBER OF ADVOCATES OF 10 YEARS' STANDING

*[Rules under section 3(2)(b) and proviso, sections 3(5) and 49(1)(ac) of the Act]*

1. (a) These rules shall apply to the election of members of all the State Councils in India.

(b) In the case of any repugnancy between these rules and any rule or rules of any of the State Councils, these rules shall prevail and the rules framed by the State Councils shall be void to the extent of such repugnancy.

2. The elections of members of the State Councils shall be in conformity with the proviso to section 3(2) of the Act and these rules.

3. There shall be no limit to the number of candidates on the State Rolls for at least 10 years that could be declared elected under these rules.

4. In the case of an election by a State Council for electing all the members specified in section 3(2)(b) of the Act, the following procedure shall be adopted in the counting of votes:—

#### **Election of candidates with quota**

(A) If, at the end of any count, or at the end of the transfer of any parcel or sub-parcel of an excluded candidate the value of the voting papers credited to a candidate is equal to or greater than the quota, then, he shall be declared elected:

Provided that—

(i) No candidate whose name has not been on the State Roll for at least 10 years shall be elected under section 3(2)(b) and the proviso thereto of the Act—

(a) if 7 candidates of less than 10 years' standing in the case of a State Council where 15 members are to be elected, have been declared elected; or

(b) if 10 candidates of less than 10 years' standing in the case of a State Council where 20 members are to be elected, have been declared elected; or

(c) if 12 candidates of less than 10 years' standing in the case of a State Council where 25 members are to be elected, have been declared elected.

(ii) If at the end of any count, there are two or more candidates, who have not been on the State Rolls for at least 10 years, getting more than the quota as aforesaid, but the number of candidates that can yet be elected from such category under the proviso to section 3(2)(b) is less than that number, the candidate who has obtained the greater value of votes shall be declared elected in preference to the candidate whose value of votes is less.

(iii) In the case of two or more persons of the category referred to in proviso (ii) above, getting the same value of votes at the end of any count, the Secretary or other Returning Officer conducting the election shall decide by lot which of such persons shall be declared elected.

(iv) The other candidate or candidates not declared elected as aforesaid by reason of the proviso to section 3(2)(b) of the Act and these rules shall be excluded from the poll as provided in rule 4(b) of these rules.

**Exclusion of candidates lowest on poll or who have been on rolls for less than 10 years**

(B)(1) The Secretary or Returning Officer conducting the election shall exclude from the poll—

(i) when there are two or more candidates who have obtained more than the quota the candidate who cannot be declared elected under proviso (i) to rule 4(a) of these rules;

(ii) the candidates lowest in the poll in the following order, after all the surpluses have been transferred as provided in the rules of the State Council with regard to transfer of surplus and the number of candidates elected is less than the required number and after the exclusion from the poll, if any, under sub-clauses (i) of this sub-rule.

First such candidates whose names are on the State Roll for less than 10 years, if the number of such candidates declared elected as provided for in these rules—

(a) 7 in the case of a State Council where in all 15 members have to be elected; or

(b) 10 in the case of a State Council where in all 20 members have to be elected; or

(c) 12 in the case of a State Council where in all 25 members have to be elected;

**Next the other candidates**

*Illustration No. 1.*—At an election to a State Council where under the Act and these rules, the total number of elected members is 20,300 is arrived at as the quota. At the end of a count, when there is no further surplus to be distributed, M and N are the contesting candidates.

M whose name has not been on the State Rolls for at least 10 years gets 150, and

N whose name has been on the State Rolls for more than 10 years gets 100.

Only 9 candidates whose names have been on State Rolls for at least 10 years have already been declared elected. Hence, M has to be excluded and the voting papers of M will be thereafter transferred as provided in these rules.

If in the same case, 10 candidates whose names have been on a State Roll for not less than 10 years had already been declared elected, *N* will be excluded. The voting papers of *N* will be transferred as provided in these rules.

*Illustration No. 2.*—At an election to a State Council where under the Act and these rules, the total number of elected members is 15,300 is arrived at as the quota. At the end of a count, when there is no further surplus to be distributed, *M* and *N* are the contesting candidates.

*M* whose name has not been on the State Rolls for at least 10 years gets 100.

*N* whose name has been on the State Rolls for more than 10 years gets 100.

Only 7 candidates whose names have been on a State Roll for at least 10 years have already been declared elected. Hence, *M* has to be excluded and the voting papers of *M* will be thereafter transferred as provided in these rules.

If in the same case, 8 candidates whose names have been on a State Roll for not less than 10 years had already been declared elected, *N* will be excluded. The voting papers of *N* will be transferred as provided in these rules.

*Illustration No. 3.*—At an election to a State Council where under the Act and these rules, the total number of elected members is 25,300 is arrived at as the quota. At the end of a count, when there is no further surplus to be distributed, *M* and *N* are the contesting candidates.

*M* whose name has not been on the State Rolls for at least 10 years gets 150, and

*N* whose name has been on the State Rolls for more than 10 years gets 100.

Only 12 candidates whose names have been on a State Roll for at least 10 years have already been declared elected. Hence, *M* has to be excluded and the voting papers of *M* will be thereafter transferred as provided in these rules.

If in the same case, 13 candidates whose names have been on a State Roll for not less than 10 years had already been declared elected, *N* will be excluded. The voting papers of *N* will be transferred as provided in these rules.

(2) (i) The Secretary or other Returning Officer shall distribute the unexhausted papers of the candidates excluded under these rules among the continuing candidates according to the next preference recorded therein and all exhausted papers shall be set apart as finally dealt with.

(ii) The papers containing original votes of an excluded candidate shall first be transferred, the transfer value of each paper being one hundred.

(iii) The papers containing votes of an excluded candidate shall then be transferred in the order of the transfers in which and at the value at which he obtained them.

(iv) Each of such transfers shall be deemed to be a separate transfer, but not a separate count.

(v) If, as a result of the transfer of papers, the value of the votes obtained by a candidate is equal to or greater than the quota, the counting then proceeding shall be completed, but no further papers shall be transferred to him.

(vi) The process directed by this rule shall be repeated on the successive exclusion one after another of the candidates lowest on the poll until such seat is filled either by the election of a candidate with the quota or as otherwise provided in these rules.

(vii) If at any time it becomes necessary to exclude a candidate and two or more candidates have the same value of votes and are the lowest on the poll, regard shall be had to the original votes of each candidate and the candidate for whom fewest original votes are recorded, and if the values of their original votes are equal, the candidate with the smallest value at the earlier count at which these candidates had unequal votes shall be excluded.

(viii) If two or more candidates are lowest on the poll and each has the same value of votes at all counts, the Returning Officer shall decide by lot which candidate shall be excluded.

(ix) If during a count, any candidate getting the quota or more has to be excluded by reason of rule 4(a) above, the transfer of his votes shall be deferred and made immediately after the other candidate having got the above quota in that count are declared, and their votes transferred as provided for in these rules.

#### **Filling last vacancies**

(C) (1) When at the end of any count the number of the continuing candidates is reduced to the number of seats remaining unfilled, the continuing candidate shall be declared elected subject to the following:—

If the total number of candidates so far declared elected from amongst the Advocates whose names have been on the State Roll for at least 10 years at the relevant date is less than—

(i) 8 in the case of a State Council where 15 members are to be elected, or

(ii) 10 in the case of a State Council where 20 members are to be elected, or

(iii) 13 in the case of the State Council where 25 members are to be elected,

then, the requisite number of candidates of such standing shall first be declared elected and only the balance from amongst other candidates shall be declared elected.

(2) When at the end of any count only one seat remains unfilled and the value of the papers of some one candidate exceeds the total value of the papers of all the other continuing candidates together with any surplus not transferred, that candidate shall be declared elected. Such candidate shall not, however, be declared elected if he has been on the State Roll for less than 10 years and if the total number of candidates so far declared from amongst Advocates on the State Roll for at least 10 years as provided in these rules is less than 8 or 10 or 13 as aforesaid, as the case may be.

(3) When at the end of any count only one seat remains unfilled and there are only 2 continuing candidates, and each of them has the same value of votes and no surplus papers can be transferred, the Returning Officer shall decide by lot which of them shall be excluded, and, after excluding him in the manner aforesaid, declare the other candidate to be elected:

Provided that if the total number of candidates who have been on the State Roll for at least 10 years on the relevant date so far elected is less than the required number, then that candidate who will be on that State Roll for at least 10 years shall be declared elected and the other candidate shall be excluded.

### **Filling up vacancies or co-option**

(4) In the case of any election to fill vacancy amongst the members of the State Council, or while co-opting a member, the State Council shall conform to the requirement of section 3(2)(b) of the Act, and the principles laid down in these rules.

### **Particulars regarding seats to be filled**

(5) In the case of every election of members of a State Council, the State Council shall—

(a) notify the minimum number of seats that should be filled up from amongst Advocates who, on the relevant date, will be Advocates on a State Roll for at least 10 years;

(b) require every candidate to specify in his nomination paper the date of his enrolment and the period for which his name had been on the roll of one or more High Courts under the Indian Bar Councils Act, 1926, and the roll or rolls of State Councils under the Advocates Act, 1961 with full particulars thereof;

(c) indicate on the voting paper which of the candidates have been on a State Roll for at least 10 years as required:

Provided that this rule shall not be applicable to any election held by any State Council before these rules have come into force.

### **Computation of period**

(6) For the purpose of computing the minimum period of 10 years provided for in the proviso to section 3(2)(b) of the Act, and these rules:—

(i) the period during which an Advocate may have been on the roll of any other State Council or Councils or the roll of any High Court or High Courts under the Indian Bar Councils Act, 1926, shall be taken into account, and

(ii) the period shall be computed as on the last date notified for receiving the nominations for the election.

## <sup>15</sup>[PART IV

### **RULES OF LEGAL EDUCATION**

*Rules on standards of legal education and recognition of degrees in law for the purpose of enrolment as advocate and inspection of Universities for recognizing its degree in law under sections 7(1)(h) and (i), 24(1)(c)(iii) and (iiia), 49(1)(af), (ag) and (d) of the Advocates Act, 1961 made by the Bar Council of India in consultation with Universities and State Bar Councils.*

#### **CHAPTER I**

#### **PRELIMINARIES AND DEFINITIONS**

**1. Title and commencement.**—(a) These rules including the Schedules may be known as rules of Legal Education, 2008

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15. Substituted by Resolution No. 110/2008, dated 14-9-2008.

(b) These rules shall come into force in whole of India as soon as notified.

(c) These rules shall replace all previous rules, Directives, notifications and resolutions relating to matters covered under these rules.

**2. Definitions.**—(i) “Act” means the Advocates Act, 1961.

(ii) “Approved” means approved by the Bar Council of India.

(iii) “Bar Council of India or Council or BCI” shall mean Bar Council of India constituted under the Act.

(iv) “Centres of Legal Education” means—

(a) All approved Departments of Law of Universities, Colleges of Law, Constituent Colleges under recognised Universities and affiliated Colleges or Schools of law of recognised Universities so approved:

Provided that a Department or College or Institution conducting correspondence courses through distance education shall not be included.

(b) National Law Universities constituted and established by statutes of the Union or States and mandated to start and run Law courses.

(v) “Compulsory subjects” means and include subjects prescribed by the Bar Council of India as such.

(vi) “Bachelor degree in law” means and includes a degree in law conferred by the University recognised by the Bar Council of India for the purpose of the Act and includes a bachelor degree in law after any bachelor degree in science, arts, commerce, engineering, medicine, or any other discipline of a University for a period of study not less than three years or an integrated bachelor degree combining the course of a first bachelor degree in any subject and also the law running together in concert and compression for not less than a period of five years after 10+2 or 11+1 courses as the case may be.

(vii) “Enrolment” means enrolment on the Rolls of the Advocates maintained by the State Bar Councils as per the procedure laid down for the purpose by State Bar Councils/BCI as per Advocates Act, 1961.

(viii) “First Degree” means Bachelor Degree in any branch of knowledge such as Arts, Fine Arts, Science, Commerce, Management, Medicine, Engineering, Pharmacy, Technology, etc., conferred by Universities or any other qualifications awarded by an institution/authority recognised by the Bar Council of India, from time to time.

(ix) “Foreign citizen or Foreigner” used in these rules means a natural person having citizenship and /or resident of any other country.

(x) “Foreign University” means and includes any University not constituted under any Act of Parliament of India or any State Legislature in India and which is incorporated outside India under the law of that country and function as University for organising, running and managing courses of study and confer degree on successful completion of the course.

(xi) “Indian or Indian national” used in these rules means a natural person having citizenship of India and includes Non-Resident Indian or Person of Indian Origin enjoying double citizenship in India.

(xii) “Inspection of the University” means inspection by the Bar Council of India for recognising its degree in law for the purpose of enrolment in the rolls of advocates and includes—

(A) calling for all relevant records, documents, and correspondence to evaluate the competence of the University to run professional courses,

(B) visiting places of the Centres of Legal Education including building housing classes, library of the Institution, halls of residence and all other places as may be required by the inspection team inspecting the University and its affiliated Centres of Legal Education where the courses of degrees in law are conducted or proposed to be conducted.

Provided that as and when the Bar Council India communicates to the University for the purpose of inspection, the University shall also direct the concerned officer in charge of Inspection of Centre of Legal Education to instruct all persons concerned for facilitating the Inspection by the inspection team of the Bar Council of India.

(xiii) "Integrated Degree course in law" means double degree course comprising the bachelor degree in any branch of knowledge prosecuted simultaneously with the Degree course in law in such an integrated manner as may be designed by the University concerned for a continuous period of not less than five years.

(xiv) "Lateral Entry" is an admission given to graduate applicants at the beginning of third year in an integrated Five Year Course.

(xv) "Lateral Exit" means opting out at the end of three year after successfully completing the courses up to the third year, from an Integrated Five year course on being awarded a Bachelor degree.

(xvi) "Legal Education Committee or LEC" means the Legal Education Committee constituted by the Bar Council of India under the Act, composed of five members of the Bar Council of India nominated by the Bar Council of India and five co-opted members comprising the Chairman who has to be a former Judge of the Supreme Court of India, a sitting Hon'ble Chief Justice of a High Court, distinguished Professor of Law, the Law Secretary and the UGC Chairman. The Committee may also have some permanent invitees proposed by the Bar Council of India.

(xvii) "Master degree" means a degree, which is undertaken after the graduate degree in any discipline obtained from any University.

(xviii) "National Assessment and Accreditation Council" is the body constituted as an autonomous body for conducting accreditation of Universities and Centre of Legal Education, by the University Grants Commission.

(xix) "Notify and Notification" means notifying in the website of the Bar Council of India.

(xx) "Practice of law" means and includes—

(a) practising before the Court, Tribunal, Authority, Regulator, Administrative Body or Officer and any Quasi Judicial and Administrative Body,

(b) giving legal advice either individually or from a law firm either orally or in writing,

(c) giving legal advice to any Government, international body or representing any international dispute resolution bodies including International Court of Justice,

(d) engaged in Legal Drafting and participating in any Legal Proceedings, and

(e) representing in Arbitration Proceedings or any other ADR approved by law.

(xxi) "Prescribed" means prescribed under these rules.

(xxii) "Recognised University" means a University whose degree in law is recognised by the Bar Council of India under these rules.

(xxiii) "Regular Course of Study" means and includes a course which runs for at least five hours a day continuously with an additional half an hour recess every day and running not less than thirty hours of working schedule per week.

(xxiv) "Regular Approval" means approval for not more than five years and includes permanent approval earlier granted to any Centre of Legal Education before these rules come into force.

(xxv) "Rules" means on "Rules of Legal Education".

(xxvi) "Second degree" means a course of study leading to degree, which can be prosecuted only after obtaining a bachelor degree.

(xxvii) "Secretary" means Secretary of the Bar Council of India.

(xxviii) "Temporary approval" means approval for not more than a period of three years.

(xxix) "Sponsors" means and includes a natural or artificial person, University, a body of persons incorporated or otherwise, a public trust, or society registered under the Union or any State Act for the purpose of sponsoring, establishing, organising, managing and running any Centre of Legal Education.

(xxx) "State Bar Council" means the State Bar Council constituted in the State under the Act.

(xxxi) "Unitary Degree course in law" means three years degree course in law prosecuted by a student after completing a bachelor degree course in any discipline.

(xxxii) "University" means as defined under the University Grants Commission Act, 1956 including National Law Universities and other Universities established by Acts of Central or State and also institutions declared as Deemed to be University under section 3 of the University Grants Commission Act.

## CHAPTER II

### STANDARDS OF PROFESSIONAL LEGAL EDUCATION

**3. Recognised Universities.**—The State Bar Council shall enroll as Advocate only such candidates, who have passed from University, approved affiliated Centre of Legal Education/Departments of the recognised University as approved by the Bar Council of India. The Bar Council of India shall notify a list of such Universities and the Centres of Legal Education prior to the commencement of each academic year in the prescribed manner and also put in website of Bar Council of India a list of Universities and Centres of Legal Education as amended from time to time. Each State Bar Council shall ensure that applicants passing out from such a recognised Universities and of its approved affiliated law Centre of Legal Education are enrolled.

**4. Law courses.**—There shall be two courses of law leading to Bachelors Degree in Law as hereunder,—

(a) A three year degree course in law undertaken after obtaining a Bachelors' Degree in any discipline of studies from a University or any other qualification considered equivalent by the Bar Council of India:

Provided that admission to such a course of study for a degree in law is obtained from a University whose degree in law is recognised by the Bar Council of India for the purpose of enrolment.

(b) A double degree integrated course combining Bachelors' Degree course as designed by the University concerned in any discipline of study together with the Bachelors' degree course in law, which shall be of not less than five years' duration leading to the integrated degree in the respective discipline of knowledge and Law together.

Provided that such an integrated degree program in law of the University is recognised by the Bar Council of India for the purpose of enrolment.

Provided further that in the case of integrated double degree course the entire double degree course can be completed in one year less than the total time for regularly completing the two courses one after the other in regular and immediate succession, meaning thereby, that if the degree course in the basic discipline, such as in Arts, Science, Social Science, Commerce, Management, Fine Arts, Engineering, Technology or medicine, etc., is of three years' duration of studies, integrated course in law with the basic degree in the discipline could be completed in five years' time but where the degree course in basic discipline takes four or five years, the integrated degree in law with such degree course in the discipline would take one year less for completing in regular time than the total time taken for the two degrees taken separately if completed back to back.

*Explanation 1.*—Double degree integrated course such as B.A., LL.B. can be completed within (3+3 -1) i.e. 5 years. But if one intends to do B.Tech., LL.B. it can be done in (4+3-1) i.e., 6 years.

*Explanation 2.*—Suppose in a University one can have a two years' graduation in any social science leading to B.A. degree, in that case also the composite double degree integrated course leading to B.A., LL.B. would be of five years duration because double degree integrated course cannot be of less than five years' duration.

**5. Eligibility for admission.**—(a) Three Year Law Degree Course: An applicant who has graduated in any discipline of knowledge from a University established by an Act of Parliament or by a State Legislature or an equivalent national institution recognised as a Deemed to be University or foreign University recognised as equivalent to the status of an Indian University by an authority competent to declare equivalence, may apply for a three years' degree program in law leading to conferment of LL.B. degree on successful completion of the regular program conducted by a University whose degree in law is recognised by the Bar Council of India for the purpose of enrolment.

(b) Integrated Degree Program: An applicant who has successfully completed Senior Secondary School course ('+2') or equivalent (such as 11+1, 'A' level in Senior School Leaving certificate course) from a recognised University of India or outside or from a Senior Secondary Board or equivalent, constituted or recognised by the Union or by a State Government or from any

equivalent institution from a foreign country recognised by the Government of that country for the purpose of issue of qualifying certificate on successful completion of the course, may apply for and be admitted into the program of the Centres of Legal Education to obtain the integrated degree in law with a degree in any other subject as the first degree from the University whose such a degree in law is recognised by the Bar Council of India for the purpose of enrolment.

Provided that applicants who have obtained + 2 Higher Secondary Pass Certificate or First Degree Certificate after prosecuting studies in distance or correspondence method shall also be considered as eligible for admission in the Integrated Five Years course or three years' LL.B. course, as the case may be.

*Explanation.*—The applicants who have obtained 10 + 2 or graduation / post graduation through open Universities system directly without having any basic qualification for prosecuting such studies are not eligible for admission in the law courses.

**6. Prohibition to register for two regular courses of study.**—No student shall be allowed to simultaneously register for a law degree program with any other graduate or postgraduate or certificate course run by the same or any other University or an Institute for academic or professional learning excepting in the integrated degree program of the same institution.

Provided that any short period part time certificate course on language, computer science or computer application of an Institute or any course run by a Centre for Distance Learning of a University however, shall be excepted.

**7. Minimum marks in qualifying examination for admission.**—Bar Council of India may from time to time, stipulate the minimum percentage of marks not below 45% of the total marks in case of general category applicants and 40% of the total marks in case of SC and ST applicants, to be obtained for the qualifying examination, such as +2 Examination in case of Integrated Five Years' course or Degree course in any discipline for Three years' LL.B. course, for the purpose of applying for and getting admitted into a Law Degree Program of any recognised University in either of the streams.

Provided that such a minimum qualifying marks shall not automatically entitle a person to get admission into an institution but only shall entitle the person concerned to fulfil other institutional criteria notified by the institution concerned or by the Government concerned from time to time to apply for admission.

**8. Standard of courses.**—Whereas all Universities and its constituent and affiliated Centres of Legal Education conducting either the three year law degree program or the integrated double degree program for not less than five years of study or both would follow the outline of the minimum number of law courses both theoretical and practical, compulsory and optional, as the case may be, prescribed by the Bar Council of India and specified in the Schedule II and ensuring that:—

(a) the minimum number of law courses are effectively conducted in the Centres of Legal Education with adequate infrastructural facilities as may be prescribed and in the manner stipulated by the University Regulations and Rules and that of the Bar Council of India Rules,

(b) the minimum standard of first degree course as designed and run by the University for the purpose of running integrated course in accordance with the standard prescribed by the University in view of the academic and other standards laid down, if any, taking into consideration by the standard-setting institutions like University Grants Commission or All India Council for Technical Education or any such body, as the case may be, and the program is effectively run with adequate number of faculty in respective subjects, with infrastructural facilities as may be prescribed by the University as well as the Bar Council of India, and

(c) there is a regular and proper evaluation system for the purpose of certification of the students graduating in law after completing the course as a regular student:

Provided that the University for the said purpose shall submit to the Bar Council of India, copies of the curriculum designed and developed in each course of study, rules of academic discipline and of examination and evaluation and also the amendments to those as and when so amended.

**9. Process and manner of running integrated course.**—The University concerned shall ensure that—

(a) Faculties for running the entire course shall design the purpose, manner and the process of running the integrated courses semester-wise with clear objective criteria of integration.

(b) There are all infrastructural facilities available for the courses, such as faculty for teaching the subjects concerned, laboratories needed, and other class room fixtures and fittings including the computer support.

(c) The double degree courses may be planned by the University in order to suitably integrate the program meaningfully.

(d) The University shall cause documentary evidences and records of the above requirements in (a), (b) and (c) to be submitted to the Bar Council of India, whose inspection committee would review the program from time to time and provide suggestions to the University concerned, if any.

**10. Semester system.**—The course leading to either degree in law, unitary or on integrated double degree, shall be conducted in semester system in not less than 15 weeks for unitary degree course or not less than 18 weeks in double degree integrated course with not less than 30 class-hours per week including tutorials, moot room exercise and seminars provided there shall be at least 24 lecture hours per week.

Provided further that in case of specialised and/or honours law courses there shall be not less than 36 class-hours per week including seminar, Moot Court and tutorial classes and 30 minimum lecture hours per week.

Provided further that Universities are free to adopt trimester system with appropriate division of courses per trimester with each of the trimester not less than 12 weeks.

**11. Minimum infrastructure.**—Any institution conducting legal education by running either of the law degree courses or both leading to conferment of graduate degree in law on successful completion of the course shall have minimum standard infrastructure facility stipulated by the Bar Council of India specified in Schedule III of these rules.

The University shall ensure that all its Centres of Legal Education under the University maintain the standard infrastructure and other facilities for the students to suitably impart professional legal studies.

**12. End Semester Test.**—No student of any of the degree program shall be allowed to take the end semester test in a subject if the student concerned has not attended minimum of 70% of the classes held in the subject concerned as also the Moot Court room exercises, tutorials and practical training conducted in the subject taken together.

Provided that if a student for any exceptional reasons fail to attend 70% of the classes held in any subject, the Dean of the University or the Principal of the Centre of Legal Education, as the case may be, may allow the student to take the test if the student concerned attended at least 65% of the classes held in the subject concerned and attended 70% of classes in all the subjects taken together. The similar power shall rest with the Vice Chancellor or Director of a National Law University, or his authorised representative in the absence of the Dean of Law.

Provided further that a list of such students allowed to take the test with reasons recorded be forwarded to the Bar Council of India.

**13. Prohibition against lateral entry and exit.**—There shall be no lateral entry on the plea of graduation in any subject or exit by way of awarding a degree splitting the integrated double degree course, at any intermediary stage of integrated double degree course.

However, a University may permit any person to audit any subject or number of subjects by attending classes regularly and taking the test for obtaining a Certificate of participation from the University/ Faculty according to the rules prescribed by the University from time to time and give a Certificate therefore.

### CHAPTER III

#### INSPECTION, RECOGNITION AND ACCREDITATION

**14. Centres for Legal Education not to impart education without approval of Bar Council of India.**—(1) No Centres of Legal Education shall admit any student and impart instruction in a course of study in law for enrolment as an advocate unless the recognition of the degree of the University or the affiliation of the Centres of Legal Education, as the case may be, has been approved by the Bar Council of India after inspection of the University or Centres of Legal Education institution concerned as the case may be.

(2) An existing Centre of Legal Education shall not be competent to impart instruction in a course of study in law for enrolment as an advocate if the continuance of its affiliation is disapproved or revoked by the Bar Council of India.

(3) Bar Council of India may suspend a Centre of Legal Education for such violation for a period of not more than two academic years which shall be notified.

**15. Annual Notification for application to be filed by newly proposed institutions.**—(a) At the direction of the Legal Education Committee, the Secretary shall notify each year prescribing the last date for submission of new application for proposing new law courses in a University or a new affiliated Centre of Legal Education under an existing recognised University but not

later than December 31 of the previous academic year to which the new proposal is applied for. No application received after that date can be considered for the academic year under notification but can be considered for the subsequent year.

(b) On receipt of each application the Secretary shall submit his note after ascertaining all relevant facts to the Chairman of the Bar Council of India who may then instruct to refer the application to the inspection committee for inspection and report. After receiving the report from the Inspection Committee, the Secretary shall place the file before the Legal Education Committee for its recommendation to the Bar Council of India for approval of the affiliated Centres of Legal Education or recognition of the degree in law of the University as the case may be.

(c) The Legal Education Committee may call for additional information from the applicants as the Legal Education Committee may deem necessary.

**16. Conditions for a University to affiliate a Centre of Legal Education.—**

(1) When a University receives an application for affiliation of a Centre of Legal Education to provide legal education by running professional degree program in law under either or both the streams, the University may before deciding whether it is fit case for seeking inspection from the Bar Council of India, shall ensure that—

(i) the applicant organisation proposing to run the institution is either already a non-profit organisation of trust or registered society or a non-profit company or any other such legal entity or has taken all legal formalities to be as such,

(ii) the institution has in its name either in freehold or leasehold, adequate land and buildings, to provide for Centre of Legal Education building, library, halls of residences separately for male and female and sports complex both indoor and outdoor, so that it can effectively run professional law courses provided that in case of leasehold the lease is not less than ten years:

Provided that sufficient and adequate floor space area specially and completely devoted for a Centre of Legal Education, based on the size of its student population, faculty requirement, adequate space required for infrastructure facilities can be considered sufficient accommodation for the purpose in a multi-faculty building on land possessed by the Management of a Society/Trust running multi-faculty institutions,

(iii) recruited or taken steps to recruit adequate number of full time and visiting faculty members to teach each subjects of studies, each faculty having at least a Master Degree in the respective subject as required under the UGC Rules,

(iv) there is the separate Centres of Legal Education for the study of law under a separate Principal who should be qualified in Law to be a Professor of Law as stipulated under UGC and Bar Council of India Rules,

(v) there is adequate space for reading in the library and there are required number of books and journals and adequate number of computers and computer terminals under a qualified librarian,

(vi) if the prior permission of the State Government is necessary, a no objection certificate is obtained to apply for affiliation,

(vii) a minimum Capital Fund as may be required under Schedule III from time to time by the Bar Council of India, and put into a Bank Account in the name of the proposed Centre of Legal Education sponsored by any private sponsor or sponsors, and

(viii) all other conditions of affiliation under the University rules as well as the Bar Council of India Rules are complied with.

(2) After affiliation order is received from the University the Centres of Legal Education may only then apply for inspection by the Bar Council of India.

**17. When can University apply for inspection for constituent College or University Department or Faculty.**—When a University proposes to run a professional degree course in law of either or both streams in its Faculty or Department or in any of its constituent College it shall ensure the minimum standards of requirement as prescribed and then shall in each proposal seek inspection by the team of inspection of the Bar Council of India by submission of application with all necessary information within the stipulated date notified by the Bar Council of India every year, in appropriate Form.

**18. Inspection of a University.**—(1) A University seeking recognition of its degree in law for the purpose of enrolment in the Bar, shall provide the inspecting committee of the Bar Council of India all necessary facilities to examine the syllabus of the course designed, teaching and learning process, evaluation system, infrastructure layout and other necessary conditions in general and shall ensure in particular that all University Departmental Centres, Faculty, Constituent and affiliated Centres of Legal Education proposing to offer law courses under either or both the streams, possess:

(i) Required infrastructural facilities outlined under the Bar Council of India Rules;

(ii) Required number of teaching faculties as prescribed by the Bar Council of India and the University Grants Commission;

(iii) Facilities for imparting practical legal education specified in the curriculum under the Rules and Legal Aid Clinic, Court Training and Moot Court exercises;

(iv) Adequate library, computer and technical facilities including on-line library facility and

(v) In case of a Centre of Legal Education sponsored by private initiative of a person there is a Capital Fund as required in the Schedule III by the Bar Council of India from time to time, deposited in the Bank Account in the name of the Centre of Legal Education concerned.

(2) For the above purpose the Inspection Committee of the Bar Council of India shall have power to call for and examine all relevant documents, enquire into all necessary information and physically visit and enquire at the location of the Department, Faculty, Constituent and affiliated Centres of Legal Education as the case may be:

Provided that an application for a new proposal for affiliation and the related University inspection therefore by the Inspection Committee of the Bar Council of India, including the local enquiry at the site of the proposed College may be formally made directly by the authority of the proposed College (Faculty, University Department, Constituent or Centres of Legal Education as

the case may be) in proper Form with required information and requisite fees provided that an advance copy of the application must be submitted to the University concerned, within the stipulated date as notified by the Bar Council of India.

**19. Types of Inspection.**—Inspection shall mean inspection by the Inspection Committee of the Bar Council of India as any one of the following:—

(i) *Initial inspection:* Initial inspection shall mean inspection of the University and inspection of the Bar Council of India for permitting a new Centre of Legal Education:

Provided that if a Law University is established by an Act passed by the Central or any State Legislature to run Law courses as specified and mandated in the statute, such a University may commence and run courses in the stipulated streams before any Initial Inspection. However such a University would require regular inspection and the first inspection shall be conducted within the first year of commencement of the courses.

(ii) *Regular inspection:* Regular Inspection means an inspection of a University including all or any of its affiliated Centre of Legal Education by the Bar Council of India conducted after the initial inspection at the end of temporary approval, excepting a Law University established by a Central or State Act, for granting a regular approval and thereafter at least once in every five years unless the University/Centre of Legal Education concerned has sought/inspected for accreditation.

(iii) *Surprise inspection:* Surprise inspection means inspection conducted by University/Bar Council of India anytime without giving notice to the Centre of Legal Education.

(iv) *Inspection for accreditation:* Inspection applied for by a Centre of Legal Education possessing approval for the purpose of accreditation and certification.

**20. Inspection and Monitoring Committee.**—The Bar Council of India shall constitute one or more inspection and monitoring Committee/s comprising at least two members of the Bar Council of India to conduct inspection of newly established or existing Universities.

**21. Inspection fees.**—The Bar Council of India may prescribe inspection fees to be charged from time to time from each institutional applicants for the purpose of conducting inspection.

There may also be fees prescribed for inspection for providing accreditation of an institution. Such fees are provided in the Schedule IV of these rules and may be amended by Bar Council of India from time to time.

**22. Inspection Report.**—The Committee shall inspect the University, examine the documents and reports, visit the institution to assess the infrastructure, curriculum design, teaching and learning process, library and technical facilities and the feasibility of standard clinical education. The Committee shall then submit its report in the prescribed Form together with all relevant documents.

Members of the Committee shall physically inspect of the institution. The report has to be signed by the members of the committee inspecting, appreciating the findings, documentary, and physical, in a meeting of the

committee, provided that the member not physically inspecting the institution may not sign the inspection report but may appreciate the findings and put his/her opinion.

The Secretary shall place the Inspection Report immediately before the meeting of the Legal Education Committee for its decision.

**23. Specific recommendation needed.**—(1) The Inspection committee while recommending approval of affiliation to a new Centre of Legal Education should, *inter alia*, make a specific recommendation as to why such a Centre of Legal Education required at the same place/area where the Centre of Legal Education is proposed to be started keeping in view the total number of existing Centres of Legal Education in the place/area in particular and the State in general.

(2) The inspection committee will also keep in view the approximate population of the area where the Centre of Legal Education is proposed to be started, number of Centre of Legal Education along with the total number of students therein, number of degree colleges as well as junior colleges in the area in particular and the State in general.

**24. Adverse report.**—(a) In case of an adverse report received by the Secretary from the Inspection Committee he shall forthwith inform the Chairman of the Bar Council of India and on his instruction seek further clarification, if necessary.

(b) The Secretary shall cause a copy of the report to be sent to the Registrar of the University concerned and also to the Head of the Institution for further comments and explanations, if any. Such comments and explanations on the report shall be sent by the Registrar of the University within a period of six weeks from the date of the receipt of the communication.

(c) The Secretary shall cause the report and the comments/explanation of Registrar of the University and the head of the institution concerned to be placed before the next meeting of the Legal Education Committee of the Bar Council of India for its consideration.

**25. Recommendation of the Legal Education Committee.**—The Legal Education Committee after reviewing the report and all other explanation, documents and representation, in person or in writing and in the interest of maintaining the standard of legal education in view under the rules recommend appropriate action to be taken on each such report to the Bar Council of India.

In case of withdrawal or revocation of approval of an institution it shall be effective from the commencement of the next academic year following the date on which the communication is received by the Registrar of the University.

**26. Approval.**—The Bar Council of India on the recommendation of the Legal Education Committee shall instruct the Secretary to send a letter of approval of any one of the following type to the Head of the Institution as well as to the Registrar of the University:—

(a) *Temporary approval:* On the Initial inspection report or Regular Inspection report the Legal Education Committee may recommend a temporary approval for not more than a period of three years to a newly proposed institution in the event the institution has facilities enough to commence the teaching program on such conditions as the Legal Education Committee may prescribe.

(b) *Regular approval*: A regular approval may be recommended for not more than a period of five years when an institution fulfils all standard set norms and has the capability of maintaining such standard continuously. Such regular approval shall entitle such institution to seek accreditation from the Bar Council of India who can do the same either of its own according to rules of accreditation or may cause it done by the National Assessment and Accreditation Council.

**27. Revocation of approval.**—The Bar Council of India may revoke the grant of a temporary or regular approval if the conditions on which the permission was granted are not substantially fulfilled. A regular permission may be cancelled on an adverse report of inspection.

Provided that in case of revocation of a temporary or regular approval, the Centre of Legal Education authority and the respective University shall be provided with an opportunity of hearing and rectifying the shortcomings within such time as the Legal Education Committee may prescribe. In the event of failure to rectify the shortcomings in the opinion of the Legal Education Committee within the stipulated time, the Legal Education Committee shall recommend revocation of approval to the Bar Council of India.

Provided further that in case of revocation or cancellation of approval, as the case may be, proper provisions have to be made for the students who are already enrolled for a law course during the time when the approval was valid either by allowing the Centre to complete the course with those who are already enrolled or direct the University concerned, if such continuance is not in the interest of professional legal education, to make alternative arrangement for those students in near by Centres of Legal Education under the University.

**28. Accreditation system.**—There shall be an accreditation and performance rating system for any institution having regular approval, based on State and/or National level gradation. Such performance grade may be used in all letter head, sign board, literature and publications, including prospectus and franchise materials of the institution.

The accreditation of performance once obtained shall remain valid for a period of five years.

**29. Accreditation Committee.**—The Legal Education Committee shall form an Accreditation Committee with at least one member, Bar Council of India and one academician who shall provide credit rating of the Universities and the law teaching institutions subjecting to this voluntary accreditation, which would also be published and put into the website of the Bar Council of India for public information. The Legal Education Committee determine the norms of accreditation from time to time. The period of Accreditation Committee will be two years.

**30. Application for accreditation.**—An application in hard and soft copy may be made to the Bar Council of India in the specification specified in Schedule IX depositing the fee by a bank draft as prescribed from time to time, in the name of the Bar Council of India within the notified date but not later than 31st July of each year.

**31. Rules for accreditation.**—The Legal Education Committee may determine the norms of accreditation from time to time in addition to or in supplementation of the following:—

(i) The accreditation and certification shall be made either directly by the Accreditation Committee of the Bar Council of India based on the analytical tools of credit rating system as far as adaptable or the Bar Council of India may cause it done through National Assessment and Accreditation Council based on the analysis made by NAAC.

(ii) Once the accreditation is done it shall remain valid for a period of five years from the date the certification is communicated to the institution concerned.

(iii) The performance analysis shall have three components, academic, administration and financial.

(iv) The study for determining performance rate shall be based on previous five years' data, current contents of the program and the future projection made on the basis of data analysis.

(v) The Accreditation Committee shall require complete disclosure of performance records, accounting and financial records and procedures of human and other asset management of the institution.

(vi) In so far as the academic part is concerned the following data would form basis of study:—

(a) faculty student ratio

(b) system of detail curriculum development and teaching practice sessions

(c) number of working days annually

(d) number of working days lost with reasons

(e) qualification of the faculty

(f) class performances of the students and class records

(g) system of clinical program and internship

(h) evaluation system and record keeping student-computer ratio

(i) on line library facility

(j) capital investment of the institution per student

(k) library investment per student

(l) residential facility

(m) outside the class hour of the faculty advice and interaction per student

(n) career counselling opportunities

(o) quality of the body of alumni

(p) publication by faculty and students in journals

(q) laboratory and Moot Court room exercise facilities

(r) per student procurement of books and journals

(s) class room environment

(t) status of Free Legal Aid centre and legal literacy program run by the Centre of Legal Education, and

(u) any other information needed by the committee.

(vii) The financial performance data shall depend upon the previous five years annual accounts, annual reports, annual budget, fund raised, financial

asset management and deployment, future plan, asset structure and any other financial information as may be required.

(viii) The administrative performance would be assessed on the basis on composition of the management body, observance of regulatory rules, administrative staff ratio, working days loss and any other information that may be required for ascertain the management QC.

(ix) The study shall be based on—

(a) records,

(b) visit, inspection and dialogue of the committee with the management, staff, students and the faculty.

(x) The committee may visit the institution after providing notice or without and can visit if required, more than once.

(xi) Data based analysis shall be communicated to the institution before rating begins for further observation and supplementary information, if required.

**32. Obligation of the institution to facilitate free and fair enquiry.**—The institution shall provide all information required and all copies of documents and facilities to the accreditation committee. Facility has to be provided so that the committee may meet management, faculty members, staff and the students and record their comments, if needed.

**33. Anti Ragging Measures.**—Every University/Centre of Legal Education shall take appropriate measures to prevent ragging in any form with a standing Committee appointed for the purpose from among faculty and student representation. In case of occurrence of any incident of ragging the violator shall be dealt with very seriously and appropriate stringent action be taken.

## CHAPTER IV

### DIRECTORATE OF LEGAL EDUCATION

**34. Directorate of Legal Education.**—The Bar Council of India shall establish a Directorate of Education for the purpose of organising, running, conducting, holding, and administering—

(a) Continuing Legal Education,

(b) Teachers training,

(c) Advanced specialised professional courses,

(d) Education program for Indian students seeking registration after obtaining Law Degree from a Foreign University,

(e) Research on professional Legal Education and Standardisation,

(f) Seminar and workshop,

(g) Legal Research,

(h) any other assignment that may be assigned to it by the Legal Education Committee and the Bar Council of India.

**35. Director of Legal Studies.**—(a) The Directorate shall be under the charge of a Director of Legal Studies.

(b) The Director shall be appointed by the Bar Council of India on the advice of the Legal Education Committee from leading senior legal

educationists holding the post of Professor of Law in a University whose degree is recognised, either in service or retired.

**36. Legal Education Officer (LEO).—**(a) The Bar Council of India may appoint one or more LEO on the recommendation of the Director of Legal Education and in consultation with the Chairman of the Legal Education Committee.

(b) The LEO shall be in the whole time service of the Council on such terms and conditions and selected in such manner as may be determined by the Council from time to time.

(c) The LEO shall have the minimum qualification to be appointed as an Associate Professor or Reader in law in any University under UGC Rules.

(d) The LEO shall discharge such functions as may be allotted to him by the Legal Education Committee, Bar Council of India or the Director of Legal Studies.

## CHAPTER V

### RECOGNITION OF DEGREE IN LAW OF A FOREIGN UNIVERSITY

**37. Degree of a Foreign University obtained by an Indian citizen.**—If an Indian national having attained the age of 21 years and obtains a degree in law from a Foreign University such a degree in law can be recognised for the purpose of enrolment on fulfilment of following conditions:—

(i) completed and obtained the degree in law after regularly pursuing the course for a period not less than three years in case the degree in law is obtained after graduation in any branch of knowledge or for a period of not less than five years if admitted into the integrated course after passing +2 stage in the higher secondary examination or its equivalent; and

(ii) the University is recognised by the Bar Council of India and candidate concerned passes the examination conducted by the Bar Council of India in substantive and procedural law subjects, which are specifically needed to practice law in India and prescribed by the Bar Council of India from time to time as given in the Schedule XIV. Provided that those who joined LL.B. course in a recognised Foreign University prior to 21st February, 2005 the date of notification in this regard by the Bar Council of India need not seek for such examination, other aforesaid condition remain same:

Provided the same privilege shall be also extended to Persons of Indian Origin having double citizenship in India.

**38. Enlisting a Foreign University.**—The Bar Council of India on the recommendation of the Legal Education Committee may consider the application of a foreign University to enlist the name of the University in the Schedule V of these rules. The degree in law obtained from which Foreign University by an Indian national shall be considered for the application preferred under rule 37 above.

**39. Recognition of a Foreign University.**—(I) For the purpose of recognition of Degree in Law under rule 37 above, any Foreign University may apply to the Bar Council of India for granting recognition to such University.

(II) Such application shall contain—

(i) History of the University,

- (ii) its Hand book, Brochure, Prospectus containing courses of study,
- (iii) University's standing in the Accreditation list made officially or by any recognised private body, and
- (iv) any other information that the Bar Council of India may prescribe from time to time and subject to inspection by the Bar Council of India of the University, if necessary.

(III) The matter shall be placed before the Legal Education Committee with all details and Legal Education Committee shall recommend to the Bar Council of India.

(IV) Legal Education Committee may make any other enquiry as may be needed to recommend the University whose degree in law shall be recognised for the purpose of application under rule 37.

**40. Standard test for recognition.**—Recognition of Degree in law of a foreign University for the purpose of enrolment as Advocate in India would depend on the following criteria of standards that:—

(i) The degree in law shall be a second stage degree offered either after graduation from an approved University by the Bar Council of India for the purpose of admission in the course leading to Degree in Law in the Foreign University concerned; or shall be an integrated program offered after 10+2 or 11+1 school education.

(ii) The course leading to the Degree in Law in the Foreign University (hereinafter mentioned as The course) concerned shall be at least for three years' duration if taken after graduation in the manner stated above, or shall be at least for five years' duration if undertaken in a integrated program as mentioned above.

(iii) The course shall be a regular course of study undertaken in a University or Centre of Legal Education affiliated to a University, as the case may be.

(iv) The course shall contain, *mutatis mutandis*, subjects of studies, which are prescribed as compulsory subjects, by the Bar Council of India on recommendation of the Centres of Legal Education from time to time, in the LL.B. program of a recognised University in India for the purpose of enrolment.

## CHAPTER VI

### MISCELLANEOUS PROVISIONS

**41. Uniform Identity Number of students and faculty.**—Each recognised University and its approved institutions registering students for law courses shall send particulars as prescribed in the Schedule X of its registered students and Faculties for the purpose of building up of uniform data of the faculty and the students of law and for issue of Uniform Identity Number to students and faculty against a fee prescribed by the Bar Council of India from time to time.

**42. Annual Report and Return.**—All approved Centres of Legal Education of the Universities whose degree is approved for enrolment shall submit to the respective University with a copy to the Bar Council of India an annual return in the form prescribed in Schedule VIII in hard and soft copy at the end of its annual academic session failing which a new inspection would be required for the University with the local enquiry.

**43. Dispute Resolution Body.**—The Legal Education Committee of the Bar Council of India shall be the dispute resolution body for all disputes relating to legal education, which shall follow a procedure ensuring natural justice for such dispute resolution as is determined by it.

**44. Annual Notification.**—(1) The Council shall notify in its website and send copies to each State Bar Councils as per Schedule I of these rules, the names of Universities whose degrees in law recognised under these rules with a list of approved Centres of Legal Education. The Council shall require each University and the State Bar Council to also notify the same within its jurisdiction and provide a copy to each of its approved Centres of Legal Education, including the same in their respective website in so far as the Centres of Legal Education within the respective jurisdiction of these institutions.

(2) Information about the non-recognition or de-recognition of the degree in law of a University and that of Centres of Legal Education shall also be sent to all Universities in India imparting legal education and to all State Bar Councils which shall include the same in their website.

**45. Overriding effect.**—Any resolution passed earlier by Bar Council of India/Legal Education Committee inconsistent with these rules shall not bind the Bar Council of India and all other bodies constituted in pursuance of the Advocates Act 1961, after these rules come into force.

**46. Savings.**—Any action, decision or direction taken or directed by the Bar Council of India under any rule or regulation in force at any time earlier than these rules coming into force, shall be valid, binding on the institutions as the case may be, and remain in enforce notwithstanding anything contained in these rules.

**47. Amending procedures.**—Any amendment proposed by Bar Council of India in the rules shall be carried through consultation with the Universities and the State Bar Councils by way of circulation of the proposal to the Universities and the State Bar Councils for the written submission within the scheduled notified date and after consideration of such written submission on merit. The Legal Education Committee/Bar Council of India shall on consideration of the representation finalise the said amendments, which shall come into force by way of notification in the website. The Bar Council of India shall also send the hard copy of notification to the Universities.

Provided that any provision in the Schedule may be amended by the Bar Council of India on the recommendation of the Legal Education Committee and the same shall also be notified in the website of the BCI for enforcing the provision.

## SCHEDULES

### SCHEDULE I

#### LIST OF INDIAN UNIVERSITIES AND ITS APPROVED CENTRES OF LEGAL EDUCATION, WHOSE DEGREES IN LAW ARE RECOGNISED FOR ENROLMENT

Visit Website of the Bar Council of India ([www.barcouncilofindia.org](http://www.barcouncilofindia.org)) and select "Legal Education" column and go to List of approved law colleges.

### SCHEDULE II

#### ACADEMIC STANDARDS AND COURSES TO BE STUDIED

**1. Medium of instruction.**—English shall be the medium of instruction in both the integrated five year and three year courses. However if any University and its any CLE

allows in full or in part instruction in any language other than English or allows the students to answer the test papers in the periodical and final semester tests in any regional language other than English, the students have to take English as a compulsory paper.

2. *University's responsibility.*—A University is free to design its academic program under LL.B. and LL.B. Honours course as well as program under the integrated degree program in Bachelor degree component as well as the LL.B. component with or/and without Honours course. However, LL.B. courses shall include the courses as stipulated under this schedule.

3. *Total subjects in Liberal discipline in integrated stream.*—In integrated stream of Arts & Law, Science & Law, Management & Law, Commerce & Law, etc., as the case may be, one has to take one major subject and two minor subjects or such number of compulsory paper/subject and such optional with or without Honours in Law, as the case may be, from the specified area in addition to English, as may be prescribed by the University concerned..

The syllabus has to be comparable to the syllabus prescribed by leading Universities in India in three year Bachelor degree program in BA, B.Sc, B.Com, BBA, etc., taking into account the standard prescribed by the UGC/AICTE or any other respective authority for any stream of education.

4. *Total Number of papers (subjects) in law to be offered in both the streams as under:*

Law subjects (papers) in both the streams

(a) For regular law courses either in the three years' unitary stream or under the integrated double degree stream, students have to take not less than twenty eight papers (subject) in all, which shall include eighteen compulsory papers, four clinical papers and six optional papers from among the list of optional papers under this Schedule and also of any additional papers prescribed by the University from time to time.

(b) For specialised and/or honours course, a student has to take not less than thirty six papers in all, which shall include eighteen compulsory papers, four clinical papers, six optional papers and eight papers in specialised/honours course in any Group as stipulated below. However if eight papers are taken from multiple of groups, honours can be given in general law without mentioning any specialisation.

*Example.*—"A" has taken eight honours papers selected as follows: two from Constitutional Law, three from Business Law, one from International Law and two from International Trade Law, his Honours shall be in Law. "B" takes eight papers from Constitutional Law group, his honours shall be mentioned in Constitutional Law.

5. *Curriculum Development Committee (CDC).*—The Bar Council of India may, from time to time, appoint Curriculum Development Committee (CDC) to design various courses in both liberal discipline and law. The CDC in designing such courses shall, with benefit, take into account the Report on various subjects submitted to UGC or AICTE by its Curriculum Design Committees. Universities are free to use the CDC Report of UGC/AICTE in liberal disciplines including science, arts, fine arts, commerce, management, engineering, technology and other branches of knowledge, in designing the integrated course in Law and Arts, Law and Science, Law and Finance, Law and Commerce, Law and Engineering, Law and Management etc. as the case may be.

6. *Course outline in the two streams of Legal Education:*

#### PART I

#### COURSES IN LIBERAL DISCIPLINE IN INTEGRATED FIVE YEAR COURSE

(1) *Undergraduate course-component for integrated Five Years' course:*

(a) *In Social Science and Language (For B.A., LL.B.).*—One major subject with two minor, besides, English is compulsory subject. Students are expected to learn at least one Foreign or Indian Language. There shall be 6 papers in major and three papers each in minor and in languages.

*Example.*—One can take Philosophy as major with political Science and Sociology as minor. One can take Economics as major and Political Science and Mathematics as minor. Similarly one can take English as major and Political Science and History as minor, so on so

forth. However in the initial years the choice of subjects may be restricted. In the current years courses offered would be Economics, Political Science, Philosophy, Journalism & Mass Communication and History. English can also be taken as major. Other languages offered shall be notified at the time of admission. It is advised that the University follow the Curriculum Development Committee Report of UGC, if it is there, in designing the course and stipulate the standard.

(b) *In Science (For B.Sc., LL.B.).*—Major and minor papers shall be in science subjects offered. Provision for language shall remain same. In the current year subjects offered are Physics, Chemistry, Bio-Science, Mathematics, Environmental Science and Geological Science. Choice can be restricted on the availability of faculty. It is advised that the University follow the Curriculum Development Committee Report of UGC, if it is there, in designing the course and stipulate the standard.

(c) *Business Management (For BBA, LL.B.).*—Major and Minor subjects or Compulsory and Optional subjects/papers may be taken from the following papers/subjects such as Business Communication, Business Mathematics, Quantitative Analysis, Business Statistics, Business Environment, Accounts and Finance, Management Theory and Practice, Human Resource Management, and Marketing Management. Language policy shall remain same. However one can take English as major or minor, where there is a system of major and minor, with other management subjects. University are advised to design the course looking into the course and standard prescription, if any by AICTE or UGC as the case may be.

(d) *In Commerce (leading to B.Com., LL.B.).*—Major and minor courses are to be selected from the list of subjects like Accounts, Advanced Accounting, Secretarial Practice, Business Administration, Management Accounting, Audit Practice, etc. It is advised that the University follow the Curriculum Development Committee Report of UGC, if it is there, in designing the course and stipulate the standard.

The syllabus has to be comparable to the syllabus prescribed by leading Universities in India in three year bachelor degree program in BA, B.Sc, B.Com, BBA, etc., taking into account the standard prescribed by the UGC/AICTE and any other respective authority for any stream of education.

## PART II

### LAW PAPERS COMMON TO BOTH THE STREAMS

(A) *Compulsory subjects in legal education component in both the streams (Paper 1 to 20)* University is free to design any subject in one or more than one papers where more papers are not stipulated:

1. Jurisprudence (Legal method, Indian legal system, and basic theory of law).
2. Law of Contract
3. Special Contract
4. Law of Tort including MV Accident and Consumer Protection Laws
5. & 6. Family Law (2 papers)
7. Law of Crimes Paper I: Penal Code
8. Law of Crime Paper II: Criminal Procedure Code
9. & 10. Constitutional Law (two papers)
11. Property Law
12. Law of Evidence
13. Civil Procedure Code and Limitation Act
14. Administrative Law
15. Company Law
16. Public International Law
17. Principles of Taxation Law
18. Environmental Law
19. & 20. Labour and Industrial Law (2 papers)

(B) *Compulsory Clinical Courses (Papers 21 to 24 as following):*

21. Drafting, Pleading and Conveyance

*Outline of the course.—(a) Drafting:—*General principles of drafting and relevant substantive rules shall be taught.

(b) *Pleadings.—*

(i) Civil: Complaint, Written Statement, Interlocutory Application, Original Petition, Affidavit, Execution Petition, Memorandum of Appeal and Revision, Petition under Article 226 and 32 of the Constitution of India.

(ii) Criminal: Complaint, Criminal Miscellaneous petition, Bail Application, Memorandum of Appeal and Revision.

(iii) Conveyance: Sale Deed, Mortgage Deed, Lease Deed, Gift Deed, Promissory Note, Power of Attorney, Will, Trust Deed.

(iv) Drafting of writ petition and PIL petition.

The course will be taught class instructions and simulation exercises, preferably with assistance of practising lawyers/retired judges.

Apart from teaching the relevant provisions of law, the course may include not less than 15 practical exercises in drafting carrying a total of 45 marks (3 marks for each) and 15 exercises in conveyancing carrying another 45 marks (3 marks for each exercise) remaining 10 marks will be given for *viva voce*.

22. Professional Ethics & Professional Accounting system

*Outline of the course.—*Professional Ethics, Accountancy for Lawyers and Bar-Bench Relations.

This course will be taught in association with practising lawyers on the basis of the following materials.

(i) Mr. Krishnamurthy Iyer's book on "Advocacy"

(ii) The Contempt Law and Practice

(iii) The Bar Council Code of Ethics

(iv) 50 selected opinions of the Disciplinary Committees of Bar Councils and 10 major judgments of the Supreme Court on the subject

(v) Other reading materials as may be prescribed by the University

Examination rules of the University shall include assessment through case-study, *viva*, and periodical problem solution besides the written tests.

23. Alternate Dispute Resolution

*Outline of the course:*

(a) Negotiation skills to be learned with simulated program

(b) Conciliation skills

(c) Arbitration Law and Practice including International arbitration and Arbitration rules.

The course is required to be conducted by senior legal practitioners through simulation and case studies. Evaluation may also be conducted in practical exercises at least for a significant part of evaluation.

24. Moot Court exercise and Internship:

This paper may have three components of 30 marks each and a *viva* for 10 marks.

(a) Moot Court (30 Marks). Every student may be required to do at least three Moot Courts in a year with 10 marks for each. The Moot Court work will be on assigned problem and it will be evaluated for 5 marks for written submissions and 5 marks for oral advocacy.

(b) Observance of Trial in two cases, one Civil and one Criminal (30 marks): Students may be required to attend two trials in the course of the last two or three years of LL.B. studies. They will maintain a record and enter the various steps observed during their attendance on different days in the Court assignment. This scheme will carry 30 marks.

(c) Interviewing techniques and Pre-trial preparations and Internship diary (30 marks): Each student will observe two interviewing sessions of clients at the Lawyer's Office/Legal Aid Office and record the proceedings in a diary, which will carry 15 marks. Each student will further observe the preparation of documents and Court papers by the Advocate and the procedure for the filing of the suit/petition. This will be recorded in the diary, which will carry 15 marks.

(d) The fourth component of this paper will be *viva voce* examination on all the above three aspects. This will carry 10 marks.

(C): *Not less than six papers from any of the following groups (paper 25 to 30). However a University is free to take only a few common options for the purpose of LL.B. course without any specialisation:*

*Constitutional Law Group*

Legal Philosophy including theory of Justice  
Indian Federalism  
Affirmative Action and Discriminative Justice  
Comparative Constitution  
Human Right Law and Practice  
Gender Justice and Feminist Jurisprudence  
Fiscal Responsibility & Management  
Local Self Government including Panchayat Administration  
Right to Information  
Civil Society & Public grievance  
Government Accounts & Audit  
Law on Education  
Media & Law  
Health Law  
Citizenship & Emigration Law  
Interpretation of Statutes and Principle of Legislation  
Legislative drafting

*Business Law Group*

Law and Economics  
Banking Law  
Investment Law  
Financial Market Regulation  
Foreign Trade  
Law of Carriage  
Transportation Law  
Insurance Law  
Bankruptcy & Insolvency  
Corporate Governance  
Merger & Acquisition  
Competition Law  
Information Technology Law  
Direct Taxation  
Indirect Taxation  
Equity and Trust  
Law on Project Finance  
Law on Corporate Finance  
Law on Infrastructure Development  
Special Contract

*International Trade Law*

International Trade Economics  
General Agreement on Tariff & Trade  
Double Taxation  
Dumping and Countervailing Duty

Trade in Services & Emigration Law  
Cross Border Investment  
Agriculture  
Dispute Resolution  
International Monetary Fund  
Trade in Intellectual Property  
International Banking & Finance

*Crime & Criminology*

Criminal Psychology  
Forensic Science  
International Criminal Law  
Prison Administration  
Penology & Victimology  
Offences Against Child & Juvenile Offence  
Women & Criminal Law  
IT Offences  
Probation and Parole  
Criminal Sociology  
Comparative Criminal Procedure  
Financial and Systemic Fraud  
White Color Crime

*International Law*

International Organisation  
International Human Rights  
Private International Law  
International Environmental Law  
IMF & World Bank  
Regional Agreement & Regionalisation  
Uncitral Model Codes  
International Labour Organisation & Labour Laws  
International Dispute Resolution Bodies  
Maritime Law  
Law of the Sea and International River  
Humanitarian and Refugee Law  
International Criminal Law and International Criminal Court

*Law & Agriculture*

Land Laws including Tenure & Tenancy system  
Law on Agriculture Infrastructure: seed, water, fertilizer, pesticide, etc.  
Law on Agricultural Finance  
Law on Agricultural Labour  
Agricultural Marketing  
Farming & Cultivation  
Farmer and Breeders' Right  
Cooperative and Corporatisation of Agriculture  
Dispute Resolution and Legal aid  
Agricultural Insurance  
Law on SMEs on agricultural processing and rural industry

*Intellectual Property Law*

Patent Right Creation and Registration  
Patent Drafting and Specification Writing  
IPR Management  
Copyright  
Trade Mark and Design  
Trade Secret and Technology transfer

Other Forms of IPR creation and registration  
 IPR Litigation  
 IPR Transactions  
 Life Patent  
 Farmers and Breeders' Right  
 Bio Diversity Protection  
 Information Technology  
 IPR in Pharma Industry  
 IPR in SMEs

*University's power for additional subject/group:*

Provided that a University/School may add to the above list of subjects as well as a New Group of subject specialisation with such papers as may be stipulated from time to time. Students in the general law course have to take not less than six papers from any three or more groups.

### PART III

#### ONLY FOR HONOURS COURSE IN LAW

In case of specialisation or honours in any group, one has to take at least eight papers from one group over and above six optional papers in other groups (Papers 29 to 36).

##### *Freedom to University*

University may restrict Groups and/or subjects in a group for offering options based on availability of faculty and other facilities..

*Example.*—A University may follow the outline of the following course design (in integrated course)

##### *First Semester : 20 weeks*

General English  
 Major Subject in B.A. / B.Sc. / B.Com. / BBA, etc., (Paper 1)  
 Minor I (Paper 1)  
 Minor II (Paper 1)  
 Law of Tort  
 Law of General Contract

##### *Second Semester : 20 weeks*

English Literature  
 Major Subject (Paper 2)  
 Minor 1 (Paper 2)  
 Minor II (Paper 2)  
 Constitutional Law of India  
 Legal Method

The arrangement of subjects in 5 years' integrated course shall be as follows:

First Semester:	4 (First degree papers)	+ 2 (Law papers)
Second Semester	4 (do)	+ 2 (do)
Third Semester	3 (do)	+ 3 (do)
Fourth Semester	3 (do)	+ 3 (do)
Fifth Semester	2 (do)	+ 4 (do)
Sixth Semester	2 (do)	+ 4 (do)
Seventh Semester	1 (do)	+ 4 (do)
Eighth Semester	1 (do)	+ 4 (do)
Ninth Semester		5 (do)
Tenth Semester		5 (do)

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20 papers (including honours papers)

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36 papers (including honours papers)

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# For Pass course one has to offer only

14 papers in liberal discipline and 28 courses in Law

*Three Year Course*

*First Semester.*—Law of Tort, General Contract, Constitutional Law, Property Law, Indian Penal Code

*Second Semester.*—Special Contract, Administrative Law, Family Law-1, Criminal Procedure Code, Civil Procedure Code, Evidence Law

Detailed course design may be supplied during admission.

## SCHEDULE III

MINIMUM INFRASTRUCTURAL FACILITIES REQUIRED IN A CENTRE OF LEGAL EDUCATION FOR APPLYING PERMISSION TO RUN LAW COURSES WITH AFFILIATION FROM AN INDIAN UNIVERSITY

*Physical infrastructure*

1. *Definition.*—Institution means a Centre of Legal Education (CLE).

2. *Minimum Capital Fund requirement.*—Each Centre of Legal Education before seeking affiliation with a University and approval of Bar Council of India of the same shall have a minimum capital fund requirement of Rupees ten lakh to be kept into a Bank account to be used for any future exigencies and development of the Institution. The Account is to be jointly operated by the Secretary or Principal with the Registrar of the University or his authorised agent.

3. *Freehold or Leasehold Property.*—Each Centre of Legal Education providing education in law either in the Department of law of a University or its constituent or affiliated college must have either on freehold or on long leasehold land adequate to provide academic buildings, library, indoor and outdoor sports facilities, halls of residences for male and female students separately, as the case may be, in the name of the Centre of Legal Education or organisation running the Centre of Legal Education. However, lease in the name of the Centre of Legal Education shall be for a period of not less than ten years. What is the adequate space for the said purpose shall be decided by the respective authority of the University under its affiliation regulation and as guided by the UGC.

Provided that sufficient land and adequate floor space area completely and exclusively devoted for a Centre of Legal Education, based on the size of its student population, faculty requirement infrastructure facilities, Library space requirement, indoor and outdoor games facilities and other requirements can be considered sufficient accommodation in compliance with this clause, for the purpose in a multi-faculty Institution on land possessed by the Management of a Society/ Trust/ Non-Profit Company running multi-faculty institutions in a metropolitan or in a class 1 city.

4. *Academic Building.*—There shall be the academic building to provide separate class rooms for general class for each section sufficient to accommodate sixty students as per the requirement of per student floor space as specified by the University Grants commission or such other standard setting body like AICTE and also such other rooms for tutorial work, Moot Court room exercises, common room for male and female students and adequate library space for keeping books, periodicals, and journals. The library shall also have adequate reading space for at least 25% of the enrolled students according to per capita reading space specified by any standard setting bodies like UGC.

5. *General timing for conduction of courses in Academic Building.*—Classes may be conducted between 8 a.m. to 7 p.m. in an Institution, which is not fully residential. However the Library may remain open till 10 p.m.

5-A. *Size of a section.*—The Inspection Committee may approve for admission in each of the section of a class for not more than 60 students and may allow a minimum of two sections in each class but not more than five sections in one class (such as First Year or Second Year or Third Year, etc.) as the case may be unless there is any exceptional reason for granting more sections in a Class, such a reason has to be specified by the inspection Committee.

6. *Library Building.*—There shall be adequate space in the library for computer facility with access to internet and national and international library access and data bases.

7. *Games Facilities.*—There shall be facilities for indoor and outdoor facilities for games and sports.

8. *Halls of residence.*—There may be facility required for halls of residence separately for males and females students constructed on the direction and specification by UGC or any such other standard setting body for affiliating an Institution.

9. *Laboratories.*—(a) Institutions running integrated law program shall have adequate laboratory facilities in various courses of studies, if offered in the curriculum for Science, Engineering and technology courses along with law courses. The standard of such laboratory, per capita space, equipments, supplies, and other facilities shall be as specified by the UGC or any such other standard setting and regulatory bodies for the purpose of affiliation of such an Institution.

(b) Computer Education to be made compulsory for all the students.

10. *Organisation structure of an Institution.*—Affiliated Centres of Legal Education can be run by a Non-profit organisation, like a Public Trust, Societies registered under Union or State law, or a Non-Profit Company. All properties, assets, and the academic and academic support services shall be required to be recorded in the name of the Institution.

11. *Legal Aid Centre.*—Each institution shall establish and run a Legal Aid Clinic under the supervision of a Senior Faculty Member who may administer the Clinic run by the Final year students of the Institution in cooperation with the Legal Aid Authorities with list of voluntary lawyers and other Non-Government Organisations engaged in this regard in the locality generally from which the student community of the Institution, hail from.

12. All Bank account or accounts and Funds of the Institution shall be jointly operated by the Manager/Secretary designated by the Trust, Society, or the Non-Profit Company, as the case may be, with the Head of the Institution.

13. All Records of the Institution including financial, academic and other organisational records and the meeting proceedings shall be kept in safe custody by the Head of the Institution in the Office of the Institution and shall remain accessible to all authorities and Inspection teams.

14. *Copy of Affiliation Rules of the University.*—All affiliating Universities would be required to forward a copy of the Affiliation Rules and affiliation order to the Bar Council of India before an Inspection of the University including any of its affiliated Centres of Legal Education.

#### *Academic infrastructure*

15. *Minimum Library requirement.*—To start with, a Law Library shall have a set of AIR manual, Central Acts and Local Acts, Criminal law journal, SCC, Company cases, Indian Bar Review, selected Judgements on Professional Ethics and Journals with the back volumes for at least ten years and also such number of text books in each subjects taught during the period according to the minimum standard ratio of ten books for each registered students. For running integrated program, text books of such other subjects are also to be kept in the similar minimum ratio. The minimum investment in Library in each academic year must shall be Rupees Fifty thousand for one stream and Rupees One Lakh for both the streams.

16. *Whole time Principal/ Head/Dean.*—There shall be a Principal for each constituent or affiliated Centre of Legal Education of a University and a Dean for the University Department, who shall have minimum prescribed qualification in law as prescribed by the UGC for respective position like Principal of a Centre of Legal Education or a Professor of Law to hold Deanship, as the case may be.

17. *Core Faculty.*—There shall be sufficient number of full time faculty members in each Centre of Legal Education (*i.e.*, Department, constituent or affiliated college) to teach each subject at all point of time for running courses who can be supported by part time or visiting

faculty. Such a core faculty shall in no case be less than six in the first year of the approval with both streams in operation, eight in the second year and ten in the case of third year of law courses. In addition, for the integrated course there shall be adequate faculty in the subjects offered in the liberal educational subjects as part of the course by the institution. These faculties in the liberal educational discipline in Arts, Science, Management, Commerce, Engineering, Technology or any other discipline shall possess qualification as is required under the UGC guideline or under such other standard setting body as the discipline is allotted to by any Act, statute, or Rules of the Government of India or of a State.

For the Three Year Bachelor of Law degree course only with two sections without the Honour program, there shall be minimum of 4 core faculty in the first year six in the second and eight in the third year in addition to the Principal/Head or Dean as the case may be:

Provided that an institution intending to run any specialised or honours course must have at least three faculty in the group in which specialisation and honours courses are offered:

Provided further that each full time faculty shall take as many classes in the subject or subjects as may be assigned to them on the basis of standard prescribed by "the standard setting institution" like UGC:

Provided further, if any institution of a University, which was already affiliated to the University and approved to run professional courses of either scheme or both by the Bar Council of India after inspection of the University, falls short of required full time faculty, the new admission in courses may be required to remain suspended until new required number of faculty is procured. The University shall before starting a new academic session, notify which institutions are only be allowed to admit fresh students:

Provided further that if while inspecting the University it was found that in any institution of the University adequate number of full time faculty was not there in the staff, the Bar Council after giving notice to the University might give a public notice directing the University not to admit students in the new academic year in that institution:

18. *Minimum weekly class program per subject (paper).*—There shall be for each paper (with 4 credit) Four class-hours for one hour duration each and one hour of tutorial /Moot Court/ project work per week.

19. *Examination rule guideline.*—The examination shall ordinarily be held at the end of every semester. The University shall, however, be at liberty to hold examination quicker frequency on continuing basis. Suitable allocations of subjects for each semester program, as the case may be, shall be planned by the University and the same shall be intimated to the Bar Council of India along with the Examination Rules adopted by the University concerned.

20. *Minimum qualification needed for the Faculty.*—Full-time faculty members including the Principal of the Centre of Legal Education shall be holders of a Master's degree or as prescribed by UGC or other such standard setting bodies. However faculty for teaching clinical program may be appointed from the retired judicial officers or from the Bar, a person with professional experience for a minimum period of 10 years. Visiting faculty from the Bar, bench or academy shall have a minimum experience of 10 years.

21. *Teaching load.*—The teaching load of full-time and part time teachers shall be according to the norms prescribed by the U.G.C. from time to time.

22. *Salary scale.*—The salary paid to the Principal shall be according to the scales recommended by the U.G.C from time to time with other benefits. Core Full Time Faculty shall ordinarily be given usual UGC Scale.

An Institution may however have faculty whose remuneration is based on contract provided the remuneration is comparable with or more favorable to the faculty in comparison with the UGC Scale and salary shall be paid through account payee cheque.

23. *Standard Academic practice.*—The Bar Council of India may issue directives from time to time for maintenance of the standards of Legal Education. The Centre of Legal Education/University has to follow them as compulsory.

24. The Questionnaire specified in Schedule VI & VII and as amended from time to time, is to be responded to by the applicant for approving an affiliated institution by the Bar Council of India under the rules, which shall be deemed to be directive issued under this Rule. The questionnaire shall be submitted with the application for initial inspection with such other particulars, documents and fees as may be prescribed.

25. *Minimum Period of Internship.*—(a) Each registered student shall have completed minimum of 12 weeks internship for Three Year Course stream and 20 weeks in case of Five Year Course stream during the entire period of legal studies under NGO, Trial and Appellate Advocates, Judiciary, Legal Regulatory authorities, Legislatures and Parliament, Other Legal Functionaries, Market Institutions, Law Firms, Companies, Local Self Government and other such bodies as the University shall stipulate, where law is practiced either in action or in dispute resolution or in management:

Provided that internship in any year cannot be for a continuous period of more than Four Weeks and all students shall at least gone through once in the entire academic period with Trial and Appellate Advocates.

(b) Each student shall keep Internship diary in such form as may be stipulated by the University concerned and the same shall be evaluated by the Guide in Internship and also a Core Faculty member of the staff each time. The total mark shall be assessed in the Final Semester of the course in the 4th Clinical course as stipulated under the Rules in Schedule II.

26. *District-wise list of Senior Lawyers willing to guide students under internship.*—The State Bar Councils shall be required to prepare a list of suggested Senior Advocates District-wise with at least ten years experience who are willing to take under internship students during the vacation period. The Bar Council of India shall then publish the list of senior lawyers willing to guide students under internship in the web-site as well as make the list available with the Institutions.

27. *Formal Dress Code during internship.*—Students placed under internship or in Moot Court exercise shall have formal dress of legal professional in pupillage as follows:

(For all) White/Black trouser, white shirt, black tie, black coat, black shoe and black socks. When students have problems of getting the entire formal dress for any reason, they have to have a white trouser, full sleeve shirt to be tucked in and covered shoe.

(Optional for Girl students) Black printed sharee, with white full sleeve blouse and covered black shoe or Lawyer's Suit with black covered shoe.

The Organisation or Advocate under whom the internee is placed is required to follow suitable dress code.

28. *Age on admission.*—(a) Subject to the condition stipulated by a University on this behalf and the high degree of professional commitment required, the maximum age for seeking admission into a stream of integrated Bachelor of law degree program, is limited to twenty years in case of general category of applicants and to twenty two years in case of applicants from SC, ST and other Backward communities.

(b) Subject to the condition stipulated by a University, and the general social condition of the applicants seeking legal education belatedly, the maximum age for seeking admission into a stream of Three Year Bachelor Degree Course in Law, is limited to thirty years with right of the University to give concession of 5 further year for the applicant belonging to SC or ST or any other Backward Community.

#### SCHEDULE IV

#### INSPECTION AND OTHER FEES

*N.B. All fees are payable in bank draft payable to the Bar Council of India at New Delhi.*

- |                                       |                 |
|---------------------------------------|-----------------|
| (i) Initial /Regular inspection fees: | Rupees one lakh |
| (ii) Accreditation Assessment Fees    | Rupees two lakh |

- |   |                                     |
|---|-------------------------------------|
| (iii) Guarantee for fulfilling all the norms of the Bar Council of India  | Rupees two lakh                     |
| (iv) Uniform Identity Number (to be collected by the Institution and to be sent to the Bar Council of India with such particulars as may be prescribed) | Rupees one hundred for each student |
| (v) Uniform Identity Number and Central data (For Faculty members)  | Rupees two hundred for each faculty |

*Explanation:*

1. Each institution requiring inspection, initial or regular, by the Inspecting Committee of the Bar Council of India shall and pay inspection fee of rupees one lakh or any other sum as may be stipulated by the Bar Council of India from time to time in a draft payable to Bar Council of India at New Delhi along with submission of application Form.

2. Whenever approval of affiliation is granted to the Centres of Legal Education, it shall be necessary for the Centres of Legal Education to deposit rupees two lakh in the shape of guarantee to fulfil all the norms of the Bar Council of India. The same shall be liable to be forfeited if norms are not complied with and same shall carry no interest.

3. Any institution seeking accreditation from the Bar Council of India shall pay an accreditation fee of rupees two lakh or such fee as may be prescribed.

SCHEDULE V

LIST OF FOREIGN UNIVERSITIES WHOSE DEGREES IS RECOGNISED BY  
THE BAR COUNCIL OF INDIA UNDER SECTION 24 (1)(C)(III) IN  
THE ADVOCATES ACT, 1961

Visit Website of the Bar Council of India ([www.barcouncilofindia.org](http://www.barcouncilofindia.org)) and select "Legal Education" column and go to "Foreign Degrees recognised by the Bar Council of India."

SCHEDULE VI

PROFORMA INSPECTION REPORT

THE BAR COUNCIL OF INDIA

21, ROUSE AVENUE, NEW DELHI - 110 002

PROFORMA FOR APPLICATION (PART I), INSPECTION (PART II), EXPLANATION  
AND COMPLIANCE REPORTING (PART III) IN RESPECT OF LAYING DOWN  
STANDARDS OF LEGAL EDUCATION UNDER SECTION 7(h) AND RECOGNITION OF  
DEGREES IN LAW UNDER SECTION 7(1) AND RULES MADE THEREUNDER  
SECTION 24(1)(c)(iii), (iiia) AND SECTION 49(1)(d) OF  
ADVOCATES ACT, 1961

*Notes.—*

(a) Part I is the form in which Centres of Legal Education/departments seeking recognition have to apply. Three copies of the application in hard and soft copies have to be filed along with supporting documents. All columns must completed; incomplete applications will not be taken up for consideration. Forms submitted without the prescribed fee will not be considered. It may take 12 to 16 weeks for the Bar Council of India to cause the inspection after submission of the applications.

(b) Part II is the form in which the inspection team will verify data and prepare its report to the Legal Education Committee.

(c) Part III is the form in which the Bar Council of India office will seek explanation/clarification and wherever necessary, compliance to the Bar Council of India rules before submission of the application along with the inspection report to Legal Education Committee for consideration.

(d) Correct and honest statement of facts supported by documentary evidence and prompt response from the management to the correspondence will enable the Bar Council of India to process the applications at the shortest possible time.

(e) Any attempt to influence the judgement of the Inspection team or Legal Education Committee/Bar Council of India will entail summary rejection of the application itself.

#### PART I

### APPLICATION SEEKING APPROVAL OF AFFILIATION/RECOGNITION OF CENTRES OF LEGAL EDUCATION/ UNIVERSITIES TEACHING LAW FOR PURPOSES OF ADVOCATES ACT, 1961

[Note.—Each affiliating University shall submit its Rules of Affiliation to the Bar Council of India while seeking approval of Affiliation of a Centre of Legal Education. In case of direct application the applicant shall annex with the application Rules of Affiliation of a Centre of Legal Education in the respective University.]

#### I. ESTABLISHMENT, MANAGEMENT AND STATUS OF THE INSTITUTION

##### A.

- (a) Name and complete address of the Centre of Legal Education including Pin code, Phone & Fax numbers and addresses of email and Website
- (b) Name, designation and address of the person making the application with Phone & Fax numbers and address of e-mail.
- (c) Year of establishment of Centre of Legal Education and Name of University to which affiliated.
- (d) When was it affiliated? Whether temporary or Permanent? (enclose letter from University)
- (e) What courses in law are being offered at present
  - (i).
  - (ii).
  - (iii).
- (f) When did the BCI give recognition? (letter from BCI)
- (g) Was the Centre of Legal Education inspected before by BCI? Details of the same.
- (h) Recognition of courses to which this application refers:
- (i) How many batches of LL.B/LL.B Integrated graduates passed out of the Centre of Legal Education?
- (j) How many batches of Post graduate (LL.M) students passed out of the Centre of Legal Education?

##### B.

- (a) Who manages the Centre of Legal Education and under what framework? (Enclose: Statute, Regulation, etc.,)
- (b) Give the names, addresses of the members of Board of Management. (Enclose documents in support)

- (c) What are the other institutions run by the same management and where?
- (d) How long the present management will continue under the rules?
- (e) What are the sources of funding of the Centre of Legal Education?
- (f) What are the assets of the Centre of Legal Education? (Details of documents in support)
- (g) Who appoints the staff of the Centre of Legal Education and under what procedure?
- (h) Does the Centre of Legal Education pay U.G.C. scales? If not, how much for different cadres of academic staff.
- (i) Was the Centre of Legal Education ever disaffiliated by the Govt. / University? If so, under what reasons?
- (j) Give additional evidence, if any, to guarantee the financial viability of the Centre of Legal Education.

## II. INFRASTRUCTURAL FACILITIES

- (a) Land and Buildings: Area, built-up space, description of class rooms, staff rooms, student facilities used for Centre of Legal Education only. (enclose documents)
- (b) Does the Centre of Legal Education have its own building? If not, when it proposes to build?
- (c) Size, furniture, budget, personnel, system of lending, etc., of the Centre of Legal Education's law library.
- (d) Number of text books, reference books and periodicals in law library (Give detailed break-up in separate paper)
- (e) Name, rank, salary, qualification and teaching experience of academic staff including Principal (Use separate sheet, if necessary)
- (f) Give details of supporting (administrative) staff available to the Centre of Legal Education.
- (g) Is there a Hall of residence for students? How many can be accommodated?
- (h) Are there common room facilities for students? Boys and Girls?
- (i) How far is the nearest Court from the Centre of Legal Education? What are the other Courts in the neighbourhood?
- (j) Are there other law teaching Centres of Legal Education in the area? Give details.

## III. ACADEMIC AFFAIRS AND POTENTIAL FOR DEVELOPMENT

- (a) What are the courses now being offered?
- (b) What is the strength of students in each of the courses now offered?.

- (c) What is the process of student selection for admission.
- (d) What is the maximum intake the Centre of Legal Education had in the last five years? (Give detailed break-up)
- (e) What is the duration and normal schedule for teaching in the Centre of Legal Education? (attach the time-table used in the last year/semester)
- (f) How many classes a student has to attend on an average on a working day?
- (g) Is the attendance taken once a day or once in every class?
- (h) Who keeps the attendance register ? office/ teacher after class hours.
- (i) What percentage of students live in the locality and what percentage commute from outside the area?
- (j) Are there periodic examinations conducted by the Centre of Legal Education to assess progress of learning of students?
- (k) Who supervises the regularity and quality of teaching and under what procedure?
- (l) How does the management ensure that classes are regularly held?
- (m) Give details of the Students the Centre of Legal Education admitted in the 1st LL.B class, the number of students presented for the final year LL.B examinations and number of students passed (with Distinctions if any) in the last five years.
- (n) What are the outstanding academic achievements of the Centre of Legal Education in legal learning?
- (o) What evidence are there to show research accomplishment of the faculty? (Attach data separately of each such faculties)
- (p) Does the Centre of Legal Education publish any journal? (Give details & attach copies)
- (q) What is the system in vogue for Practical Training of students? (Give details)
- (r) Is the Centre of Legal Education students/staff involve themselves in legal aid activities? (Give details)
- (s) Give the names of teachers handling the practical training courses.
- (t) What are the problems perceived in imparting practical training?
- (u) Did the Centre of Legal Education introduce the BCI prescribed curriculum?
- (v) Does the Centre of Legal Education follow an annual or semester system?

## IV. SELF ASSESSMENT REPORTS

The Legal Education Committee/Bar Council of India would like to have an objective, honest and transparent assessment of the academic performance and potential of the Centre of Legal Education/department from each member of the teaching staff including Principal and of the management independently when they can frankly express the strengths and weaknesses of the institution as they perceive it. If any member wants to keep that information confidential the Legal Education Committee/ Bar Council of India will make every effort to keep it so. The individual reports may also be directly sent to the Chairman, Legal Education Committee if they so desire.

## V. UNDERTAKING

I Mr./Ms..... hereby declare that the information provided above are true to the best of my knowledge and I have not attempted to suppress or exaggerate data concerning the above institution which is directly under my management.

PRINCIPAL / DEAN

CORRESPONDENT/ MANAGEMENT

PLACE:.....

DATE :.....

P.S. Send this report only in the form serially numbered and available only from the Secretary, Bar Council of India, New Delhi. Keep a xerox copy of the same with you for record and consultation when the inspection team visits your Centre of Legal Education.

## PART II

THE BAR COUNCIL OF INDIA: LEGAL EDUCATION INSPECTION PROFORMA TO BE FILLED BY BAR COUNCIL OF INDIA APPOINTED INSPECTION TEAM AFTER VISITING CENTRES OF LEGAL EDUCATION/DEPTS.

(Each member to file independent inspection reports. Please file the report on the same day of inspection or in the following day)

## A. PRELIMINARY DETAILS

(a) Names of Inspection Team:

(b) Date of Inspection:

(c) Did you study Part I application filed by the Centre of Legal Education and formulated the questions you want to specifically raise with management, faculty, students and alumni?

## B. VERIFICATION OF DETAILS ON INFRASTRUCTURE, MANAGEMENT AND ACADEMIC ENVIRONMENT

(Note.—The team will go through each and every item in Part I with the Management/ Principal, personally visit the premises and satisfy itself of the statements made therein. Discrepancies and inadequacies noticed are to be recorded here in detail as they would form the basis of queries/classifications under Part III to be raised by Bar Council of India Secretariat later. Use separate sheets and attach with the report).

## C. VERIFICATION OF ACADEMIC AFFAIRS AND POTENTIAL FOR DEVELOPMENT

(Note.—This should contain information on the quality of teaching, academic performance in the past, library resources available and its use by students, the competence of teachers for respective jobs including clinical teaching, extent of student satisfaction, general reputation of the Centre of Legal Education, etc. The inspection team will use the self-assessment reports of teachers for verifying this item in discussion with the teachers concerned. Separate meetings with groups of students and advocates in the area who passed out of the institution are desirable to come to a fair conclusion on standards for the purpose of suggesting improvements in academic affairs.

Use separate sheets to record your impression on academic standards, its strength and weaknesses. It is important that each team member prepare the impressions independently so that the Legal Education Committee can come to an objective assessment with the help of inspection reports).

#### D. CONCLUSION AND RECOMMENDATIONS

- (a) On Infrastructure including library and staff:
- (b) On standards of teaching, research, co-curricular activities:
- (c) On reforms immediately required if Bar Council of India Rules were to be complied with in letter and spirit:
- (d) Recommendations for Legal Education Committee/Bar Council of India consideration:

Signature

Place

Date :

### PART III

#### THE BAR COUNCIL OF INDIA: LEGAL EDUCATION—EXPLANATIONS AND CLARIFICATIONS OF CENTRE OF LEGAL EDUCATION ON QUERIES RAISED AFTER INSPECTION

(Note.—This part is to be filled by management of the Centre of Legal Education if they are asked to do so by the Bar Council of India Secretariat on the basis of the findings of the inspection team. Only applications which are complete in all respects alone will be submitted to the Legal Education Committee. As such, Bar Council of India Secretariat will examine the application (Part I) with the inspection reports (Part II) in the context of Rules of the BCI Rules and point out inadequacies and non-compliance and seek clarifications from Centre of Legal Education by sending this *proforma* (Part III).

Before sending the Part III *proforma*, the BCI Secretariat will enter the queries and clarifications they are seeking from the Centre of Legal Education management.)

Queries from the BCI Secretariat to Centre of Legal Education management:

- 1.
- 2.

---

#### FOR OFFICE USE ONLY

- (i) Recommendations of the LEGAL EDUCATION COMMITTEE:
- (ii) Decision of the Bar Council of India:

#### THE BAR COUNCIL OF INDIA PROFORMA FOR INSPECTION REPORT OF CENTRE OF LEGAL EDUCATION

(While preparing the report of inspection of the Centre of Legal Education, members are requested to follow the following *proforma*)

- (1) Name of the Centre of Legal Education with complete address
- (2) Name of the University to which the Centre of Legal Education is affiliated/sought to be affiliated with photocopies of relevant documents.

- (3) Name of the Society/Trust/Organisation sponsoring the Centre of Legal Education, its financial position, details of the organisation etc. (Full details)
- (4) Date of inspection
- (5) Name of the members of the Inspection Team
- (6) Approximate population of the State and the area where the Centre of Legal Education is located/ proposed to be located.
- (7) Number of Centres of Legal Education in the area, their names, total strength of students in each year of the course (Both three year and five year)
- (8) Number of degree colleges (both undergraduate and post-graduate) in the area
- (9) Necessity for starting a new Centre of Legal Education/continuance of the existing Centre of Legal Education in the area
- (10) Details of the Courts in the area
- (11) Number of lawyers practising in the area
- (12) If the Centre of Legal Education is already affiliated by University and permitted by State Government, details thereof with Photocopies of documents—
  - (i) Details of affiliation of University with documentary proof
  - (ii) Permission of the State Government with documentary proof.
- (13) Whether five year course has been introduced in the Centre of Legal Education/Deptt. of University, If so, when? If five year course is not introduced yet whether the Centre of Legal Education is intending to do so or not.
- (14) Details about the course of study imparted/ sought to be imparted and timings of Centre of Legal Education.
- (15) Details about the teaching staff, their qualifications, salary and other service conditions with complete details of full time and part time teachers.
- (16) (a) Details about the accommodation at the Disposal of the Centre of Legal Education.
  - (b) Whether the land and building are owned by the Centre of Legal Education or the same is rented or leased? (Full details thereof with photocopies of relevant documents)
- (17) Details about the Administrative Staff in the Centre of Legal Education.
- (18) (a) Details about the Library in terms of space, equipments and full details of text books,

- reference books, journals and other periodicals
- (b) State whether the books and periodicals mentioned in Clause 15 of Schedule III of the Rules are available in the library or not? Give details
  - (c) Working hours of library and details of Library staff
  - (d) Whether there is qualified and trained librarian or not?
- (19) Views of Members of inspecting team with regard to starting of the proposed Centre of Legal Education/continuing the existing Centre of Legal Education in terms of its utility (with specific recommendations as to whether the proposed Centre of Legal Education can be granted approval of affiliation/ existing Centre of Legal Education can be allowed to retain approval of affiliation or not)
- (20) Whether approval can be granted on regular basis or it should be on temporary basis for a limited period (give reasons for this and mention about the period for which recommendation is made).
- (21) Conditions, if any, that can be imposed and the time limit for fulfilling those conditions (if temporary affiliation is recommended)
- (22) Any other fact which the Hon'ble members want to mention and is not covered under this proforma.

MEMBER, BCI

MEMBER, BCI.

## SCHEDULE VII

PROFORMA APPLICATION FORM FOR APPROVAL OF AFFILIATION TO BE  
SUBMITTED TO THE BAR COUNCIL OF INDIA WITH COPY OF APPLICATION FOR  
AFFILIATION OF A UNIVERSITY

1. Name of the Centre of Legal Education :
2. Address with phone number, e-mail ID:
3. Name and address of the body running the Centre of Legal Education :
4. Name of the University:
5. When the University affiliated the Centre of Legal Education (copy of the letter of affiliation to be attached):
6. Affiliation granted up to:
7. Conditions of affiliations, if any:
8. When NOC from the State Government obtained, if required (a copy of the NOC to be attached):
9. Affiliation approved by Bar Council of India on (in case of subsequent approval needed):
10. Approval valid up to (in case subsequent approval needed):

11. Conditions of approval of the Bar Council of India , if any (in case of subsequent approval needed):
12. Specific response on each condition of approval (in case of subsequent approval needed):
13. When was the initial inspection by Bar Council of India done (in case of subsequent approval needed):
14. Annual Report & audited Accounts of the previous years (in case of subsequent approval needed):
15. Detailed statement of the infrastructure if not provided in the application:
16. List of teaching faculty & none-teaching staff with qualifications & experience.

#### SCHEDULE VIII

##### FORMS OF ANNUAL RETURN

To be specified later and incorporated as and when prescribed

#### SCHEDULE IX

##### APPLICATION FORM ACCREDITATION AND CREDIT RATING

To be specified later and incorporated as and when prescribed

#### SCHEDULE X

##### INFORMATION OF ENROLLED STUDENT FOR UNIFORM IDENTITY CARD

To be specified later and incorporated as and when prescribed

#### SCHEDULE XI

##### CENTRALISED DATA FOR FACULTIES

To be specified later and incorporated as and when prescribed

#### SCHEDULE XII

##### LIST OF APPROVED FOREIGN UNIVERSITIES WHOSE DEGREE IN LAW CAN BE CONSIDERED FOR ENROLMENT UNDER CHAPTER V OF THE RULES

\* \* \* \* \*

#### SCHEDULE XIII

##### LIST OF DATES FIXED FOR VARIOUS REGULATORY PURPOSES

###### *New Proposal*

- |   |                   |
|---|-------------------|
| 1. Last date for submission of completed application form with the required fee for initial approval of a proposed institutions | December 31       |
| 2. Submission of any further information as may be required by BCI on the above application                                     | within January 31 |
| 3. Conduction of initial inspection of new application as above   | within April 30   |
| 4. Consideration of initial inspection report and recommendation by LEC to BCI  | within May 31     |

5. BCI's recognition letter or reason for refusal to be communicated to the applicant and the concerned State Government/ University whichever is applicable within June 15

*Renewal of approval of affiliation*

1. Last date of submission of completed application Form with the required fee for renewal inspection earlier recognition unless relaxed by BCI on special reasons six months' earlier from the date of expiry of the approval of affiliation
2. Last date for submission of renewal inspection Report to LEC June 30 and December 31
3. Last date for recommendation of LEC to BCI February 28 (for Dec. Report) August 31 (for June Report)
4. BCI to communicate recognition letter March 31 (For December Report) September 30 (For June Report)

*Application for accreditation*

1. Last date for submission of application for accreditation with fees July 31
2. Submission of accreditation report to BCI by the committee and notification within December 31
3. Special inspection any time Submission of Report to LEC within one month of inspection.]

## PART V

### THE STATE ROLL AND SENIORITY

#### CHAPTER I

#### PREPARATION AND MAINTENANCE OF THE STATE ROLL

*(Rules under sections 17, 19, 20 and 22 of the Act)*

1. (1) The Council may, from time to time, give directions as to the manner in which the State Council shall prepare and maintain the rolls under section 17 of the Act.

(2) The copies of the State Roll to be sent under section 19 of the Act shall be in Form B-1 and B-2 as set out in the rules at the end of this Chapter and shall contain such further details as the Council may specify.

2. Particulars of transfers under section 18 of the Act, cancellations directed under the proviso to section 26(1) of the Act, removal of names under section 26-A of the Act, punishments imposed by an order under Chapter V, particulars as to the result of appeals under the relevant decisions of the Courts, and such other matters which the Council may specifically direct, shall be noted in the said rolls.

3. Save as otherwise directed by the Council, no other particulars shall be entered in the said rolls.

4. Every page of the roll shall bear the signature or a facsimile thereof, of the Secretary or other person authorised by the State Council.

5. Authenticated copies of any additions or alterations made in the roll shall be sent to the Council without delay.

## FORM B-1

(Under rule 1(2) of Chapter I, Part V)

PART I/II: COPY OF ROLL UNDER SECTION 17(1)(a) OF THE ADVOCATES ACT, 1961 OF THE BAR COUNCIL OF .....  
SENT UNDER SECTION 19 OF THE ADVOCATES ACT, 1961

Sl. No.	Name	Address	Date of enrolment under the Bar Councils Act/ Advocates Act	Date of entry as Vakil, Pleader or Attorney, if any	Date of Birth	Date of Transfer, if any	If enrolled in Supreme Court, date of such enrolment	Date of enrolment as Senior Advocate in case designated as such on or after 1-12-1961	Remarks (Particulars envisaged under rule)
1	2	3	4	5	6	7	8	9	10

FORM B-2

(Under rule 1(2) of Chapter I, Part V)

PART II: COPY OF ROLL UNDER SECTION 17(1)(b) OF THE ADVOCATES ACT, 1961 OF THE BAR COUNCIL OF .....  
SENT UNDER SECTION 19 OF THE ADVOCATES ACT, 1961

Roll. No.	Name and Address	Date of enrolment under the Advocates Act, 1961	Date of Birth	Date of Transfer, if any, and particulars	Remarks
1	2	3	4	5	6

Particulars should be entered in the remarks column for persons enrolled under section 24(3) of the Act.

## CHAPTER II

## PREVENTION OF ENTRY IN MORE THAN ONE ROLL

(Rules under sections 17(4) and 49(1)(ad) of the Act)

1. The rules of every State Council shall provide, *inter alia*, for a declaration in its form of application for enrolment—

(a) that the name of the applicant is not on the roll of any other State Council, and

(b) that the applicant will not, so long as his name is on the roll of one of the State Councils, apply for enrolment, to any other State Council.

2. The Council may, on receipt of information that the name of any person is entered on the roll of more than one State Council, after hearing the person concerned, remove his name from any of the rolls on which his name appears and take such other action against him as may be called for.

## CHAPTER III

## TRANSFER OF NAME FROM ONE STATE ROLL TO ANOTHER STATE ROLL

(Rules under sections 18 and 49(1)(b) of the Act)

1. Any person whose name is entered on any State Roll may make an application to the Council for transfer under section 18 of the Act in Form "C" in this Chapter. The application shall be accompanied by (i) a certified copy of the entry in the State Roll relating to the applicant; and (ii) a certificate from the State Council stating that his certificate of enrolment has not been recalled, that the applicant is entitled to practise on the date of his application, that there are no disciplinary proceedings pending against the applicant and that it has no objection to the transfer being ordered.

On receipt of an application for transfer, the Secretary shall enquire from the State Council concerned whether they have any objections to the transfer being granted, and he shall thereafter place the papers for disposal before the Council or a Committee constituted for the purpose. If the Committee considers that the application shall be refused, the matter should be referred to the Council for orders.

<sup>18</sup>[1-A. On receipt of an application for transfer, the "transferor" Bar Council shall transmit the entire records relating to the enrolment of the Advocate who is seeking a transfer, to the Bar Council of India together with original of the application for enrolment, retaining an authenticated copy of the documents with the "transferor" Bar Council.]

2. (1) The order of the Council on the application for transfer shall ordinarily be in Form D in the annexure to this Chapter.

(2) The applicant for transfer shall be informed about the order on his application.

(3) On receipt of a communication from the Bar Council of India of an order for transfer—

(a) it shall be the duty of the Advocate who has applied for transfer to produce the certificate of enrolment issued to him under section 22 of the Act

for endorsement in Form D-1 in this Chapter to the State Council on the roll of which his name appears. The said State Council shall as expeditiously as possible after the endorsement and the necessary entries in its roll transmit the certificate to the State Council to which the name of the Advocate is directed to be transferred;

(b) on receipt of the certificate endorsed as aforesaid the Secretary of the latter State Council shall make a further endorsement thereon in Form D-2 in this Chapter;

(c) on such endorsement being made and the other formalities, if any, required by law being complied with the transfer shall be deemed to take effect from the date of the direction of the Bar Council of India under section 18 of the Act;

<sup>19</sup>[(d) after the application has been allowed by the Bar Council of India, the Bar Council of India shall transmit the original records received from the "transferor" Bar Council to the "transferee" Bar Council and in the event of the application for transfer is rejected for any reason, shall be transmitted to the "transferor" Bar Council.]

4. A copy of the order on the applications for transfer made by the Council shall be put up on the Notice Board of the State Council concerned.

#### FORM C

(Under rule 1 Chapter III, Part V)

#### THE BAR COUNCIL OF INDIA

#### APPLICATION FOR TRANSFER TO ANOTHER ROLL UNDER SECTIONS 18 AND 49(1)(b) OF THE ADVOCATES ACT, 1961

From

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

To

The Secretary  
 The Bar Council of India,  
 New Delhi.

Sir,

1. I request the transfer of my name from the roll of the Bar Council of ..... to the roll of the Bar Council of ..... under section-18 of the Act for the reasons set out by me in this application.

2. I was enrolled in the Bar Council of ..... on .....

3. My name is entered on the roll of the said Bar Council as ..... and my roll number is .....

4. I state that prior to my enrolment as aforesaid, in the Bar Council of ..... I did not make any application for enrolment to any other State Bar Council and that no such application was either withdrawn, refused or dismissed.

(if any prior application had been made, details should be given here).

5. I state that there are/are no disciplinary proceedings pending against me in any State Bar Council.

6. The reasons for my application for transfer are as follow:

(If the application for transfer is made within 2 years of the date of enrolment, applicant should state the reason why even at the first instance he did not apply for enrolment to the Bar Council to which transfer is sought).

7. After the transfer of my name to the roll of the Bar Council ..... I intend to practise ordinarily at ..... My permanent address after transfer will be—

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

8. I undertake to communicate to the State Bar Council to which my name is to be transferred, any change in the said address.

9. Till the transfer is effected all communications may please be sent to the following address:—

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

I undertake to furnish any further information that may be necessary in reply to any communication that may be sent to the said address till the transfer is ordered.

10. I enclose herewith:

(i) A certified copy of entry in the State Roll.

(ii) A certificate from the State Bar Council as prescribed in rule 1(2) in Part V, Chapter III.

I hereby declare that the facts stated herein are true.

Place:.....

Date:.....

.....  
 Signature of the Advocate  
 (Applicant)

#### FORM D

#### THE BAR COUNCIL OF INDIA ORDER ON TRANSFER APPLICATIONS

Resolved that the names of the following persons be removed from and entered in the rolls of the State Bar Councils as shown against their names:—

Transfer Application No.	Name as in the State Roll	Date of entry as Vakil, Pleader or Attorney, if any	Date of enrolment under the BC/Advocates Act
1	2	3	4

Date of birth	On the roll of	Transfer to the roll of	Permanent address after transfer	If enrolled in Supreme Court, date of such enrolment
5	6	7	8	9

## FORM D1

Name transferred to the roll of the Bar Council of ..... By order of the Bar Council of India made under resolution No..... dated..... Date..... Secretary, Bar Council of.....

## FORM D2

On transfer from the roll of the Bar Council of..... with Roll No. .... (Vide BCI Order dated.....and communication of State Bar Council of .....Dated.....) the name is entered in the State Roll of Bar Council of .....Vide Roll No.....Dated.....

Date:.....

Secretary, Bar Council of.....

## CHAPTER IV

## SENIORITY IN THE STATE ROLLS

*(Rules under sections 17(3), 20 and 49(1)(i)(ac) of the Act)*

**1. Seniority of Vakils, Pleaders and Attorneys not entitled to practise in the High Court.**—The seniority of a Vakil, Pleader or Attorney, who was not entitled to practise in the High Court, and who was enrolled as an Advocate immediately before the appointed day, or who was enrolled after that day shall be determined according to the date of enrolment as Advocate.

**2. Seniority of other Advocates.**—(1) The seniority of other Advocates referred to in section 17(1)(a) shall—

(a) in the case of persons whose names were entered in the rolls under section 8(3)(a) of the Indian Bar Councils Act, 1926, be the date from which their seniority was reckoned in the said rolls;

(b) in the case of persons admitted as Advocates under section 58-A of the Act, be the dates of their first admission when they were entitled to practise in the High Court of Allahabad or the Chief Court of Oudh or the other High Courts or the Judicial Commissioners' Court mentioned in sub-sections (2), (3) and (4) of the said section 58-A;

(c) in the case of persons admitted as Advocates under section 58-AA of the Act, be the date when they were first entitled to practise the profession of law under the law enforced in the Union Territory of Pondicherry;

(d) in the case of the other persons, be determined in accordance with the date of enrolment under the Indian Bar Councils Act, 1926:

Provided that in the case of a person whose name had been entered on the rolls of more than one High Court, the date as shown in the High Court in which he was first enrolled under shall be taken as the date for entry for purpose of seniority in the rolls under section 17(1)(a) of the Advocates Act, 1961.

(2) In the case of the persons referred to in section 58-AE of the Act, be the date when they were first entitled to practise the profession of law as provided for in section 58-AE.

(3) In the case of the persons referred to in section 58-AF of the Act, be the date on which they are deemed to be Advocates.

3. In cases not covered by any of the rules previous in this Chapter, or in case of doubt, the seniority shall on a reference by a State Council, be according to the dates as may be determined by the Council.

4. **Seniority of Senior Advocates of the Supreme Court.**—The seniority of a Senior Advocate enrolled before the appointed day shall be determined in accordance with the date of his enrolment as Senior Advocate.

#### CHAPTER V

#### SPECIAL PROVISION FOR ENROLMENT OF CERTAIN SUPREME COURT ADVOCATES

*(Rules under section 20 read with section 49(1)(i) of the Act)*

1. Any Advocate who was entitled as of right to practise in the Supreme Court immediately before the appointed day and whose name is not entered in any State Roll may within 31st December, 1974 express his intention in the form prescribed under this rule to the Bar Council of India for entry of his name in the roll of any State Bar Council.

2. The notification of the Bar Council of India prescribing the date shall be published in the Gazette of India, and copies thereof sent to all Bar Councils. The notification or a gist thereof shall also be published in at least one English Newspaper in Delhi and one English Newspaper in every State.

#### THE BAR COUNCIL OF INDIA

Intimation under section 20 of the Advocates Act, 1961

(Unnecessary columns/entries to be struck out)

To

The Secretary  
The Bar Council of India,  
21, Rouse Avenue,  
Institutional Area,  
New Delhi-110002

1. I, ....., (name in block letters),  
residing at .....  
was entitled as of right to practise in the Supreme Court of India immediately before the appointed day *viz.*, 1-12-1961.

2-A. I was enrolled on.....as an Advocate of the Supreme Court of India and was entitled as of right to practise in the Supreme Court immediately before the appointed day *viz.*, 1-12-1961.

I have not expressed to any State Bar Council my intention to practise under section 17(1)(a) of the Advocates Act, 1961.

OR

2-B. (i) I was first enrolled as an Advocate of the Supreme Court of India on ..... and was entitled as of right to practise in the Supreme Court immediately before the appointed day *viz.*, 1-12-1961.

(ii) I was enrolled later as Senior Advocate of the Supreme Court of India on.....

My Roll Number as Senior Advocate is ..... I have not expressed to any State Bar Council my intention to practise under section 17(1)(a) of the Advocates Act, 1961.

3. (To be entered if in service) On the date of this intimation, I am in service (particulars to be given).....

I undertake to intimate my intention to resume practise to the State Bar Council mentioned in column 4.

4. I hereby express my intention as mentioned under section 20 of the Advocates Act, (as amended) for the entry of my name in the roll of the Bar Council of.....

I declare that these facts set out in this form are correct.

Date .....

.....  
(Signature)

Place .....

Address.....

.....

## PART VI RULES GOVERNING ADVOCATES CHAPTER I

### RESTRICTIONS ON SENIOR ADVOCATES

*(Rules under sections 16(3) and 49(1)(g) of the Act)*

Senior Advocates shall, in the matter of their practice of the profession of law mentioned in section 30 of the Act, be subject to the following restrictions:—

(a) A Senior Advocate shall not file a *vakalatnama* or act in any Court or Tribunal, or before any person or other authority mentioned in section 30 of the Act.

*Explanation.*—"To act" means to file an appearance or any pleading or application in any Court or Tribunal or before any person or other authority mentioned in section 30 of the Act, or to do any act other than pleading required or authorised by law to be done by a party in such Court or Tribunal or before any person or other authority mentioned in the said section either in person or by his recognised agent or by an Advocate or an attorney on his behalf.

(b) (i) A Senior Advocate shall not appear without an Advocate on Record in the Supreme Court or without an Advocate in Part II of the State Roll in any Court or Tribunal or before any person or other authorities mentioned in section 30 of the Act.

(ii) Where a Senior Advocate has been engaged prior to the coming into force of the rules in this Chapter, he shall not continue thereafter unless an Advocate in Part II of the State Roll is engaged alongwith him. Provided that a Senior Advocate may continue to appear without an Advocate in Part II of the State Roll in cases in which he had been briefed to appear for the prosecution or the defence in a criminal case, if he was so briefed before he is designated as a Senior Advocate or before coming into operation of the rules in this Chapter, as the case may be.

(c) He shall not accept instructions to draft pleading or affidavits, advice on evidence or to do any drafting work of an analogous kind in any Court or Tribunal or before any person or other authority mentioned in section 30 of the Act or undertake conveyancing work of any kind whatsoever. This restriction however shall not extend to settling any such matter as aforesaid in consultation with an Advocate in Part II of the State Roll.

(cc) A Senior Advocate shall, however, be free to make concession or give undertakings in the course of arguments on behalf of his clients on instructions from the junior Advocate.

(d) He shall not accept directly from a client any brief or instructions to appear in any Court or Tribunal or before any person or other authority in India.

(e) A Senior Advocate who had acted as an Advocate (junior) in a case, shall not after he has been designated as a Senior Advocate advise on grounds of appeal in a Court of Appeal or in the Supreme Court, except with an Advocate as aforesaid.

(f) A Senior Advocate may in recognition of the services rendered by an Advocate in Part II of the State Roll appearing in any matter pay him a fee which he considers reasonable.

## CHAPTER II

### STANDARDS OF PROFESSIONAL CONDUCT AND ETIQUETTE

*(Rules under section 49(1)(c) of the Act read with the proviso thereto)*

#### Preamble

An Advocate shall, at all times, comport himself in a manner befitting his status as an officer of the Court, a privileged member of the community, and a gentleman, bearing in mind that what may be lawful and a moral for a person who is not a member of the Bar, or for a member of the Bar in his non-professional capacity may still be improper for an Advocate. Without prejudice to the generality of the foregoing obligation, an Advocate shall fearlessly uphold the interests of his client and in his conduct conform to the rules hereinafter mentioned both in letter and in spirit. The rules hereinafter mentioned contain canons of conduct and etiquette adopted as general guides; yet the specific mention thereof shall not be construed as a denial of the existence of other equally imperative though not specifically mentioned.

#### Section I—Duty to the Court

1. An Advocate shall, during the presentation of his case and while otherwise acting before a Court, conduct himself with dignity and self-respect. He shall not be servile and whenever there is proper ground for serious complaint against a judicial officer, it shall be his right and duty to submit his grievance to proper authorities.

2. An Advocate shall maintain towards the Courts a respectful attitude, bearing in mind that the dignity of the judicial office is essential for the survival of a free community.

3. An Advocate shall not influence the decision of a Court by any illegal or improper means. Private communications with a Judge relating to a pending case are forbidden.

4. An Advocate shall use his best efforts to restrain and prevent his client from resorting to sharp or unfair practices or from doing anything in relation to the Court, opposing counsel or parties which the Advocate himself ought not to do. An Advocate shall refuse to represent the client who persists in such improper conduct. He shall not consider himself a mere mouth-piece of the client, and shall exercise his own judgment in the use of restrained language in correspondence, avoiding scurrilous attacks in pleadings, and using intemperate language during arguments in Court.

5. An Advocate shall appear in Court at all times only in the prescribed dress, and his appearance shall always be presentable.

6. An Advocate shall not enter appearance, act, plead or practise in any way before a Court, Tribunal or Authority mentioned in section 30 of the Act, if the sole or any member thereof is related to the Advocate as father, grandfather, son, grand son, uncle, brother, nephew, first cousin, husband, wife, mother, daughter, sister, aunt, niece, father-in-law, mother-in-law, son-in-law, brother-in-law, daughter-in-law or sister-in-law.

<sup>20</sup>[For the purposes of this rule, Court shall mean a Court, Bench or a Tribunal in which above-mentioned relation of the Advocate is a Judge, member or the Presiding Officer.]

7. An Advocate shall not wear bands or gown in public places other than in Courts except on such ceremonial occasions, and at such places as the Bar Council of India or the Court may prescribe.

8. An Advocate shall not appear in or before any Court or Tribunal or any other authority for or against an organisation or an institution, society or corporation, if he is a member of the Executive Committee of such organisation or institution or society or corporation. "Executive Committee", by whatever name it may be called, shall include any Committee or body of persons which, for the time being, is vested with the general management of the affairs of the organisation or institution, society or corporation:

Provided that this rule shall not apply to such a member appearing as *amicus curiae* or without a fee on behalf of a Bar Council, Incorporated Law Society or a Bar Association.

9. An Advocate should not act or plead in any manner in which he is himself pecuniary interested.

#### *Illustration*

I. He should not act in a bankruptcy petition when he himself is also a creditor of the bankrupt.

II. He should not accept a brief from a company of which he is Director.

10. An Advocate shall not stand as a surety, or certify the soundness of a surety for his client required for the purpose of any legal proceedings.

### **Section II—Duty to the Client**

11. An Advocate is bound to accept any brief in the Courts or Tribunals or before any other authority in or before which he proposes to practise at a fee consistent with his standing at the Bar and the nature of the case. Special circumstances may justify his refusal to accept a particular brief.

12. An Advocate shall not ordinarily withdraw from engagements, once accepted, without sufficient cause and unless reasonable and sufficient notice is given to the client. Upon his withdrawal from a case, he shall refund such part of the fee as has not been earned.

13. An Advocate should not accept a brief or appear in a case in which he has reason to believe that he will be a witness, and if being engaged in a case, it becomes apparent that he is a witness on a material question of fact, he should not continue to appear as an Advocate if he can retire without jeopardising his client's interests.

14. An Advocate shall, at the commencement of his engagement and during the continuance thereof, make all such full and frank disclosures to his client relating to his connection with the parties and any interest in or about the controversy as are likely to affect his client's judgment in either engaging him or continuing the engagement.

15. It shall be the duty of an Advocate fearlessly to uphold the interests of his client by all fair and honourable means without regard to any unpleasant consequences to himself or any other. He shall defend a person accused of a crime regardless of his personal opinion as to the guilt of the accused, bearing in mind that his loyalty is to the law which requires that no man should be convicted without adequate evidence.

16. An Advocate appearing for the prosecution of a criminal trial shall so conduct the prosecution that it does not lead to conviction of the innocent. The suppression of material capable of establishing the innocence of the accused shall be scrupulously avoided.

17. An Advocate shall not, directly or indirectly, commit a breach of the obligations imposed by section 126 of the Indian Evidence Act.

18. An Advocate shall not, at any time, be a party to fomenting of litigation.

19. An Advocate shall not act on the instructions of any person other than his client or his authorised agent.

20. An Advocate shall not stipulate for a fee contingent on the results of litigation or agree to share the proceeds thereof.

21. An Advocate shall not buy or traffic in or stipulate for or agree to receive any share or interest in any actionable claim. Nothing in this rule shall apply to stock, shares and debentures of Government securities, or to any instruments which are, for the time being, by law or custom, negotiable or to any mercantile document of title to goods.

22. An Advocate shall not, directly or indirectly, bid for or purchase, either in his own name or in any other name, for his own benefit or for the benefit of any other person, any property sold in the execution of a decree or order in any suit, appeal or other proceeding in which he was in any way professionally engaged. This prohibition, however, does not prevent an Advocate from bidding for or purchasing for his client any property which his client may himself legally bid for or purchase, provided the Advocate is expressly authorised in writing in this behalf.

<sup>21</sup>[22-A. An Advocate shall not directly or indirectly bid in Court auction or acquire by way of sale, gift, exchange or any other mode of transfer either in his own name or in any other name for his own benefit or for the benefit of any other person any property which is subject-matter of any suit appeal or other proceedings in which he is in any way professionally engaged.]

23. An Advocate shall not adjust fee payable to him by his client against his own personal liability to the client, which liability does not arise in the course of his employment as an Advocate.

24. An Advocate shall not do anything whereby he abuses or takes advantage of the confidence reposed in him by his client.

25. An Advocate should keep accounts of the client's money entrusted to him, and the accounts should show the amounts received from the client or on

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21. R. 22-A came into force w.e.f. 24-9-1998.

his behalf, the expenses incurred for him and the debits made on account of fees with respective dates and all other necessary particulars.

26. Where moneys are received from or on account of a client, the entries in the accounts should contain a reference as to whether the amounts have been received for fees or expenses, and during the course of the proceeding, no Advocate shall, except with the consent in writing of the client concerned, be at liberty to divert any portion of the expenses towards fees.

27. Where any amount is received or given to him on behalf of his client, the fact of such receipt must be intimated to the client, as early as possible.

28. After the termination of the proceeding, the Advocate shall be at liberty to appropriate towards the settled fee due to him, any sum remaining unexpended out of the amount paid or sent to him for expenses, or any amount that has come into his hands in that proceeding.

29. Where the fee has been left unsettled, the Advocate shall be entitled to deduct, out of any moneys of the client remaining in his hands, at the termination of the proceeding for which he had been engaged, the fee payable under the rules of the Court, in force for the time being, or by then settled and the balance, if any, shall be refunded to the client.

30. A copy of the client's account shall be furnished to him on demand provided the necessary copying charge is paid.

31. An Advocate shall not enter into arrangements whereby funds in his hands are concerned into loans.

32. An Advocate shall not lend money to his client for the purpose of any action or legal proceedings in which he is engaged by such client.

*Explanation.*—An Advocate shall not be held guilty for a breach of this rule, if in the course a pending suit or proceeding, and without any arrangement with the client in respect of the same, the Advocate feels compelled by reason of the rule of the Court to make a payment to the Court on account of the client for the progress of the suit or proceeding.

33. An Advocate who has, at any time, advised in connection with the institution of a suit, appeal or other matter or has drawn pleadings, or acted for a party, shall not act, appear or plead for the opposite party.

### **Section III—Duty to Opponent**

34. An Advocate shall not in any way communicate or negotiate upon the subject-matter of controversy with any party represented by an Advocate except through that Advocate.

35. An Advocate shall do his best to carry out all legitimate promises made to the opposite party even though not reduced to writing or enforceable under the rules of the Court.

### **Section IV—Duty to Colleagues**

36. An Advocate shall not solicit work or advertise, either directly or indirectly, whether by circulars, advertisements, touts, personal communications, interviews not warranted by personal relations, furnishing or inspiring newspaper comments or producing his photographs to be published in connection with cases in which he has been engaged or concerned. His sign-board or name-plate should be reasonable size. The sign-board or name-plate or stationery should not indicate that he is or has been associated with any person or organisation or with any particular cause or matter or that he specialises in

or organisation or with any particular cause or matter or that he specialises in any particular type of work or that he has been a Judge or an Advocate-General.

37. An Advocate shall not permit his professional services or his name to be used in aid of or to make possible, the unauthorised practice of law by any agency.

38. An Advocate shall not accept a fee less than the fee taxable under the rules when the client is able to pay the same.

39. An Advocate shall not enter appearance in any case in which there is already a vakalat or memo of appearance filed by an Advocate engaged for a party except with his consent; <sup>22</sup>[in case such consent is not produced he shall apply to the Court stating reasons why the said consent should not be produced and he shall appear only after obtaining the permission of the Court.]

#### <sup>23</sup>[Section IV-A

<sup>24</sup>[40. Every Advocate borne on the rolls of the State Bar Council shall pay to the State Bar Council a sum of ₹ 1,800 every third year commencing from the date of notification in Gazette along with a statement of particulars as given in the form set out at the end of these rules, the first payment to be made on or before the date of notification in Gazette or such extended time as notified by the Bar Council of India or the concerned State Bar Council:

Provided further however that an advocate shall be at liberty to pay in lieu of the payment of ₹ 1,800 every three years a consolidated amount of ₹ 3,000. This will be a life time payment to be kept in the fixed deposit by the concerned State Bar Council. Out of life time payment 80% of the amount will be retained by the State Bar Council in a fixed deposit and remaining 20% has to be transferred to the Bar Council of India. The Bar Council of India and State Bar Council have to keep the same in a fixed deposit and the interest on the said deposits shall alone be utilized for the Welfare of the Advocates.

*Explanation 1.*—Statement of particulars as required by rule 40 in the form set out shall require to be submitted only once in three years.

*Explanation 2.*—The Advocates who are in actual practise and are not drawing salary or not in full time service and not drawing salary from their respective employers are only required to pay the amount referred to in this rule.

*Explanation 3.*—This rule will be effective from the date of notification in Gazette and for period prior to this, advocates will continue to be covered by old rule.]

41. (1) All the sums so collected by the State Bar Council in accordance with rule 40 shall be credited in a separate fund known as "Bar Council of India Advocates Welfare Fund <sup>25</sup>[\* \* \*]" and shall be deposited in the bank as provided hereunder.

22. Added w.e.f. 5-6-1976.

23. Section IV-A came into force w.e.f. 1-4-1984.

24. Substituted by Resolution No. 153/2014, dated 2-3-2015.

25. The words "for the State" omitted by Resolution No. 93/2001, dated 5-1-2002.

(2) The Bar Council of India Advocates Welfare Fund Committee for the State shall remit 20% of the total amount collected and credited to its account, to the Bar Council of India by the end of every month which shall be credited by the Bar Council of India and the Bar Council of India shall deposit the said amount in a separate fund to be known as "BAR COUNCIL OF INDIA ADVOCATES WELFARE FUND". This fund shall be managed by the Welfare Committee of the Bar Council of India in the manner prescribed from time to time by the Bar Council of India for the Welfare of the Advocates.

(3) The rest 80% of the total sum so collected by the Bar Council of India Advocates Welfare Fund Committee for the State under rule 41(1) shall be utilised for the welfare of Advocates in respect of Welfare Schemes sponsored by the respective State Bar Councils and this fund shall be administered by the Advocates Welfare Committee for the State which shall submit its report annually to the Bar Council of India.

<sup>26</sup>[(4) In case of transfer of an Advocate from one State Bar Council to other State Bar Council, 80% of the total sum collected so far in respect of that Advocate by the Bar Council of India Advocates Welfare Fund Committee for the State under rule 41(1) where the said Advocate was originally enrolled, would get transferred to the Advocates Welfare Fund Committee of the Bar Council of India for the State to which the said Advocate has got himself transferred.]

42. If any Advocate fails to pay the aforesaid sum within the prescribed time as provided under rule 40, the Secretary of the State Bar Council shall issue to him a notice to show cause within a month why his right to practice be not suspended. In case the Advocate pays the amount together with the late fee of Rs. 5 per month, or a part of a month subject to a maximum of Rs. 30 within the period specified in notice, the proceedings shall be dropped. If the Advocate does not pay the amount or fails to show sufficient cause, a Committee of three members constituted by the State Bar Council in this behalf may pass an order suspending the right of the Advocate to practise:

Provided that the order of suspension shall cease to be in force when the Advocate concerned pays the amount alongwith a late fee of Rs. 50 and obtain a certificate in this behalf from the State Bar Council.

43. An Advocate who has been convicted of an offence mentioned under section 24-A of the Advocates Act, 1961 or has been declared insolvent or has taken full time service or part time service or engages in business or any avocation inconsistent with his practising as an Advocate or has incurred any disqualification mentioned in the Advocates Act, 1961 or the rules made thereunder, shall send a declaration to that effect to the respective State Bar Council in which the Advocate is enrolled, within ninety days from the date of such disqualification. If the Advocate does not file the said declaration or fails to show sufficient cause for not filing such declaration provided therefor, the Committee constituted by the State Bar Council under rule 42 may pass orders suspending the right of the Advocate to practise:

Provided that it shall be open to the Committee to condone the delay on an application being made in this behalf:

Provided further that an Advocate who had after the date of his enrolment and before the coming into force of this rule, become subject to any of the

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26. Sub-R. (4) came into force w.e.f. 3-11-1995.

disqualifications, mentioned in this rule, shall within a period of ninety days of the coming into force of this rule send declaration referred to in this rule to the respective State Bar Council in which the Advocate is enrolled and on failure to do so by such Advocate all the provisions of this rule would apply.

44. An appeal shall lie to the Bar Council of India at the instance of an aggrieved Advocate within a period of thirty days from the date of the order passed under rules 42 and 43.

<sup>27</sup>[44-A. (1) There shall be a Bar Council of India Advocates Welfare Committee, consisting of five members elected from amongst the members of the Council. The term of the members of the Committee shall be co-extensive with their term in the Bar Council of India.

(2)(i) Every State Council shall have an Advocates Welfare Committee known as Bar Council of India Advocates Welfare Committee for the State.

(ii) The Committee shall consist of member Bar Council of India from the State concerned who shall be the *ex officio* Chairman of the Committee and two members elected from amongst the members.

(iii) The Secretary of the State Bar Council concerned will act as *ex officio* Secretary of the Committee.

(iv) The term of the member, Bar Council of India in the Committee shall be co-extensive with his term in the Bar Council of India.

(v) The term of the members elected from the State Bar Council shall be two years.

(vi) Two members of the Committee will form a quorum of any meeting of the Committee.

(3) Every State Bar Council shall open an account in the name of the Bar Council of India Welfare Committee for the State, in any Nationalised Bank.

(4) No amount shall be withdrawn from the bank unless that cheque is signed by the Chairman of the Welfare Committee and its Secretary.

(5) The State Bar Council shall implement Welfare Schemes approved by the Bar Council of India through Advocates Welfare Committee as constituted under sub-clause (2)(i). The State Bar Councils may suggest suitable modifications in the Welfare Schemes or suggest more schemes, but such modifications or suggested schemes shall have effect only after approval by the Bar Council of India.

(6) The State Bar Council shall maintain separate account in respect of the Advocate Welfare Fund which shall be audited annually alongwith other accounts of the State Bar Council and send the same alongwith Auditor's Report to the Bar Council of India:

<sup>28</sup>[Provided that the Bar Council of India Advocates Welfare Fund Committee for the State shall be competent to appoint its own staff in addition to the staff of the Bar Council of the State entrusted with duty to maintain the account of the fund if their funds are adequate to make such appointment. The salary and other conditions of the said staff be determined by the Bar Council of India Advocates Welfare Fund Committee for the State:

27. Amended by Resolution No. 78 of 1985, dated 28-7-1985.

28. Came into force w.e.f. 10-2-1996 *vide* Resolution No. 25/96.

Provided further that Chairman of the Bar Council of India Advocates Welfare Fund Committee for the State shall be competent to make temporary appointment for a period not exceeding six months in one transaction if the situation so requires subject to availability of fund in the said Committee for making such appointment.]

44-B. The Bar Council of India shall utilise the funds received under rule 41(2) in accordance with the schemes which may be framed from time to time.]

#### FORM UNDER RULE 40

The Bar Council of.....

.....

Dear Sirs,

(1) I am enclosing herewith a Postal order/Bank Draft/Cash for..... being the payment under rule 40, Chapter II, Part VI of the Rules of the Bar Council of India.

(2) I am enrolled as an Advocate on the Rolls of your State Bar Council.

(3) I am ordinarily practising at.....in the territory/State of.....

(4) I am a member of the.....Bar Association/not a member of any Bar Association.

(5) My present address is.....

Dated:

Signature

Place:

Name in Block Letters

Enrolment No.....

Received a sum of Rs. 30 (Rs. 90, Rs. 300) Rs. 300 from.....towards payment under rule 40, Chapter II, Part VI of the Rules of the Bar Council of India by way of Postal Order/Bank Draft/Cash on.....

Dated:

Secretary

Place:

Bar Council of .....

#### SCHEME FOR FINANCIAL ASSISTANCE TO STATE BAR COUNCILS AND INDIVIDUALS UNDER RULE 44-B OF THE BAR COUNCIL OF INDIA RULES<sup>29</sup>

1. This scheme shall be known as the Scheme for Financial Assistance to the State Bar Councils under rule 44-B of the Bar Council of India Rules.

2. The scheme shall come into force immediately.

3. These schemes shall be applicable to only such State Bar Councils which have remitted the sum in accordance with the rule 41(2) of the Bar Council of India.

<sup>30</sup>[4. That on receiving information from the Chairman of the State Bar Council or Member, Bar Council of India from that State, the Chairman, Bar Council of India on being satisfied by such report may immediately sanction a reasonable amount not exceeding ₹ 50,000 in an individual case and ₹ 1,00,000 in case of some calamity involving more than one advocate and shall report to the Advocates Welfare Committee of the Bar Council of India. The financial

29. Came into force w.e.f. July, 1998 *vide* Resolution No. 64/1998.

30. Substituted by Resolution No. 154/2014, dated 2-3-2015.

assistance to the State Bar Councils will be available in any of the following cases:—

(a) The advocate or advocates have suffered seriously on account of some natural calamity, or;

(b) the advocate or advocates have died an unnatural death, due to an accident or natural calamity or any other cause of like nature, or;

(c) the advocate or advocates have suffered or is suffering from such serious disease or illness which is likely to cause death if no proper treatment is given and the advocate requires financial assistance without which he would not be able to get proper treatment and has no personal assets except a residential house to meet such expenditures, or;

(d) the advocate or advocates become physically disabled or incapacitated to continue his profession on account of natural calamity or accident or any other cause of like nature.]

5. That the amount sanctioned under rule 4 shall be placed at the disposal of the Advocates Welfare Committee of the Bar Council of India for the State and the said State Committee shall maintain separate account and send the same to the Bar Council of India within three months from the date of the receipt thereof.

6. That the Advocates Welfare Committee of the Bar Council of India on receiving such applications duly recommended by the State Bar Councils, may sanction a sum provided in the different schemes prepared by the Bar Council of India.

### **Section V—Duty in imparting training**

45. It is improper for an Advocate to demand or accept fees or any premium from any person as a consideration for imparting training in law under the rules prescribed by a State Bar Council to enable such person to qualify for enrolment under the Advocates Act, 1961.

### **Section VI—Duty to Render Legal Aid**

46. Every Advocate shall in the practice of the profession of law bear in mind that any one genuinely in need of a lawyer is entitled to legal assistance even though he cannot pay for it fully or adequately and that within the limits of an Advocate's economic condition, free legal assistance to the indigent and oppressed is one of the highest obligations an Advocate owes to society.

### **Section VII—Section on other Employments**

47. An Advocate shall not personally engage in any business; but he may be a sleeping partner in a firm doing business provided that, in the opinion of the appropriate State Bar Council, the nature of the business is not inconsistent with the dignity of the profession.

48. An Advocate may be Director or Chairman of the Board of Directors of a company with or without any ordinary sitting fee, provided none of his duties are of an executive character. An Advocate shall not be a Managing Director or a Secretary of any company.

49. An Advocate shall not be a full-time salaried employee of any person, Government, firm, corporation or concern, so long as he continues to practise, and shall, on taking up any employment, intimate the fact to the Bar Council on whose roll his name appears, and shall thereupon cease to practise as an Advocate so long as he continues in such employment.

31[\*\*\*]

50. An Advocate who has inherited, or succeeded by survivorship to, a family business may continue it, but may not personally participate in the management thereof. He may continue to hold a share with others in any business which has descended to him by survivorship or inheritance or by will, provided he does not personally participate in the management thereof.

51. An Advocate may review Parliamentary Bills for a remuneration, edit legal text books at a salary, do press-vetting for newspapers, coach pupils for legal examination, set and examine question papers; and, subject to the rules against advertising and full-time employment, engage in broadcasting journalism, lecturing and teaching subjects, both legal and non-legal.

52. Nothing in these rules shall prevent an Advocate from accepting, after obtaining the consent of the State Bar Council, part-time employment provided that in the opinion of the State Bar Council the nature of the employment does not conflict with his professional work and is not inconsistent with the dignity of the profession. This rule shall be subject to such directives if any as may be issued by the Bar Council of India from time to time.

### CHAPTER III

#### CONDITIONS FOR RIGHT TO PRACTICE

*(Rules under section 49(1)(ah) of the Act)*

1. Every Advocate shall be under an obligation to see that his name appears on the roll of the State Council within whose jurisdiction he ordinarily practices:

Provided that if an Advocate does not apply for transfer of his name to the roll of the State Bar Council within whose jurisdiction he is ordinarily practising within six months of the start of such practice, it shall be deemed that he is guilty of professional misconduct within the meaning of section 35 of the Advocates Act.

2. An Advocate shall not enter into a partnership or any other arrangement for sharing remuneration with any person or legal practitioner who is not an Advocate.

3. Every Advocate shall keep informed the Bar Council on the roll of which his name stands, of every change of his address.

4. The Council or a State Council can call upon an Advocate to furnish the name of the State Council on the roll of which his name is entered, and call for other particulars.

5. (1) An Advocate who voluntarily suspends his practice for any reason whatsoever, shall intimate by registered post to the State Bar Council on the rolls of which his name is entered, of such suspension together with his certificate of enrolment in original.

(2) Whenever any such Advocate who has suspended his practice desires to resume his practice, he shall apply to the Secretary of the State Bar Council for resumption of practice, alongwith an affidavit stating whether he has incurred any of the disqualifications under section 24-A, Chapter III of the Act during the period of suspension.

(3) The Enrolment Committee of the State Bar Council may order the resumption of his practice and return the certificate to him with necessary endorsement. If the Enrolment Committee is of the view that the Advocate has incurred any of the disqualifications, the Committee shall refer the matter under proviso to section 26(1) of the Act.

(4) On suspension and resumption of practice the Secretary shall act in terms of rule 24 of Part IX.

6.(1) An Advocate whose name has been removed by order of the Supreme Court or a High Court or the Bar Council as the case may be, shall not be entitled

to practice the profession of law either before the Court and authorities mentioned under section 30 of the Act, or in chambers, or otherwise.

(2) An Advocate who is under suspension, shall be under same disability during the period of such suspension as an Advocate whose name has been removed from the roll.

<sup>32</sup>[7. An officer after his retirement or otherwise ceasing to be in service for any reasons, if enrolled as an Advocate shall not practise in any of the Judicial, Administrative Courts/Tribunals/Authorities, which are presided over by an officer equivalent or lower to the post which such officer last held.

*Explanation.*—An officer shall include Judicial Officer, Officer from State or Central Services and Presiding Officers or Members of the Tribunals or Authorities or such Officers as referred under section 30(i) of the Advocates Act, 1961.]

<sup>33</sup>[\*7-A. Any person applying for enrolment as an Advocate shall not be enrolled, if he is dismissed, retrenched, compulsorily retired, removed or otherwise relieved from Government service or from the service under the control of the Hon'ble High Courts or the Hon'ble Supreme Court on the charges of corruption or dishonesty unbecoming of an employee and a person having such disqualification is permanently debarred from enrolling himself as an Advocate.]

8. No Advocate shall be entitled to practice if in the opinion of the Council he is suffering from such contagious disease as makes the practice of law a hazard to the health of others. This disqualification shall last for such period as the Council directs from time to time.

<sup>34</sup>[9. No advocate enrolled under section 24 of the Advocates Act, 1961 shall be entitled to practice under Chapter IV of the Advocates Act, 1961, unless such advocate successfully passes the All India Bar Examination conducted by Bar Council of India. It is clarified that the Bar Examination shall be mandatory for all law students graduating from academic year 2009-2010 and onwards and enrolled as advocates under section 24 of the Advocates Act, 1961.

#### THE ALL INDIA BAR EXAMINATION

10. (1) The All India Bar Examination shall be conducted by the Bar Council of India.

(a) The Bar Examination shall be held at least twice each year in such month and such places that the Bar Council of India may determine from time to time.

(b) The Bar Examination shall test advocates in such substantive and procedural law areas as the Bar Council of India may determine from time to time.

(c) Such substantive/procedural law areas and syllabi shall be published by the Bar Council of India at least three months prior to the scheduled date of examination.

(d) The percentage of marks required to pass the Bar Examination shall be determined by the Bar Council of India.

(e) An unsuccessful advocate may appear again for the Bar Examination, without any limit on the number of attempts.

(f) The Bar Council of India, through a committee of experts, shall determine the syllabi, recommended readings, appointment of paper setters,

\*R. 7-A has been held invalid by the Andhra Pradesh High Court by its Order dated 21-9-2001 in Writ Petition 3162/2001.

32. Amended by Resolution No. 128/2007, dated 17-1-2008.

33. Added by the Bar Council of India, New Delhi, Notification dated February, 2000, published in the Gazette of India, Pt. III, S. 4, p. 529, No. 9, dated 26-2-2000.

34. Inserted by the Bar Council of India, Resolution No. 73/2010, dated 5-6-2010, published in the Gazette of India, Pt. III, S. 4, dated 18-6-2010.

moderators, evaluators, model answers, examination hall rules and other related matters.

(g) The Bar Council of India shall determine the manner and format of application for the examination.

(h) Upon successfully passing the Bar Examination, the advocate shall be entitled to a Certificate of Practice.

#### APPLICATION FOR CERTIFICATE OF PRACTICE

11. (1) The Certificate of Practice shall be issued by the Bar Council of India to the address of the successful advocate within 30 days of the date of declaration of results.

(2) The Certificate of Practice shall be issued by the Bar Council of India under the signature of the Chairman, Bar Council of India.]

#### <sup>35</sup>[CHAPTER III-A

##### *(Rule under section 49(1)(j) of the Advocates Act, 1961)*

Consistent with the obligation of the Bar to show a respectful attitude towards the Court and bearing in mind the dignity of Judicial office, the form of address to be adopted whether in the Supreme Court, High Courts or Subordinate Courts should be as follows:—

“Your Honour” or Hon’ble Court” in Supreme Court and High Courts and in the Subordinate Courts and Tribunals it is open to the Lawyers to address the Court as “Sir” or the equivalent word in respective regional languages.

*Explanation.*—As the words “My Lord” and Your Lordship” are relics of colonial past, it is proposed to incorporate the above rule showing respectful attitude to the Court.]

#### <sup>36</sup>[CHAPTER IV

##### FORM OF DRESSES OR ROBES TO BE WORN BY ADVOCATES

##### *(Rules under section 49(1)(gg) of the Act)*

Advocates appearing in the Supreme Court, High Courts, Subordinate Courts, Tribunals or Authorities shall wear the following as part of their dress which shall be sober and dignified.

##### I. ADVOCATES.—

(a) a black buttoned up coat, chapkan, achkan, black sherwani and white bands with Advocates’ Gowns.

(b) a black open breast coat, white shirt, white collar, stiff or soft, and white bands with Advocates’ Gowns.

In either cases wear long trousers (white, black, striped or grey) or dhoti excluding jeans:

Provided further that in Courts other than the Supreme Court, High Courts, District Courts, Sessions Courts or City Civil Courts, a black tie may be worn instead of bands.

##### II. LADY ADVOCATES.—

(a) black full sleeve jacket or blouse, white collar stiff or soft, with white bands and Advocates’ Gowns.

White blouse, with or without collar, with white bands and with a black open breasted coat.

##### OR

(b) sarees or long skirts (white or black or any mellow or subdued colour without any print or design) or flare (white, black or black striped or grey) or Punjabi dress Churidar Kurta or Salwar Kurta with or without dupatta (white or black) or traditional dress with black coat and bands.

35. Added by the Bar Council of India, Resolution No. 58/2006, published in the Gazette of India, Pt. III, S. 4, dated 6-5-2006.

36. Substituted by the Bar Council of India, Resolution No. 121/2001, published in the Gazette of India, Ext., Pt. III, S. 4, dated 9-3-2002.

III Wearing of Advocates' gowns shall be optional except when appearing in the Supreme Court or in High Courts.

IV. Except in Supreme Court and High Courts during summer, wearing of black coat is not mandatory.]

## PART VII

### DISCIPLINARY PROCEEDINGS AND REVIEW

#### CHAPTER I

#### COMPLAINTS AGAINST ADVOCATES AND PROCEDURE TO BE FOLLOWED BY DISCIPLINARY COMMITTEES OF THE STATE BAR COUNCIL AND THE BAR COUNCIL OF INDIA

(Rules under section 49(1)(f) of the Act)

##### *A. Complaint and enquiry under sections 35, 36 and 36-B of the Act*

1.(1) A complaint against an Advocate shall be in the form of a petition duly signed and verified as required under the Code of Civil Procedure. The complaint could be filed in English or in Hindi or in regional language where the language has been declared to be a State language and in case the complaint is in Hindi or in any other regional language, the State Bar Council shall translate the complaint in English whenever a disciplinary matter is sent to the Bar Council of India under the Advocates Act.

Every complaint shall be accompanied by the fees as prescribed in the rules framed under section 49(h) of the Act.

(2) The Secretary of the Bar Council may require the complainant to pay the prescribed fees if not paid, to remove any defects and call for such particulars or copies of the complaint or other documents as may be considered necessary.

(3) On a complaint being found to be in order, it shall be registered and placed before the Bar Council for such order as it may deem fit to pass.

(4) No matter taken up by a State Bar Council *suo motu* or arising on a complaint made under section 35 of the Act shall be dropped solely by reason of its having been withdrawn, settled or otherwise compromised, or that the complainant does not want to proceed with the enquiry.

2. Before referring a complaint under section 35(1) of the Act to one of its Disciplinary Committees to be specified by it, the Bar Council may require a complainant to furnish within a time to be fixed by it, further and better particulars and may also call for the comments from the Advocates complained against.

3.(1) After a complaint has been referred to a Disciplinary Committee by the Bar Council, the Registrar shall expeditiously send a notice to the Advocate concerned requiring him to show cause within a specified date on the complaint made against him and to submit the statement of defence, documents and affidavits in support of such defence, and further informing him that in case of his non-appearance on the date of hearing fixed, the matter shall be heard and determined in his absence.

*Explanation.*—Appearance includes, unless otherwise directed, appearance by an Advocate or through duly authorised representative.

(2) If the Disciplinary Committee requires or permits, a complainant may file a replication within such time as may be fixed by the Committee.

4. The Chairman of the Disciplinary Committee shall fix the date, hour and place of the enquiry which shall not ordinarily be later than thirty days from the receipt of the reference. The Registrar shall give notice of such date, hour and place to the complainant or other person aggrieved, the Advocate concerned and the Attorney-General or the Additional Solicitor General of India or the Advocate General, as the case may be, and shall also serve on them

copies of the compliant and such other documents mentioned in rule 24 of this Chapter as the Chairman of the Committee may direct at least ten days before the date fixed for the enquiry.

5. (1) The notices referred to in this Chapter shall subject to necessary modification, be in Form Nos. E-1 and E-2, be sent to the Advocates appearing for the parties. Notice to a party not appearing by the Advocate shall be sent to the address as furnished in the complaint or in the grounds of appeal. The cost of the notices shall be borne by the complainant unless the Disciplinary Committee otherwise directs.

(2) The notices may be sent ordinarily through messenger or by registered post acknowledgement due and served on the Advocate or the party concerned or his agent or other person as provided for in Order V of the Civil Procedure Code.

(3) Notice may also, if so directed by the Committee, be sent for service through any Civil Court as provided for under section 42(3) of the Advocates Act.

(4) Where the notice sent to any party cannot be served as aforesaid, it may be served by affixing a copy thereof in some conspicuous place in the office of the Bar Council, and also upon some conspicuous part of the house (if any) in which the party concerned is known to have last resided or had his office, or in such other manner as the Committee thinks fit, such service shall be deemed to be sufficient service.

(5) Payment of bills and/or charges for summons to witnesses, etc., shall be in accordance with the rules under section 49(h) of the Act.

6. (1) The parties can appear in person or by an Advocate who should file a *vakalatnama* giving the name of the Bar Council in which he is enrolled, his residential address, telephone number, if any, and his address for service of notices. A Senior Advocate is entitled to appear with another Advocate who has filed a *vakalatnama*.

(2) The Bar Council or its Disciplinary Committee may at any stage of a proceeding appoint an Advocate to appear as *amicus curiae*. Such Advocate may be paid such fee as the Council or the Committee may decide.

(3) Excepting when the Committee has otherwise directed, service on the Advocate shall be deemed to be sufficient service on the parties concerned, even if copies of the notices are in addition sent to the parties, whether the parties have or have not been served.

(4) Unless otherwise indicated, where more than one Advocate appears for the same party, it is sufficient to serve the notice on any of them.

7. (1) If in an enquiry on a complaint received, either the complainant or the respondent does not appear before the Disciplinary Committee in spite of service of notice, the Committee may proceed *ex parte* or direct fresh notice to be served.

(2) Any such order for proceeding *ex parte* may be set aside on sufficient cause being shown, when an application is made supported by an affidavit, within 60 days of the passing of the *ex parte* order.

*Explanation.*—The provisions of section 5 of the Limitation Act, 1963 shall apply to this sub-rule.

8. (1) The Disciplinary Committee shall hear the Attorney-General or the Additional Solicitor General of India or the Advocate General, as the case may be or their Advocate, and parties or their Advocates, if they desire to be heard,

and determine the matter on documents and affidavits unless it is of the opinion that it should be in the interest of justice to permit cross-examination of the deponents or to take oral evidence, in which case the procedure for the trial of civil suits, shall as far as possible be followed.

(2) On every document admitted in evidence, the following endorsement shall be made which shall be signed by the Chairman or any member of the Committee:—

The Disciplinary Committee of the Bar Council of .....Exhibit No.....  
Date of Document.....Produced by.....Date.....Signature of.....

(3) The exhibits shall be marked as follows:—

(a) Those of the complainant as C1, C2, etc.

(b) Those of Respondent as R1, R2, etc.

(c) Those of Disciplinary Committee as D1, D2, etc.

(4) The Disciplinary Committee may at any stage direct the parties or their Advocates to furnish such further and better particulars as it considers necessary.

9. (1) Evidence given before the Disciplinary Committee shall be recorded preferably in English by any member of the Committee or any other person authorised by the Committee. The evidence so recorded shall be signed by the Chairman, or if the Chairman is not there when the evidence is recorded, by any member of the Committee.

(2) Whenever the record of a case decided by the State Bar Council or its Disciplinary Committee in which evidence has been recorded in a language other than English is required to be sent to the Bar Council of India or its Disciplinary Committee, a translation thereof in English made by a person nominated by the Committee or Registrar certifying the same to be true copy shall also be sent.

10. (1) Every Disciplinary Committee shall make a record of its day to-day proceedings.

(2) The Registrar of the Disciplinary Committee shall maintain a case diary setting out shortly in order of date, all relevant information concerning the date of filing, the date of hearing and despatch and service of the notices on the parties or the Advocates or the Attorney-General, or the Additional Solicitor General or the Advocate General, as the case may be, of statements or petitions filed and/or of the order thereon and of other proceedings in the matter before the Committee.

11. (1) If in any enquiry pending before the Disciplinary Committee, the complainant dies and there is no representative who is willing to conduct the case on his behalf, the Disciplinary Committee may, having regard to the allegations made in the complaint and the evidence available, make a suitable order either to proceed with the enquiry or to drop it.

(2)(a) In the case of an enquiry against only one Advocate, on his death the Disciplinary Committee shall record the fact of such death and drop the proceedings.

(b) Where the enquiry is against more than one Advocate, on the death of one of them, the Disciplinary Committee may continue the enquiry against the other Advocate unless it decides otherwise.

(3) No Disciplinary enquiry shall be dropped solely by reason of its having been withdrawn, settled or otherwise compromised, or that the complainant does not want to proceed with the enquiry.

12. Unless otherwise permitted, counsel appearing before any of the Disciplinary Committees of the State Bar Council or Bar Council of India shall appear in Court dress.

13. The Council may from time to time issue instructions on any of the matters provided for in these rules.

14. (1) The finding of the majority of the members of the Disciplinary Committee shall be the finding of the Committee. The reason given in support of the finding may be given in the form of a judgment, and in the case of a difference of opinion, any member dissenting shall be entitled to record his dissent giving his own reasons. It shall be competent for the Disciplinary Committee to award such costs as it thinks fit.

(2) The Registrar of the Disciplinary Committee shall send free of charge to each of the parties in the proceedings, a certified copy of the final order or judgment as set out in rule 36 in this Chapter.

(3) The date of an order made by the Disciplinary Committee shall be the date on which the said order is first received in the office of the Bar Council after it has been signed by all the members thereof. For the purpose for limitation the date of the order shall be the date on which the contents of the order duly signed as aforesaid are communicated to the parties affected thereby.

15. Save as otherwise directed by the Disciplinary Committee or the Chairman thereof, certified copies of the records of a case pending before the Disciplinary Committee may be granted to the parties or to their counsel on an application made in that behalf and on payment of the prescribed fee.

16. (1) The Secretary of a State Bar Council shall send to the Secretary of the Bar Council of India quarterly statements of the complaints received and the stage of the proceedings before the State Bar Council and Disciplinary Committees in such manner as may be specified from time to time.

(2) The Secretary of the Bar Council of India may, however, call for such further statements and particulars as he considers necessary.

17. (1) The Secretary of every State Bar Council shall furnish such particulars and send such statements as may be considered necessary by the Secretary of the Bar Council of India for purposes of section 36-B of the Act and send all the records of proceedings that stand transferred under the said section.

(2) The date of receipt of the complaint or the date of the initiation of the proceedings at the instance of the State Bar Council shall be the date on which the State Bar Council refers the case for disposal to its Disciplinary Committee under section 35(1).

(3) Whenever the records of proceedings are transferred under section 36-B of the Act to the Council, the requirements in rule 9(2) of this Chapter shall be followed by the Disciplinary Committee of the State Bar Council.

*B. Withdrawal of proceedings under section 36 of the Act*

18. (1) Where a State Bar Council makes a report referred to in section 36(2) of the Act, the Secretary of the State Bar Council shall send to the Secretary of the Bar Council of India all the records of the proceedings alongwith the report.

(2) An application by a person interested in the withdrawal of a proceeding referred to in section 36(2) of the Act, shall be signed by him and it shall set out the necessary facts supported by an affidavit and accompanied by the fee prescribed.

(3) For making an order on an application of a party or otherwise under section 36(2) of the Act, the Disciplinary Committee of the Bar Council of India may—

(a) call for a Report of the Disciplinary Committee seized of the proceeding;

(b) issue notice to the respondent;

(c) require the parties to file such statements as it considers necessary;

(d) call for the records of the proceedings; and

(e) examine any witnesses.

(4) In the proceedings before the Disciplinary Committee of the Bar Council of India under section 36, unless otherwise directed, the parties may appear in person or by Advocate who shall file a *vakalatnama* as provided for under rule 6(1) in this Chapter.

(5) On a consideration of the Report of a State Bar Council or otherwise the Disciplinary Committee of the Bar Council of India shall pass such orders as it considers proper.

#### *C. Appeal to the Bar Council of India under section 37 of the Act*

19. (1) An appeal to the Council provided for under section 37 of the Act, shall be in the form of a memorandum in writing as set out in rule 21 in this Chapter. If the appeal is in a language other than English, it shall be accompanied by a translation thereof in English.

(2) In every appeal filed under section 37(1) of the Act, all persons who were parties to the original proceedings shall alone be impleaded as parties.

(3) Save as otherwise directed by the Disciplinary Committee of the Council, in an appeal by the Advocate against an order under section 35, in case of death of the complainant the legal representatives of the complainant shall be made parties.

20. (1) An appeal may be presented by the appellant or his Advocate or by his recognised agent in the office of the Bar Council of India, or sent by registered post with acknowledgement due so as to reach the Secretary, Bar Council of India on or before the last day of limitation.

(2) An appeal may be admitted after the period of limitation if appellant satisfies the Disciplinary Committee that he has sufficient cause for not preferring the appeal within such period. Any such application for condonation of delay shall be supported by an affidavit.

21. (1) The memorandum of appeal referred to in rule 19(1) if this Chapter shall contain necessary particulars as in the Form G. The memorandum of appeal shall state when the order was communicated to the appellant, and how it is in time.

(2) Alongwith the memorandum of appeal, the appellant shall file—

(a) either the authenticated or the certified copy of the order appealed against, signed by the Registrar of the Disciplinary Committee, and

(b) five additional copies of the memorandum of appeal and of the order appealed against, if there is only one respondent; if there is more than one respondent, such number of additional copies as may be necessary. All copies shall be certified as true copies by the appellant or by his counsel.

(3) Every memorandum of appeal shall be accompanied by the prescribed fees in cash. In case the memo is sent by post, it shall be accompanied by the M.O. Receipt issued by the Post Office.

(4) If the papers filed in an appeal are not in order, the Registrar shall require the appellant to remove such defects within a specified time.

22. (1) Subject to the provisions contained in rule 29(2) in this Chapter, the Chairman of the Executive Committee or in his absence the Vice-Chairman of the Executive Committee or such other member authorised in this behalf by the Council shall have the power to allocate matters relating to the Disciplinary Committee, save when any such case has been allotted by the Council to any particular Disciplinary Committee.

(2) Any matter allotted to a particular Disciplinary Committee which has not been heard may be reallocated to a different Disciplinary Committee.

(3) Notwithstanding the provisions of rule 30 in this Part the Chairman of any Disciplinary Committee shall have powers to issue interim orders on urgent matters which may be placed before him by the Registrar.

23. Subject to any resolution of the Bar Council of India, in this behalf relating to the places of hearing, the Chairman of the Disciplinary Committee concerned shall fix the date, hour and place for the hearing of the appeal.

24. (1) The appellant shall be required to file six typed sets of the following papers properly paged and indexed if there is only one respondent, and as many more sets as there may be additional respondents for the use of the Disciplinary Committee and by the other parties and for the record—

(a) the complaint, statement in the defence of the Advocate,

(b) the evidence oral and documentary and such other papers on which parties intend to rely,

(c) any other part of the record as may be directed by the Committee.

Where any of the above papers is in a language other than English, English translations thereof shall be filed.

(2) The respondent shall, if he so desires, or if so called upon, file six sets of typed papers of any part of the record on which he intends to rely. He shall also file English translations of such papers as are not in English.

25. The Registrar shall give notices to the parties or their Advocates or their recognised agents informing them of the date, time and place of the hearing of the appeal.

A copy of the memorandum of appeal shall be sent to the respondent alongwith the notice of the appeal.

26. (1) No appeal filed under section 37 of the Act against an order of punishment of an Advocate shall be permitted to be withdrawn on account of settlement or compromise or adjustment of the claim against the Advocate.

(2) Every appeal filed under section 37 of the Act by or against an Advocate shall abate on the death of the Advocate so far as he is concerned.

27. In regard to appearance of a party in appeal, rule 6 of this Chapter will apply.

28. (1) The Registrar shall issue notice to the State Council concerned for the complete records to be sent to the Council.

(2) The Registrar of the State Council concerned shall send alongwith the records a list containing particulars under the following columns, and comply with such other directions as may be issued—

Serial No. of Document	Date of Document	Description of Document	Page No.
---------------------------	---------------------	----------------------------	----------

*D. Application for stay, and other matters*

29. (1) An application for stay made under section 40, sub-section (1) or (2) of the Act shall be accompanied by an affidavit and the fees, if any, prescribed by the rules of the Council made under section 49(1)(h) of the Act. Where the affidavit is not in English, a translation thereof in English shall be filed. The applicant shall file with his application at least five copies of the application, and the affidavit and as many additional copies thereof as there are respondents. Where the application is not in English five copies with translation thereof in English shall also be filed.

In every application for stay made to the Council, the applicant shall state if any application has been made to the State Council, and the orders thereon.

(2) Before a matter is allotted to a Disciplinary Committee under rule 22 above, the Registrar may obtain orders on applications for interim stay or other urgent applications from the Chairman of any of the Disciplinary Committees.

The orders passed under this sub-rule shall be communicated to the parties and to the Secretary of the Bar Council concerned.

30. After allotment of a case under rule 22 in this Chapter to a Disciplinary Committee, the Registrar may obtain its order on any matter of an emergent nature arising therein, by circulation.

<sup>37</sup>[30-A. The Disciplinary Committee of the Bar Council of India shall exercise all the powers exercised by the Civil Court or Court of Appeal under Civil Procedure Code.]

31. The order of the Disciplinary Committee disposing of an appeal shall be communicated to the parties. The date of an order made by the Disciplinary Committee shall be the date on which the said order is first received in the office of the Council after it has been signed by all the members thereof.

*E. Rules applicable to all proceedings before the Disciplinary Committee of the State Bar Councils and the Bar Council of India*

32. The rules in this Chapter so far as may be, shall apply to all proceedings of the Disciplinary Committee of the State Bar Councils or of the Bar Council of India.

**Proceedings to be in camera**

33. All the proceedings before the Disciplinary Committee shall be held in camera.

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37. Added w.e.f. 31-12-1977.

**Inspection of records and copies**

34. (1) Save as otherwise directed by the Disciplinary Committee or the Chairman thereof, inspection of any of the records in any proceeding before the Disciplinary Committee may be permitted to the parties or their Advocates on presentation of an application duly signed by the applicant or his Advocate and on payment of the prescribed fee on any working day except during the summer or other vacations of the Supreme Court.

(2) An application for inspection shall be made to the Registrar of the Disciplinary Committee. The Registrar of the Disciplinary Committee may permit the inspection in his presence or in the presence of any member of the staff authorised by him.

The person inspecting shall not be entitled to make copies of the record of which inspection is granted. He shall, however, be permitted to make short notes in pencil.

(3) Save as otherwise directed by the Disciplinary Committee or the Chairman, thereof, certified copies of the records of a case pending before the Disciplinary Committee may be granted to the parties or to their counsel on an application made in that behalf and on payment of the prescribed fee.

(4) A copy of a final judgment in a decided case may be given to any person applying for the same on payment of the prescribed fee therefor, provided, however, that the name of the Advocate against whom the proceedings were taken shall be omitted.

**Order awarding Costs: Decretal Order**

35. (1) All orders where costs are awarded in disciplinary proceedings shall specify the amount of costs awarded and also state the party against whom the order is made, and the time within the amount is payable.

(2) As soon as possible after the order is made by the Disciplinary Committee, in respect of every order where costs are awarded to any of the parties, a decretal order shall be drawn up as in Form J-1/J-2 at the end of this Chapter signed by the Secretary of the State Bar Council, or the Council as the case may be, as Registrar of the Disciplinary Committee and bearing the seal of the State Bar Council, as the case may be.

(3) The Decretal Order aforesaid shall be furnished to any party to the proceeding on an application made therefor, and on payment of the charges prescribed under the rules.

**Copies of Final Orders**

36. The Secretary of the State Bar Council or the Bar Council of India, as the case may be, shall send to each of the parties in proceedings, a certified copy of the final order made under section 35, 36, 36-B or 37, signed by him as Registrar of the Disciplinary Committee and bearing the seal of the State Bar Council/ Bar Council of India, as the case may be. No charges shall be payable on the copies so sent. Charges as prescribed under the rules shall, however, be payable for all additional copies of the said order applied for.

## FORM E-1

(Under rule 5 in Chapter I, Part VII)

Notice of hearing of complaint under section 35/36 of the Advocates Act, 1961  
and rule 5, Chapter I, Part VII of the Rules of the Bar Council of India

BEFORE THE DISCIPLINARY COMMITTEE OF THE BAR

COUNCIL OF.....

D.C. ENQUIRY NO...../20.....

.....Complainant/s

(With Address)

Versus

.....Respondent/s

(With Address)

WHEREAS a complaint date.....against respondent/s, a copy of which is sent herewith has been referred for disposal to the above Committee of the Bar Council.....under section 35/36 of the Advocates Act, 1961 and the Disciplinary Committee has fixed.....(time) on.....(date) for the hearings of the case at.....(place) in accordance with the procedure prescribed under the relevant rules of the Council.

The Respondent may submit his statement of defence together with any documents or affidavits in support of his defence within.....days from the date of this notice. The respondent shall send one copy of his statement of defence to the complainant and one copy to the Advocate-General direct under registered A.D. cover. The complainant may be entitled to file a reply to the statement of defence together with such documents on which he proposes to rely in support thereof within.....days.

The parties abovenamed are required to appear in person or through Advocate before the said Committee on the said date, time and place or any other date or dates and place to which the matter may be adjourned. It shall be open to the parties to examine the witnesses that may be permitted before the Disciplinary Committee.

If, on any date of hearing any part is absent, the hearing will proceed *ex parte* against him.

.....is required to file.....copies of.....to the Registrar, Disciplinary Committee, Bar Council of.....on or before.....

Dated this the .....day of the month...../20.....

By Order

Registrar

Disciplinary Committee

Bar Council of.....

## FORM E-2

## THE DISCIPLINARY COMMITTEE OF THE BAR COUNCIL OF INDIA

(Notice of hearing under rule 5 in Chapter I, Part VII of the Rules of the Bar Council of India)

(Subject to necessary modifications)

DCL/D/...../20.....

Date.....

In the Matter of.....

No. on the file of the Disciplinary Committee of the Bar Council of

(B.C.I. Tr. Case No...../20.....)

.....Complainant/s

Versus

.....Respondent/s

Notice under section 36-B read with sections 35 and 36(2) of the Advocates Act and the rules made thereunder

WHEREAS the proceedings between the parties above referred to before the Disciplinary Committee of the Bar Council of.....stand transferred to the Bar Council of India under section 36-B of the Advocates Act, 1961, and the records in the same have been received by the Bar Council of India for disposal by the Disciplinary Committee of the Bar Council of India as provided for the said section 36-B read with section 36-A and the other provisions of the Act and the rules of the Bar Council of India in this behalf.

The parties in the above proceedings will take notice that the hearing in the same has been fixed—

At (place)

For (dates and time)

The Disciplinary Committee will continue the proceedings from the stage at which it was so left by the Disciplinary Committee of the Bar Council of .....and will hear arguments on the evidence, oral and documentary already on record.

The parties are required to be ready with all their evidence oral and documentary and for arguments.

The parties abovenamed are required to appear in person or through Advocate or through duly authorised agents before the said Committee on the said date, time and place or any other date or dates and place to which the matter may be adjourned.

In view of the pendency of these proceedings for a long time and its automatic transfer to the Bar Council of India under section 36-B of the Advocates Act, 1961 the hearing will be peremptory and no adjournment may be granted.

If the parties fail to appear in person or by Advocate or to comply with the other requirements of this notice, the Committee will proceed *ex parte* or make such other orders as it may deem fit.

The parties engaging any counsel may send their *vakalatnama* duly signed by the counsel giving the address of the Advocate for the purpose of future communication.

Please note that notice of the hearing sent to the Advocate will be sufficient notice to the party even if a copy of the notice is sent to any of the parties.

Registrar  
Disciplinary Committee of  
the Bar Council of India

Copy to:

The Attorney General of India,  
New Delhi.

## FORM F

(Under rule 4 in Chapter I, Part VII)  
(Subject to necessary modifications)

From:

The Secretary  
Bar Council of.....

To

The Attorney General/  
Additional Solicitor General of India/ Advocate General  
.....  
.....

*Notice under section 35(2)/36(3) of the Advocates Act, 1961*

Sir,

Please find enclosed copy of a notice dated.....issued under section 35(2)/36(3) of the Advocates Act, 1961 for the hearing of a case before the Disciplinary Committee of the Bar Council of.....

Registrar  
Disciplinary Committee  
Bar Council of.....

Date:

Place:

## FORM G

## MEMORANDUM OF APPEAL

(Under rule 21 in Chapter I, Part VII of the Rules of the Bar Council of India)  
(Subject to necessary modifications)

BEFORE THE DISCIPLINARY COMMITTEE OF THE BAR COUNCIL OF INDIA UNDER  
SECTION 37 OF THE ADVOCATES ACT, 1961

D.C. Appeal No.....20.....

.....Appellant

*Versus*

.....Respondent

1. (a) Appellant.....son of.....  
(residing at)

Age.....(to be filled in).....

(To be filled up if the *vakalatnama* is filed by the Advocate)

The appellant appears by Advocate Shri.....Roll No.....enrolled in the  
Bar Council of.....The address for the service of appellant is.....that of his  
Advocate .....

(b) Respondent(s) (1) .....

S/o .....

residing at.....

2. The appellant files this appeal against the order dated.....in case  
No.....of the Disciplinary Committee of the Bar Council of.....

3. The complaint against the Advocate, who is the appellant/respondent in this appeal  
was filed on.....in the Bar Council of.....

The Bar Council referred the complaint for enquiry to its Disciplinary Committee on ..... The Disciplinary Committee of the Bar Council to which the matter was referred has dismissed the complaint/made an order for punishment against the Advocate, reprimanding him/suspending him/removing his name.

4. The Committee has passed no order for costs/also passed an order for costs of Rs. ....payable by.....to.....

5. The order of the Disciplinary Committee will come into operation w.e.f.....

6. The appellant has made an application to the Disciplinary Committee of the State Bar Council of.....The appellant has made an application before the Disciplinary Committee of the State Bar Council of.....on.....which has made an order for stay upto...../which has dismissed the application for stay.

7. Six copies of the order of the Disciplinary Committee of the State Bar Council on the Stay Application are filed with his appeal.

The order of the Disciplinary Committee of the Bar Council of.....was received/communicated to the applicant on.....

The appeal is in time/not in time.

The appeal is filed after the period of limitation and application for condonation of delay supported by an affidavit is filed herewith.

The appellant has paid Rs. 100 fee for the appeal on.....in cash/is paying Rs. 100.....

The appellant files this appeal for the following amongst other grounds:—

1..... 2..... 3..... etc.

Date:

Appellant/ Advocate for

Place:

Appellant

Enclosures:—

(1) Certified copy of the order complained against with 5 extra copies.

(2) Memo of grounds of appeal with 5 extra copies.

(3) Application, if any, for stay with 5 extra copies.

(4) Affidavit in support of application for stay with 5 extra copies.

#### FORM H

(Under rule 25 in Chapter I, Part VII)

(Subject to necessary modifications)

BEFORE THE DISCIPLINARY COMMITTEES (.....) OF THE BAR  
COUNCIL OF INDIA

D.C. Appeal No.....20.....

against

Order of the Disciplinary Committee of Bar Council of.....dated.....in Case/  
Complaint No. ....In the matter of Shri.....Advocate.....

.....Appellant(s)

*Versus*

.....Respondent(s)

*Notice of Appeal under section 37 of the Advocates Act, 1961 and Intimation of the date of hearing*

WHEREAS an appeal has been filed by the appellant abovenamed against the order of the Disciplinary Committee of the State Bar Council of.....in Case/Complaint No..... dated.....

The parties to the appeal will please take notice that the hearing of the above appeal before the said Committee has been fixed for.....the.....at.....(place).....at.....

If any of the parties to the appeal fail to appear in person or through Advocate on the date of the hearing or any date on which it may be adjourned, the matter will be proceeded with *ex parte*.

Please also take notice that stay of the operation of the order filed against has been granted by order of the Disciplinary Committee dated.....

New Delhi  
.....

Registrar,  
Disciplinary Committee,  
Bar Council of India

*Note.*—One copy of the grounds of appeal is sent to each of the respondents.

#### FORM I

(Under rule 29, Chapter I, Part VII)

(Subject to necessary modifications)

DISCIPLINARY COMMITTEE (.....) OF THE BAR COUNCIL OF INDIA

.....(Chairman)

.....

.....

Miscellaneous Petition No.....(Stay)

IN

D.C. Appeal No.....

.....Appellant(s)

*Versus*

.....Respondent(s)

Dated the.....

Petition for stay and suspension of the operation of order of the Disciplinary Committee of the Bar Council of.....in Case/Complaint No.....dated.....suspending the petitioner from practice under section 35(3) of the Advocates Act, 1961 for a period of .....pending the disposal of the appeal filed against the said Order.

#### ORDER

The operation of the order of the Disciplinary Committee of the Bar Council of.....dated.....in Case/Complaint No.....is stayed.

By Order

Registrar,  
Disciplinary Committee of  
the Bar Council of India

## FORM J-1

(Under rule 35(2), Chapter I, Part VII)

BEFORE THE DISCIPLINARY COMMITTEE OF THE BAR COUNCIL  
OF ..... ORIGINAL JURISDICTION

(To be added in matter before the Bar Council of India)

Complaint/Case No.....20.....

(On a complaint made by Shri.....(address)

.....Complainant(s)

(Name and Address)

*Versus*

.....Respondent(s)

(Name and Address)

Date

*Present:—*

Shri.....(Chairman)

Shri.....(Member)

Shri.....(Member)

For the Complainant : Shri.....Advocate/in person

For the Respondent : Shri.....Advocate/in person

The case abovementioned being called on for hearing before the Disciplinary Committee of the Bar Council of.....on the.....day of.....20.....UPON hearing Advocate for the Complainant/the Complainant in person AND Advocate for the Respondent (Respondent in person)/Respondent not appearing either in person or through counsel though served: the Disciplinary Committee of the Bar Council of.....determining (state the gist of the punishment) DOTH ORDER:

That the Complaint/Case be and the same is hereby dismissed/allowed.

That there shall be no order as to costs;

That the Complainant/Respondent do pay to the Respondent/Complainant herein the sum of Rs...../[Rupees.....(in words)] being the costs incurred in the Bar Council of .....within.....month from the date of this order;

That this Order be punctually observed and carried into execution by all concerned;

WITNESS Shri.....Chairman of the Disciplinary Committee of the Bar Council of.....at.....this the.....day of.....20.....

Registrar,  
Disciplinary Committee of  
the Bar Council of.....

## FORM J-2

[Under rule 35(2) in Chapter I, Part VII]

## THE DISCIPLINARY COMMITTEE OF THE BAR COUNCIL OF INDIA

D.C. Appeal No.....20.....

(On appeal from the Order dated the.....day of.....20..... of the Bar Council of.....in Case No.....of 20.....)

.....Appellant(s)  
(Name and Address)*Versus*.....Respondent(s)  
(Name and Address)

Date

*Present:—*

Shri.....(Chairman)

Shri.....(Member)

Shri.....(Member)

For the Appellant : Shri.....Advocate/in person

For the Respondent : Shri.....Advocate/in person

The appeal abovementioned being called on for hearing before the Disciplinary Committee of the Bar Council of India on the.....day of.....20.....UPON hearing Advocate for the appellant (the appellant in person) AND counsel for the respondent (the Respondent in person)/respondent not appearing either in person or through Advocate though served. The Disciplinary Committee to the Bar Council of India DOTH ORDER.

That the original order dated.....is hereby confirmed /set aside/set modified as under:—

That the appeal be and the same is hereby dismissed /allowed;

That there shall be no order as to costs;

That the appellant/respondent do pay to the respondent/appellant herein the sum of Rs..... [Rupees.....(in words)] being the costs incurred in the Bar Council of India as well as the sum of Rs.....[.....(in words)] being the costs incurred in the Bar Council of.....within.....months from the date of this Order.

That this order be punctually observed and carried into execution by all concerned.

WITNESS Shri.....Chairman of the Disciplinary Committee of the Bar Council of India at (Place) this the.....day of.....20.....

Registrar,  
Disciplinary Committee of  
the Bar Council of India

## CHAPTER II

## REVIEW UNDER SECTION 44 OF THE ACT

1. An application for review under section 44 of the Act shall be in the form of a petition duly signed and supported by an affidavit accompanied by prescribed fee and filed within 60 days from the date of the order sought to be reviewed.

2. Every such application shall be accompanied by:

- (a) a certified copy of the order complained of,
- (b) five additional copies of the application, affidavit and the order, and
- (c) if there are more respondents than one, as many additional true copies as may be necessary.

3. Every such application shall set out the grounds on which the review is sought and shall further state whether any proceeding in respect thereof was filed and is still pending or the result thereof as the case may be.

4. If a Disciplinary Committee of a Bar Council does not summarily reject the application under section 44 of the Act, or wishes to exercise its powers under section 44, *suo motu*, the Secretary of a Bar Council shall issue as nearly as may be in the Form K at the end of this Chapter, notice to the parties and to the Advocate-General concerned or the Additional Solicitor-General of India in the case of the Bar Council of Delhi.

5. (1) If after the hearing referred to in rule 4, the Disciplinary Committee of a State Bar Council does not dismiss the application, and decides that the application for review should be allowed, the copy of the order alongwith the relevant record shall be sent to the Bar Council of India for approval.

(2) If the Bar Council of India approves the order of the State Bar Council the Disciplinary Committee of the State Bar Council shall communicate the order to the parties, if the Bar Council of India does not approve it, the Disciplinary Committee of the State Bar Council shall make its order dismissing the application and inform the parties.

6. The decision of the Disciplinary Committee of the Bar Council of India on an application for review of its order shall be communicated to the parties.

7. In the proceedings under this Chapter, unless the Disciplinary Committee of the State Bar Council or the Bar Council of India, as the case may be, otherwise decides, the parties may appear by the Advocates who shall file a *vakalatnama* signed by the party.

#### FORM K

NOTICE UNDER SECTION 44 OF THE ADVOCATES ACT, READ WITH RULE 4 IN  
CHAPTER II, PART VII OF THE RULES OF THE BAR COUNCIL OF INDIA

(Subject to necessary modifications)

THE BAR COUNCIL OF.....

REVIEW APPLICATION.....20.....

.....Petitioner/s

*Versus*

.....Respondent/s

WHEREAS on the application of...../suo motu the Disciplinary Committee of the Bar Council of.....having considered that there are *prima facie* grounds for Review of the Order made in Case No.....20.....on.....

The Respondent is informed that the said application will be heard by the Disciplinary Committee of the Bar Council of.....on.....20.....at (time).....at (place).....and that if the Respondent does not appear in person or through his Advocate on the said date or on such other date to which the hearing may be adjourned, the matter will be heard and disposed of in his absence.

Date this.....day of.....20.....

Office of the Bar Council of.....

Registrar,  
Disciplinary Committee of  
the Bar Council of India

## PART VIII

### FEE LEVIABLE UNDER THE ACT

*[Rules under section 49(1)(h) of the Act]*

1. A State Council may levy fees, not exceeding the limits prescribed hereunder in any of the following matters:—

(a) Petition challenging the election of one or all members of the State Council. Rs. 500.00

(b) Complaint of professional misconduct under section 35 of the Act: Rs. 100.00

Provided that no fee shall be payable on a complaint made by any Court or Tribunal or other statutory body or wherein a proper case the Bar Council grants exemption therefor.

(b-1) The Complainant shall be liable to pay in addition to the fee in sub-clause (b), the cost of service of process unless the Disciplinary Committee grants exemption therefor.

(c) Certificate as to the date of enrolment and the continuance of the name of the Advocate on the roll. Rs. 25.00

(d) Certificate required to be produced with the transfer application under section 18 of the Act. Rs. 50.00

(e) Inspection by complainant or the concerned Advocates, of documents relating to the disciplinary matters. Rs. 10.00

(f) Inspection of the roll of the Advocates or the voters list. Rs. 10.00

(g) Any application made in any proceedings before a State Council or its Committee other than the Disciplinary Committee. Rs. 10.00

2. A fee as specified hereunder shall be paid in the following matters:—

(a) Complaint of professional misconduct referred under section 36 of the Act: Rs. 100.00

Provided that no fee shall be payable on a complaint or appeal made by any Court or Tribunal or other statutory body or where in a proper case the Council grants exemption therefor.

(a-1) The complainant shall be liable to pay in addition to the fee in sub-clause (a) the cost of service of process unless the Disciplinary Committee grants exemption thereof.

(b) An appeal filed under section 37 of the Act. Rs. 100.00

- (c) An application for stay made to the Council under the Act. Rs. 50.00
- (d) (i) An application for inspection. Rs. 10.00
- (ii) Inspection in cases finally decided when permitted. Rs. 25.00
- (e) An application for withdrawal under section 36 of the Act. Rs. 50.00
- (f) An application for review under the Act. Rs. 100.00
- (g) An application for the exercise of its power under section 48-A of the Act (Revision). Rs. 100.00
- (h) Any application made in any proceedings before the Council or a Committee other than the Disciplinary Committee. Rs. 10.00

3. (a) Every application of an authenticated copy of any certificate, order of other proceedings, entry on any roll, or any document or deposition in any proceedings, before a State Council or the Council or a Committee thereof shall be accompanied by a fee of Rs. 10 and the copying charges as follows:—

Every exemplification of the order or other documents in addition to the folio and other charges. Rs. 20.00

Copying charges for folio Rs. 10.00

A folio shall be deemed to consist of two hundred words, seven figures shall be counted as one word, and more than half a folio shall be reckoned as a folio.

(b) In any proceedings, summons to witness shall only be issued on payment of the requisite batta and/or charges according to the rates prescribed by the High Court, in the case of a State Council, and the Supreme Court in the case of the Council or a Committee thereof as the case may be.

(c) Every interlocutory application, including a petition for excusing delay or for obtaining stay for proceedings of a Disciplinary Committee shall be accompanied by a fee of Rs. 25 in the case of the Disciplinary Committee of a State Council and a fee of Rs. 25 in the case of the Disciplinary Committee of the Council.

(d) An application by a party of the proceedings for unattested copies of depositions of witnesses may be supplied at the rate of Rs. 5 for each page of the deposition.

<sup>38</sup>[4. (a) Application for transfer from one State Bar Council to another State Bar Council Rs. 500.00

(b) Preparation charges of file and other papers regarding transfer of name by transferor and transferee Bar Councils Rs. 500.00]

<sup>39</sup>[5. For resumption of practice as an Advocate, an applicant shall have to pay a sum of Rs. 500 in favour of the State Bar Council and Rs. 100 in favour of the Bar Council of India by way of separate Bank Drafts drawn in favour of the respective Bar Councils.]

38. Amended by Resolution No. 116/2001 (w.e.f. 1-9-2001).

39. Added by Resolution No. 53/1996, dated 2-6-1996 (w.e.f. 2-6-1996).

**PART IX****GENERAL PRINCIPLES TO BE FOLLOWED BY STATE BAR COUNCILS  
AND THE BAR COUNCIL OF INDIA RULES FOR SUPERVISION AND  
CONTROL BY THE BAR COUNCIL OF INDIA***[Rules under section 49(1)(a), (i) and (j) of the Act]**Election*

1. The election of members to State Councils shall only be by secret ballot. There shall be no voting by post except that a State Council may permit voting by post to Advocates eligible to vote and who do not ordinarily practise at the seat of the High Court or the seat of the District Courts in the State.

*Explanation.*—An Advocate shall be deemed ordinarily to practise at the place which is given in his address in the Electoral Roll.

2. Any candidate who by himself or through his agent seems or attempts to secure from any voter his ballot paper with intent to prevent him from transmitting it directly or with intent to ensure that the vote has been cast for a particular candidate shall be guilty of an election malpractice which shall invalidate his election whether or not the result of the election has been materially affected thereby.

3. The notice of election of members of the State Councils and the results of the election shall be published in the State Government Gazette or Gazettes, as the case may be.

4. A State Council may require a deposit from every candidate standing at an election, which may be forfeited in case the candidate is unable to secure at least  $\frac{1}{8}$  of the quota fixed for the election.

5. All election disputes shall be decided by tribunals constituted by the State Councils.

*Funds of State Councils*

6. The funds of State Councils must first be deposited in the State Bank of India or any Nationalised Bank before any money could be expended, and disbursement shall ordinarily be made by cheques, unless the amount involved is small.

7. The State Bar Council may decide from time to time investment of its funds in the following securities:—

1. in fixed deposits or cumulative deposits in the State Bank of India or in such other Nationalised Banks;

2. in any other securities specified in section 20 of the Indian Trust Act, 1882;

<sup>40</sup>[3. in the fixed deposits or cumulative deposits with Government companies as defined in the Companies Act, 1956 (1 of 1956).]

8. Every State Council shall maintain a provident fund for its employees and also pay gratuity in accordance with rules which each Council may frame.

9. The State Councils may accept donations in cash or kind for any of the purposes of the Act.

10. The accounts for every Council shall be audited by a Chartered Accountant once a year.

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40. Sub-rule (3) came into force w.e.f. 27-11-1988.

*Books and Registers*

11. The State Bar Councils and the Bar Council of India shall maintain the following books:—

- (a) Minutes books;
- (b) Attendance Register for the staff;
- (c) Leave Register for the staff;
- (d) Acquittance Register;
- (e) Day Book and Ledger;
- (f) Receipt Book;
- (f) Financial Assistance Register;
- (h) Provident Fund Account; and
- (i) Property Register.

THE BAR COUNCIL OF.....

*Copy Application Register*

12. Every State Bar Council shall maintain:—

(a) A Copy Application Register containing as far as possible the following entries:—

1. Serial No.
2. D.C. Enquiry No./D.C. Appeal No.
3. Name of Advocate/party (making the application)
4. No. of Folio
5. Charges payable
6. Date of receipt of copy application
7. Date of notifying charges payable
8. Date of payment
9. Date when copy ready
10. Date of delivery
11. Signature for receipt
12. Remarks

To every certified copy applied for and furnished shall ordinarily affixed a rubber stamp containing, *inter alia*, the following columns:—

THE BAR COUNCIL OF.....

C.A. No.....

1. No. of D.C. proceeding
2. Date of communication of order
3. Date of receipt of copy application
4. Date when charges are called for
5. Date when charges are paid
6. Date when copy dispatched or delivered
7. Charges paid for the copy

Date.....

Signature of Secretary  
or other person authorised

(b) "Bar Council Complaint Register" containing the following columns:—

1	2	3	4	5
Sl. No.	Date of receipt of complaint	Name of Complainant or other person and address	Name of Advocate against whom the complaint is made, his Roll No.	Date on which Bar Council considered
6	7	8	9	
If rejected, <i>prima facie</i> , or referred to its Disciplinary Committee, and date of resolution	Reference to page of Disciplinary Committee register, further particulars	If, <i>suo motu</i> , necessary particulars	Any other particulars/Remarks	

(c) Disciplinary Committee Register containing the following columns:—

1	2	3	4	
Sl. No.	Number of Case	Complainant's Address	Name of the Advocate about whom complaint is made and his address and Roll No.	
5	6	7	8	9
Date of reference by Bar Council	Name of Members of Disciplinary Committee	If summarily rejected, date	If not summarily rejected, dates of enquiry	Gist of final order under section 35(1) and date
10	11	12	13	
Date on which order was sent to the parties	Date of receipt of order communicated to parties	If appeal filed number of the appeal and particulars	Date of receipt of notice of despatch of records	

14	15	16	17	18
Date of despatch of records to Bar Council of India	Result of appeal, etc.	Date of receipt of records received back from the Bar Council of India	Date of return of documents to parties	Remarks and other particulars

13. The Bar Council of India shall maintain the following registers:—

1. Copy Application Register, containing entries as nearly as possible as in the case of the copy application register of State Bar Councils with necessary modifications.

2. The Bar Council of India Complaint Register, containing entries on matters required with reference to register of the State Bar Councils.

3. The Disciplinary Committee Register containing similar entries with necessary modifications as is necessary for State Bar Councils.

4. The Disciplinary Committee appeal registers containing the following columns:—

1	2	3	4	5	6
Sl. No.	Date of receipt of papers	Name of Appellant	Name of Respondent	Name of Advocate against whom the enquiry is made and Roll Number	Appeal from Bar Council of .....

7	8	9	10	11
Date on which papers were found in order	Names of Members of Disciplinary Committee	Dates of hearing	Date of receipt of records of the Disciplinary Committee appealed against	Date of final order

12	13	14	15
Date of despatch of order to parties	Date of receipt of order communicated	Particulars as to appeal to Supreme Court, if any	Results of appeal to Supreme Court

16	17	18
Review application, if any, with particulars	Date of despatch of records received from the Bar Council	Other particulars and remarks

*Scrutiny of records of State Councils*

14(i) The Chairman (ii) the Vice-Chairman, (iii) any member of the Council or the Secretary of the Council duly authorised by a resolution, shall be entitled at any time to look into any of the records or other papers of any State Council.

*Enrolment*

15. (1) In addition to the enrolment fee laid down in section 24 of the Advocates Act 1961, persons desirous of being enrolled as Advocates shall also be liable to pay to the State Councils, stamp duty payable by them under the Indian Stamp Act, 1899 and such Bar Councils shall be entitled to recover the same before making the entry of their names in the rolls.

(2) Every candidate seeking enrolment as an Advocate shall be required to affirm and subscribe to the following declarations:—

(a) "I shall uphold the Constitution and the laws";

(b) "I shall faithfully discharge every obligation cast on me by the Act and the rules framed thereunder".

*Electoral Roll and Election*

16. (1) Every State Council shall hold its elections well in time before the expiry of the term of its members and take all steps necessary in respect thereof.

(2) The Secretary of every State Council shall take steps in time or prepare and publish the electoral rolls for the purpose of the elections.

*Supervisions and Control*

17. The State Councils shall, when so required, make such periodical returns or statements or furnish such information as may be prescribed or called for by the Council.

18. The Secretary of every State Council shall, *inter alia*, send to the Secretary of the Council—

(a) a copy of the notice of every election of members to the State Council, a copy of the list of members elected, intimation of the election disputes, if any referred to any Tribunal or Committee and the result thereof;

(b) the names of the, *ex officio*, members of the State Council;

(c) the name of members of the State Council co-opted for any vacancy;

(d) the names of members elected as Chairman and Vice-Chairman of the State Council from time to time;

(e) the name of the Secretary of the State Council and his residential address;

(f) address of the State Council, and intimations as to its hours of work and holidays;

(g) the name and address of the member elected to the Council and the date of election;

(h) before the 31st day of December each year as statement as to the number of Disciplinary matters taken in file, number of cases disposed of and number of cases pending.

19. The Secretary of each State Bar Council shall keep the Bar Council of India informed of all proceedings in any Court or Tribunal instituted by or against the Bar Council, and shall wherever necessary send copies of such proceedings.

20. Every State Council shall arrange for the audit of its accounts in time in accordance with its rules, and send forthwith after audit, the copy of the audited account together with a copy of the report of the auditors thereon to the Council.

41[\*\*\*]

22. (a) The State Councils shall give due publicity to their rules.

(b) The State Councils shall furnish information of the names of persons (with their roll numbers and other necessary particulars) removed from its rolls or suspended under Chapter V of the Act, or who voluntarily suspend practice, and of those who resume practice, to all the Bar Associations, and the High Courts and the subordinate Courts in the State.

23. (a) The names of Advocates shall be entered in the rolls without suffixes, prefixes, titles or degrees.

In the case of a person who has taken a degree in law from any University, the name shall be the same as entered in the degree or other certificate granted by the University; in the case of a Barrister, as in the certificate of call to the Bar;

In the case of a Vakil, Pleader or Attorney or Mukhtar, as it is in certificate of entry as such Vakil, Pleader or Attorney or Mukhtar; and

In the case of any person previously enrolled as an Advocate, whether he holds a degree in law or not, as in the certificate of such admission.

In the case of any person not falling under any of the above categories, the name shall be such as the State Council or the Enrolment Committee may determine.

(b) The name as entered in the roll of the State Council shall not be altered in any respect except when—

(i) on an application for the purpose, the State Council accords its permission;

(ii) a notice thereof is thereafter affixed on the notice board of the State Council and published in the local Gazette in one issue or in a local English newspaper as the State Council may specify; and

(iii) the applicant defrays all the necessary costs thereof.

(c) Every State Council shall forthwith communicate to the Council, the change if any in the name of any Advocate on its rolls.

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41. R. 21 has been deleted as S. 46 of the Advocates Act, 1961 (25 of 1961) has been omitted by the Advocates (Amendment) Act, 1993 (70 of 1993), S. 8 (w.e.f. 26-12-1993).

24. (a) When the name of an Advocate is removed from the rolls, or an Advocate is suspended from practice or otherwise punished under an order of any Disciplinary Committee or an order of the Supreme Court under section 38, or when an intimation of voluntary suspension from practice is received from the Advocate, the State Council in respect of a person in its roll and the Council in respect of a person whose name is not in any State Roll, shall furnish information thereof giving the name of the Advocate, his roll number and date of enrolment, his address, nature of the punishment inflicted—

- (i) to the Registrar of the High Court of the State;
- (ii) to the Registrar of the Supreme Court of India;
- (iii) to the Bar Association in the High Court;
- (iv) to the District Court of the State; and
- (v) to such other authorities as the State Council or the Council may direct.

(b) The State Bar Councils and the Bar Council of India will also cause to be published in the State Gazettes or the Gazette of the Government of India as the case may be, information relating to the removal from the roll or the suspension of an Advocate for misconduct.

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# THE BAR COUNCIL OF INDIA TRAINING RULES, 1995<sup>1</sup>

*Rules made by the Bar Council of India in exercise of its rule making powers under section 24(3)(d) of the Advocates Act, 1961*

(As amended upto 19th July, 1998)

1. These rules may be called "Bar Council of India Training Rules, 1995" for enrolment as an Advocate on the roll of a State Bar Council which shall come into effect on 2-4-1996.

2. No person shall be entitled to be enrolled as an Advocate unless he is eligible to be enrolled as such under section 24 of the Advocates Act, 1961 and has undergone training as prescribed under these rules. However while undergoing training the trainee shall be enrolled provisionally as "Trainee Advocates" after approval of name of their guides by the State Bar Council and State Bar Council shall issue identity card to said provisionally enrolled "Trainee Advocates" for their identification.

3. (1) A duly qualified candidate to be enrolled as an Advocate shall have to file application for enrolment as prescribed under section 25 of the Advocates Act, 1961 after payment of prescribed fee for enrolment and the said candidate shall have to deposit a bank draft of Rs. 150 (Rupees one hundred and fifty only) in favour of State Bar Council and Rs. 50 (Rupees fifty only) in favour of Bar Council of India in addition to enrolment fee for imparting training in prescribed form with all relevant documents as has been prescribed under the Advocates Act and the rules made thereunder.

The following particulars in capital letters shall be supplied by the candidates applying for training in addition to information required for enrolment:—

(a) Name

(b) Father's name

(c) Date of birth

(d) Nationality

(e) Details of degree of graduation or certificate of having passed 10+2 examination, whichever is applicable and degree of law

(f) Date of declaration of result of degree in law

(g) Name, address and enrolment number of the guide under whom he has to receive training.

*Note.*—Photostat copies of the Bachelor's degree or certificate of passing the 10+2 examination, whichever is applicable and degree in law and in case the degree in law has not been awarded then a photostat copy of the third year marks sheet and provisional certificate shall be enclosed with the application for training in addition to documents required for enrolment.

4. The period of training shall commence from the date of certificate of the guide that the candidate has started training with him but such date shall be subject to the approval of the name of the guide by the State Bar Council.

5. An Advocate having 15 years of practice at Bar or designated Senior Advocate, who is in continuous active practice in a Court established by law

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1. These rules were struck down by the Supreme Court *vide* its orders dated 12th and 15th March, 1999. [See *V. Sudeer v. Bar Council of India*, AIR 1999 SC 1167].

shall be eligible to impart training and be called "guide" and the name of guide shall be approved by the State Bar Council. The guide shall have to give his written consent before he would be approved as a guide:

Provided in case of non-availability of Advocates of 15 years' practice at the Bar, the concerned State Bar Council may relax this requirement and allow Advocates having 10 years' practice to become guides under intimation to the Bar Council of India.

6. No guide shall have, at a given time, more than 3 trainees working under him, except with the previous permission in writing of the State Bar Council.

7. Every candidate shall be bound to receive training for the period of one year under the same guide, except where the guide has died before the expiry of the period of one year or has ceased to practise or for any other reasonable ground which the State Bar Council may deem fit and proper and in such case the candidate shall receive training for the remaining period with another guide whose name may be approved by the State Bar Council afresh on a written intimation to the aforesaid effect by the candidate.

8. During the period of training the candidate shall regularly attend the chamber or office of the guide, study case papers, correspondence, draft pleadings, attend Courts and in particular study cases with a view to get acquainted with the practice in Courts and minimum attendance for 225 days in all in Courts and chambers in a year shall be a condition precedent for the successful completion of training.

9. (a) Every candidate shall maintain two diaries in the form approved by the State Bar Council. One for working done in chambers and the other for work in Courts. The chamber diary shall contain a day-to-day record of the work done by the candidate in the guide's chambers giving briefly the facts of the cases, studies of complaints, written statements, affidavits, grounds of appeal or revision, etc., read and other matters looked into. The Court diary shall contain the date, the number of the cases attended, the arguments, the case law cited and the result.

The candidate shall write out on the first page of each of his diaries, his name, serial number, the name of the guide, the place of training and the date of commencement of the training. The candidate shall also note separately in the second page of the chambers diary, the date of absence from chambers or Court, the dates of despatch of the statements referred to in the rules hereunder and other important particulars connected with his training.

(b) Every candidate shall submit his Courts and chambers diaries to the guide for scrutiny at least twice a month on or before the 5th and 20th of each month and obtain his signature with the dates in the chambers and Courts diaries.

(c) The diary maintained by the candidate duly signed by him and the guide after the completion of the training be sent to the State Bar Council which shall be scrutinised by Enrolment Committee of the State Bar Council and in case the Enrolment Committee of the Bar Council is satisfied that the candidate has not undergone full and proper training in compliance with the rules, the State Bar Council may extend the period of training as it may deem fit in the interest of legal profession.

During the period, however, when the Courts where the guide is practising are closed for summer recess or other recess, it shall be sufficient if the signatures of the guide are obtained in the diaries a week before such recess and again a week after the reopening, but 225 clear days training in any case

shall be strictly made applicable. The number of days has been fixed considering the facts that Courts are closed in different vacations and thus the number of days for training has been reduced to 225 days only.

10. No candidate shall engage himself in any employment, profession, business, trade or calling during the course of training in any manner.

11. A guide from whom the candidate would receive training shall intimate to the Bar Council in writing the non-attendance of a candidate in training.

12. The Secretary of the State Bar Council shall maintain a separate register in which he shall enter the names of the candidates undergoing training in law with his address and the name and address of the guide concerned, the date of the intimation and approval and the date of the actual commencement of receiving training.

13. The State Bar Council may provide for lectures to be delivered by its members, legal luminaries, jurists on professional ethics and other topics at suitable places in the State and the attendance of trainees in such lectures be deemed to be a part of the training and shall be compulsory except on special cause to be shown.

14. These training rules would not be applicable to the persons applying for enrolment as Advocates who had worked for a minimum period of one year as Judicial Officers/Prosecutors/Vakils/Pleaders/Mukhtars.

15. A trainee on successful completion of training period shall be entitled to seniority from the date of provisional enrolment as Trainee under the Rules.

15-A. A trainee shall be enrolled provisionally as "Trainee Advocate" after approval of name of his guide by State Bar Council and on successful completion of training period he shall be enrolled as "Advocate" as defined under section 2(a) of the Advocates Act, 1961 and shall be entitled to seniority as Advocate from the date of provisional enrolment but if in any case period of training of particular candidate is extended by State Bar Council under rule 9 of this rule on the ground of inadequate training, said extended period shall not be counted towards seniority.

15-B. The "Trainee Advocates" after their provisional enrolment shall be entitled to appear in Court for seeking adjournments and to make mentioning on instruction of their guide and shall be under disciplinary control of State Bar Council and Bar Council of India under Advocates Act, 1961 and rules made thereunder.

15-C. The benefit of seniority under new rule given to "Trainee Advocates" shall be granted to those trainees also who have either completed their training and have been enrolled as Advocates or are undergoing training under this rule with effect from the date of approval of name of their guides under rule 4 of the rules treating them enrolled provisionally as "Trainee Advocates".

16. That any decision of a State Bar Council under these rules shall be subject to appeal before the Bar Council of India.

#### DRESS TO BE WORN BY "TRAINEE ADVOCATES"

(a) Male trainees shall wear the dress of a male Advocate except for band and gown and shall wear plain maroon coloured tie badge indicating that he is a trainee. A sample of the badge will be provided by the Bar Council of India.

(b) Female trainee shall wear dress of a female Advocate except for band and gown and shall wear a badge indicating that she is a trainee. A sample of the badge will be provided by the Bar Council of India.

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## THE ADVOCATES (RIGHT TO TAKE UP LAW TEACHING) RULES, 1979<sup>1</sup>

*In exercise of the powers conferred by section 49-A of the Advocates Act, 1961 (25 of 1961), the Central Government hereby makes the following rules, namely:—*

**1. Short title and commencement.**—(1) These rules may be called THE ADVOCATES (RIGHT TO TAKE UP LAW TEACHING) RULES, 1979.

(2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definition.**—In these rules “Act” means the Advocates Act, 1961 (25 of 1961).

**3. Right of practising Advocates to take up law teaching.**—

(1) Notwithstanding anything to the contrary contained in any rule made under the Act, an Advocate may, while practising, take up teaching of law in any educational institution which is affiliated to a University within the meaning of the University Grants Commission Act, 1956 (3 of 1956), so long as the hours during which he is so engaged in the teaching of law do not exceed three hours in a day.

(2) When any Advocate is employed in any such educational institution for the teaching of law, such employment shall, if the hours during which he is so engaged in the teaching of law do not exceed three hours, be deemed, for the purposes of the Act and the rules made thereunder, to be a part-time employment irrespective of the manner in which such employment is described or the remuneration receivable (whether by way of a fixed amount or on the basis of any time scale of pay or in any other manner) by the Advocate for such employment.

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1. *Vide* G.S.R. 587(E), dated 26-10-1979, published in the Gazette of India, Ext., Pt. II, S. 3(i), dated 26-10-1979.

# MODEL SCHEMES FOR WELFARE OF ADVOCATES FRAMED BY BAR COUNCIL OF INDIA

## 1. SCHEME FOR GRANTING FINANCIAL ASSISTANCE TO INDIGENT PRACTISING ADVOCATES WHEN SUFFERING FROM SERIOUS AILMENT

(1) These rules shall be known as "Rules for Grant of Financial Assistance to Indigent Practising Advocates Suffering from Serious Ailment" and shall apply to all such Advocates practising in the State.

(2) These rules shall come into force from the date<sup>1</sup> notified by the Bar Council of India.

(3) *Definitions.*—(a) "applicant" shall mean an advocate on the roll of the State Bar Council within whose jurisdiction he is practising and applying for the financial assistance to such State Bar Council.

(b) "Bar Council of India" means the Bar Council constituted under section 4 of the Advocates Act.

(c) "Bar Council of India Advocates Welfare Committee" means a committee constituted under rule 44-A(1) of the Bar Council of India Rules under Part VI, Chapter II, section IV-A.

(d) "Bar Council of India Advocates Welfare Committee for the State" shall mean the Advocates Welfare Committee constituted for the State under rule 44-A(2)(i) of the Bar Council of India Rules under Part VI, Chapter II, section IV-A.

(e) "Indigent Advocate" means any practising Advocate, who is unable to maintain himself and his family and is also unable to meet the costs of his treatment in case of serious ailment.

(f) "family" shall mean the Advocate's wife or in the case of a female, her husband, his or her minor children and aged parents actually dependent on the applicant Advocate for maintenance.

(g) "Fund" means fund constituted under the Bar Council of India Advocates Welfare Rules as contained under Part VI, Chapter II, section IV-A of the Bar Council of India Rules for the Scheme for Financial Assistance to Indigent Practising Advocates when suffering from serious ailment in that State.

(h) "serious ailment" will include ailment of serious nature affecting brain, heart, lungs, abdomen or compound fracture or any part of the body requiring treatment for more than one month.

(i) "State Bar Council" means Bar Council constituted under section 3 of the Advocates Act.

(4) An indigent Advocate practising in any Court, tribunal or before any local authority in India shall be entitled to apply for appropriate financial assistance in case of his serious ailment, compelling him to remain confined to bed for more than one month, in the form prescribed for the purpose or in a form similar thereto addressed to the Chairman of the State Bar Council concerned. Such application shall be submitted in duplicate to the State Bar

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1. Brought into force on 19-7-1998 *vide* Resolution No. 64/98.

Council within whose jurisdiction the advocate is practising and such application must be recommended by the Executive Committee of the Bar Association of which the Advocate concerned is a member and/or State Bar Council is otherwise satisfied and must also be certified by a doctor attending on him:

Provided that the State Bar Council *suo motu* or on the information received from any other source refer the case to the Advocates Welfare Committee of the State. On receipt of such application/applications or such reference by the State Bar Council the Secretary of the State Bar Council shall place the same before the Advocates Welfare Committee and shall make such enquiries in respect thereto as may be necessary as expeditiously as possible.

(5) The Advocates Welfare Committee for the State when decided to grant financial assistance in an appropriate case shall sanction such amount as may be necessary to complete any operation or treatment connected with the ailment of the advocate concerned not exceeding Rs. 1,500 and may also sanction such monthly assistance to the applicant towards treatment and costs of medicines, etc., and for maintenance of his family for a period of three months at the rate of not exceeding Rs. 500 per month.

(6) In case the Advocates Welfare Committee for the State considers in a given case that financial assistance is utmost necessary beyond the limit, provided under rule (5), it shall refer to the Bar Council of India with its comments. The Advocates Welfare Committee of the Bar Council of India may sanction a sum upto Rs. 10,000 for treatment of the ailment.

(7) The Bar Council of India may on the recommendation of its Advocates Welfare Committee and the recommendation of the State Bar Council may in an appropriate hard cases sanction *ex gratia* upto a sum of Rs. 10,000 from the fund of the Bar Council of India constituted under rule 41(2) of the Bar Council of India Advocates Welfare Rules.

*Explanation.*—"Hard cases" means the dependent of the deceased advocate have no financial means and in the circumstances immediate help is felt necessary.

(8) Financial grant to the Advocate concerned shall ordinarily be paid without delay. If the Advocate is unable to come for receiving the money so sanctioned, the office of the State Bar Council may send it to the advocate concerned by money order or to the representations of such advocate specially by him in writing to the satisfaction of the Secretary, State Bar Council and on granting an appropriate receipt for such payment money so sanctioned or monthly maintenance of the Advocate shall be sent by the first week of every month for such grant on obtaining an appropriate receipt.

(9) The State Bar Council shall maintain proper records of all the records received and amounts sanctioned and receipt obtained thereof.

(10) If any Advocate makes any statement or furnishes any information which is proved to be false to his knowledge, it shall amount to professional misconduct under section 35 of the Advocates Act.

(11) If the Advocates Welfare Committee for the State subsequently finds that any statement given or evidence adduced by the applicant was false in material particulars the Committee shall refer the matter to the State Bar

Council with its report and the State Bar Council may call upon the applicant to refund the entire amount given as assistance with such interest as it may deem fit and the applicant shall comply with such directions.

(12) The Advocate aggrieved of any order passed by the State Bar Council under rule 10 may file an appeal to the Bar Council of India within 90 days. The Bar Council of India may either dismiss the appeal summarily or in case it finds a case for setting-aside or modifying the order of the State Bar Council the order shall be passed only after notice to the concerned State Bar Council.

## II. FINANCIAL ASSISTANCE TO INDIGENT AND DISABLED ADVOCATES

1. These rules shall be known as "Rules for Financial Assistance for Indigent and Disabled Advocates Practising in India."

2. These rules shall come into force with effect from the date<sup>2</sup> notified by the Bar Council of India.

3. *Definitions.*—(a) "applicant" shall mean an advocate on the roll of the State Bar Council within whose jurisdiction he is practising and applying for the financial assistance to such State Bar Council.

(b) "Bar Council of India" means the Bar Council constituted under section 4 of the Advocates Act.

(c) "Bar Council of India Advocates Welfare Committee" means a Committee constituted under rule 44(1) of the Bar Council of India Rules under Part VI, Chapter II, section IV-A.

(d) "Bar Council of India Advocates Welfare Committee for the State" shall mean the Advocates Welfare Committee constituted for the State under rule 44-A(2)(i) of the Bar Council of India Rules under Part IV, Chapter II, section IV-A.

(e) "Disabled Advocate" shall mean an Advocate, whereby reason of any physical, mental or other infirmity is unable to practise the profession of law.

(f) "family" shall mean the Advocate's wife or in the case of female, her husband, his or her minor children and aged parents actually dependent on the applicant advocate for maintenance.

(g) "Fund" means fund constituted under the Bar Council of India Advocates Welfare Rules for the scheme for assistance to Indigent and Disabled Advocates practising in the State.

(h) "indigent advocate" shall mean an advocate who has to maintain himself and his family from his profession and other income.

(i) "State Bar Council" means Bar Council constituted under section 3 of the Advocates Act.

4. Any person desirous of obtaining financial assistance under these rules shall submit an application to the Chairman of the State Bar Council. The State Bar Council may also give financial assistance as it may deem fit *suo motu* or on the information received from any other source. The application shall be

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2. Brought into force on 19-7-1998.

submitted in duplicate duly recommended by the Executive Committee of the Bar Association of which the advocate concerned is member and/or the Advocates Welfare Committee of the State is otherwise satisfied.

5. On receipt of such application or applications the Advocates Welfare Committee for the State shall make such enquiries in respect thereto as may be necessary as expeditiously as possible.

6. The Advocates Welfare Committee for the State when decided to grant financial assistance in an appropriate case shall sanction such sum as may be necessary, but in any case it shall not exceed Rs. 3,000:

Provided that if the Advocates Welfare Committee considers that in a given case the applicant should be given lump-sum amount in addition to annual or monthly grant the Advocates Welfare Committee shall record its reasons and refer to the State Bar Council. The State Bar Council may sanction a sum of Rs. 10,000 keeping in view its capacity to pay from the fund.

7. Financial grant to the indigent and/or disabled advocate shall normally be paid on monthly basis and the amount shall ordinarily be paid to the advocate concerned. If the advocate concerned is unable to come for receiving money, the office of the State Bar Council may send it to the advocate concerned by Money Order or a Bank Draft to the advocate concerned by specially authorised by him in writing to the satisfaction of the Secretary of the State Bar Council on obtaining appropriate receipt of such payment.

8. The grant of financial assistance to an indigent and/or disabled advocate shall be sanctioned annually and may be paid on a monthly basis and in case of necessity such sanction may be renewed after expiry of the year for which the sanction was already granted:

Provided that financial grant to such advocate shall cease as soon as the advocate concerned ceases to be indigent or disable for which financial assistance was allowed ceased to exist.

9. If any advocate makes any statement or furnishes any information which is proved to be false to his knowledge, it shall meant to professional misconduct under section 35 of the Advocates Act.

10. If the Advocates Welfare Committee for the State subsequently finds that any statement given or evidence adduced by the applicant was also false in material particulars the committee shall refer the matter to the State Bar Council with its report and the State Bar Council may call upon the applicant to refund the entire amount given as assistance with such interest as it may deem fit and the applicant shall comply with such directions.

11. The advocate aggrieved of any order passed by the State Bar Council under rule 10, may file an appeal to the Bar Council of India within 90 days. The Bar Council of India may, either dismiss the appeal summarily or in case it finds a case for setting aside or modifying the order of the State Bar Council, the order shall be passed only after notice to the concerned State Bar Council.

### **III. SCHEME FOR LIBRARY DEVELOPMENT**

1. These rules shall be known as "Bar Council of India Advocates Welfare Library Development Rules".

2. These rules shall come into force from the date<sup>3</sup> notified by the Bar Council of India.

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3. Brought into force on 19-7-1998.

3. *Definitions.*—(a) “applicant” means a Bar Association registered under the Societies Registration Act or so affiliated with the State Bar Council within whose jurisdiction the Bar Association situated and has submitted an application for Library development under the rules.

(b) “Bar Association” means the Bar Association registered under the Societies Registration Act or so affiliated with the State Bar Council within whose jurisdiction the Bar Association is situated.

(c) “Bar Council of India” means the Bar Council constituted under section 4 of the Advocates Act.

(d) “Bar Council of India Advocates Welfare Committee” means the Committee constituted under rule 44-A(1) of the Bar Council of India Rules under Part VI, Chapter II, section IV-A.

(e) “State Bar Council” means the Bar Council constituted under section 3 of the Advocates Act.

(f) “Bar Council of India Advocates Welfare Committee for the State” shall mean the Advocates Welfare Committee constituted for the State under rule 44-A(2)(i) of the Bar Council of India Rules, Part VI, Chapter II, section IV-A.

(g) “Fund” means the fund constituted under the Bar Council of India Advocates Welfare Rules proved under Part VI, Chapter II, section IV-A of the Bar Council of India Rules for the Scheme for Library Development.

(h) “Financial Year” means the year from 1st April to 31st March of the next year.

(i) “Application Form” means the form so prescribed by the Committee from time to time for applying for financial assistance to the Library of the Bar Association.

4. Any High Court, District Court, Sub-Divisional Court, Tehsil or Taluka Court, Bar Association will be entitled to apply for annual grant to the Advocates Welfare Committee of the Bar Council of India for that State in the form prescribed under these rules and will make necessary declaration as prescribed therein and supply such information about the functioning of the concerned library as may be required by the said Committee.

5. The Advocates Welfare Committee shall consider such applications twice a year and sanction the appropriate grant to such applicant—Bar Association for development of the library.

6. The Bar Association which received the amount once will not ordinarily be eligible again till after the lapse of three years.

7. The Bar Association while making an application for grant to the Advocates Welfare Committee for the State append a resolution of the Association deciding to seek the grant an approved list of books in duplicate and also their resolution to generate a sum of at least 10% of the proposed grant for purchase of books and equipment in their library.

8. The grant will be given not in cash but by way of books desired to be purchased by the Association.

9. As far as may be, the fund to be allocated to each Bar Association under these rules, be in accordance with the total strength of the advocates of such Bar Association.

10. The books that will be supplied under this Scheme shall bear stamp containing the following inscription:—

“BAR COUNCIL OF INDIA ADVOCATES WELFARE FUND FOR THE STATE LIBRARY DEVELOPMENT SCHEME”

11. The Bar Association receiving the grant will maintain a list of books supplied to it.

#### **IV. RULES FOR FINANCIAL ASSISTANCE TO STATE BAR COUNCILS/ADVOCATES UNDER RULE 44-B OF THE BAR COUNCIL OF INDIA RULES**

(1) These rules shall be known as the Scheme for Financial Assistance to the State Bar Councils under rule 44-B of the Bar Council of India Rules.

(2) The Scheme shall come into force immediately<sup>4</sup>.

(3) These Schemes shall be applicable to only such State Bar Councils which have remitted the sum in accordance with the rule 41(2) of the Bar Council of India Rules.

(4) That on receiving information from the Chairman of the State Bar Council or Member, Bar Council of India from that State, the Chairman, Bar Council of India on being satisfied by such report may immediately sanction a reasonable amount not exceeding Rs. 5,000 in an individual case and Rs. 25,000 in case of some calamity involving more than one advocate and shall report to the Advocates Welfare Committee of the Bar Council of India. The financial assistance to the State Bar Councils will be available in any of the following cases:—

(a) the advocate or advocates have suffered seriously on account of some natural calamity or;

(b) the advocate or advocates have died an unnatural death, due to an accident or natural calamity or any other cause of like nature, or;

(c) the advocate or advocates have suffered or is suffering from such serious disease or illness which is likely cause death if no proper treatment is given and the advocate requires financial assistance without which he would not be able to get proper treatment and has no personal assets except a residential house to meet such expenditures, or;

(d) the advocate or advocates become physically disabled or incapacitated to continue his profession on account of natural calamity or accident or any other cause of like nature.

(5) That the amount sanctioned under rule 4 shall be placed at the disposal of the Advocates Welfare Committee of the Bar Council of India for the State and the said State Committee shall maintain separate account and send the same to the Bar Council of India within three months from the date of the receipt thereof.

(6) That the Advocates Welfare Committee of the Bar Council of India on receiving such applications duly recommended by the State Bar Councils, may sanction a sum provided in the different schemes prepared by the Bar Council of India.

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4. Brought into force on 19-7-1998.

# THE BAR COUNCIL OF INDIA ADVOCATES WELFARE SCHEME, 1998<sup>1</sup>

## 1. Part A: Preliminary

(i) This Scheme may be called THE BAR COUNCIL OF INDIA ADVOCATES WELFARE SCHEME, 1998.

(ii) It shall come into force on the 1st day of November, 1998.

(iii) Subject to the provisions of the Scheme, any advocate enrolled with any State Bar Council in India shall be entitled to become a member of the Scheme after submitting an application in Form A.

(iv) The maximum age at which an advocate may become a member of the Scheme is 65 years.

(v) The normal retirement of the member is 90 years.

## 2. Part B: Subscription

(i) Every applicant shall pay an admission fee of five hundred rupees in lump-sum with the application.

(ii) Every member shall pay an annual subscription of Rs. 750 (Rupees Seven hundred and fifty) per year on or before 31st of July of every year.

Alternatively a member may pay a lump-sum contribution of Rs. 7500 (Rupees Seven thousand five hundred) at the time of joining the Scheme and in that event he shall not be required to pay any annual subscriptions.

(iii) In case of default in depositing the subscriptions, interest at the rate of fifteen per cent. per annum shall be charged on every year's default.

## 3. Part C: Administration

(i) The Scheme shall be administered by the Advocates Welfare Committee of the concerned State Bar Council.

(ii) A welfare fund by name "All India Advocates Welfare Fund" or any other name which the Bar Council of India may decide, shall be established with the subscriptions received from the members, and income which may be received from other sources and in each of the State separate accounts shall be opened.

(iii) The moneys of the fund shall be invested in securities/investments as may be considered appropriate by the Advocates Welfare Committee keeping in view the safety of the fund and ensure higher returns on the fund.

(iv) The Advocates Welfare Committee shall have the power to appoint with the consent of the Bar Council of India, any person or persons with requisite qualifications to act as the Secretary/Secretaries, Manager/Managers or Registrars of the Fund at such remuneration and on such terms and conditions and with such powers as the Advocates Welfare Committee may think fit. The Committee may also employ any person or persons to do any legal, accounting, actuarial any other work which they may consider necessary or expedient in connection with the management of the fund or of the assets thereof.

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1. Brought into force on 19-7-1998 *vide* Resolution No. 64/1998.

(v) An actuarial valuation shall be carried out by a qualified Actuary every two years to ascertain the solvency of the Fund and to examine the possibility of improvement of benefits.

(vi) The account of the fund shall be maintained in India and shall contain such particulars as the Advocates Welfare Committee may think proper and as required by law. As soon as possible after 31st day of March in each year, the Committee shall take a general account of the assets and liabilities of the fund and shall prepare a balance sheet and revenue account showing the income and expenditure during the year terminating on such thirty first day of March in such form as may be considered suitable by the Advocates Welfare Committee.

The first accounting period will be from 1st August, 1998 to 31st March, 1999. Thereafter the accounting year shall be from 1st April to 31st March of each year.

(vii) The accounts of the fund shall be audited yearly by a Chartered Accountant or a firm of Chartered Accountants, who shall have an access to all the books, papers, vouchers and documents connected with the fund, and who shall in writing report to the Advocates Welfare Committee on the annual accounts. A copy of audited accounts shall be furnished to the Bar Council of India.

#### **4. Part D: Refusal/Removal from the membership of the Fund**

(i) If any advocate is refused admission to the membership of the Scheme, he may appeal to the Advocates Welfare Committee of the Welfare Fund of the Bar Council of India within three months from the date of refusal. The Advocates Welfare Committee may after giving, due opportunity of hearing to the concerned advocate and the Bar Council of India, direct that such advocate may be admitted to the membership of the Scheme. The order so passed shall be final.

(ii) If any member is expelled from the membership of the concerned State Bar Council or otherwise ceases to be a member of that State Bar Council, then his name shall be liable to be deleted from the membership of this Scheme and the annual subscription/lump-sum contribution paid by him together with 6% simple interest per annum shall be paid to him:

Provided that no order of deletion of name from the membership of the Scheme shall be made except on the recommendation of the concerned Advocates Welfare Committee and without hearing the concerned member and such order shall be passed by the State Bar Council in its general meeting after such enquiry, as may be necessary.

(iii) Name of the member shall stand removed from the Scheme automatically if he is in arrears of annual subscription for a period of three consecutive years.

(iv) An advocate who is so removed from the membership of the Scheme, can only be re-admitted on payment of arrears of subscriptions due against him alongwith interest at the rate of 15% per annum and such other penalty not exceeding Rs. 500 (five hundred only) as may be imposed by the Advocates Welfare Committee provided his name is restored or continues on the State roll maintained by the concerned State Bar Council.

### 5. Part E: Benefits on early retirement from the Scheme

(i) If a member of the Scheme who completes a period of 5 years after he becomes a member of the Scheme shall, subject to other provisions of the Scheme, be entitled to seek voluntary retirement from the membership and to receive the amount of annual subscription/lump-sum contribution deposited by him along with the simple interest at the rate of six per cent. per annum from the date of deposit made by him.

(ii) Any member suffering from total permanent disablement shall be allowed to retire from the Scheme, but the member will have to seek retirement as an advocate and will not be entitled to be enrolled thereafter and become a member of the Scheme. He shall be entitled to the benefits as per Table II-A/II-B of the Scheme appended to the Scheme and the Advocates Welfare Committee in special circumstances for reasons to be recorded may allow claim upto Rs. 50,000 (Rupees fifty thousand only).

(iii) A member has the option to seek voluntary retirement from the membership any time after attaining 75 years of age but in any case member would retire on completion of 90 years or on completion of 40 years of membership whichever is earlier.

(a) If the member retires any time after attaining 75 years of age before completion of 40 years of membership or 90 years of age 90% of the maturity value shown in Table I shall be paid to him depending upon his completed number of years of membership.

(b) If the member retires after completion of 40 years of membership, he shall be entitled to full maturity value shown in Table I depending on his completed number of membership on the date of his retirement.

(iv) Notwithstanding anything contained in this Scheme to the contrary, if any advocate after his admission to the Scheme joins any employment, he shall be entitled for refund of all his annual subscriptions/simple interest from the date of his annual subscriptions/lump-sum contribution.

### 6. Part F: Benefits payable on death/illness while continuing as a Member of the Scheme

(i) In case any member dies or acquires total permanent disablement at any time after becoming a member of the Scheme, he or his nominee/dependents or other legal heirs, shall be entitled for a sum as per Table II-A/ Table II-B of the Scheme appended to the Scheme.

*Explanation.*—For the purpose of this clause, dependants means the spouse, minor children and unmarried daughters.

(ii) Advocates Welfare Committee on an application made to it in the prescribed form after being satisfied about genuineness of the claim, may grant *ex gratia* payment from the fund.

In case a member of the Scheme is hospitalised for at least one month or undergoes a major surgery or suffering from paralysis, cancer, unsoundness of mind and/or other similar serious ailments on the production of a certificate from the Chief Medical Officer concerned to that effect, he may be paid an amount not exceeding ten thousand rupees:

Provided that a subsequent claim shall not be entertained unless a period of three years from the date of first payment has elapsed.

**7. Part G:** Benefits payable on normal retirement at age 90 years or on completion of 40 years of membership whichever is earlier.

(a) For Members who are paying annual contribution of Rs. 750 per annum.

(i) The maturity benefit payable on retirement at age 90 years or above completion of 40 years of membership will be as shown in Table I of the Scheme.

(ii) Further, as an additional benefit for a member who has completed 20 or more years of membership and is aged below 65 years, a Medi-claim Policy on the life of the member and his wife for a sum of Rs. 1 lakh each will be purchased from New India Assurance Co. Ltd. or any other subsidiary Company of General Insurance Corporation of India covering Hospitalisation/Domiciliary Hospitalisation benefits from age 65 to 70, provided the member and his wife are in good health at the time of taking out the policy.

(b) For members who paid a lump-sum contribution of Rs. 7,500.

(i) The maturity benefits payable on retirement at age 90 years or on completion of 40 years of membership will be as shown in Table I of the Scheme.

(ii) Further, as an additional benefit for a member who has completed 20 or more years of membership and is aged below 65 years, a Medi-claim Policy on the life of the member and his wife for a sum assured of Rs. 1 lakh each will be purchased from New India Assurance Co. Ltd. or any other subsidiary company of General Insurance Corporation of India covering Hospitalisation/Domiciliary Hospitalisation benefits from age 65 to 70 years, provided, the member and his wife are in good health at the time of taking out the policy.

#### **8. Part H: General**

(i) An appeal in the prescribed form may be made to the Bar Council of India against the decision of the Advocates Welfare Committee within 30 days from the date of such order and shall be accompanied with the copy of the decision appealed against and shall be filed within 30 days of the receipts of the order. The decision of the Bar Council of India shall be final.

(ii) In case the Scheme is silent about any matter, such matters shall be decided by the Advocates Welfare Committee in consultation with the Bar Council of India.

(iii) Those Advocates who join this Scheme shall be entitled to the benefits of any other Scheme for the time being in force.

(iv) With respect to process of payment of all claims under this Scheme, Bar Council of India may lay down the guidelines for this purpose.

**9.** A Schedule showing the benefits offered under the Scheme is enclosed:

Encl: Schedule (Table I, II-A and II-B) showing the benefits.

Scheme approved by the Bar Council of India in its meeting held on 19th July, 1998. (Item No. 79/1998)

Scheme circulated to State Bar Councils *vide* letter No. 2400/1998, dated 22-10-1998.

**ALL INDIA ADVOCATES WELFARE SCHEME***Schedule Showing Benefits*

TABLE I

(MATURITY VALUE)

Completed years of Membership	Maturity Value (Lump-sum Contribution Rs. 7,500)	Maturity Value (Annual Contribution Rs. 750 per year)
(1)	(2)	(3)
1.	1293	0
2.	2163	0
3.	3129	0
4.	4201	0
5.	5390	0
6.	6466	0
7.	7915	860
8.	9531	2491
9.	11329	4305
10.	13329	6323
11.	15288	8303
12.	17761	10979
13.	20519	13581
14.	23599	16688
15.	27040	20160
16.	30789	23944
17.	35133	28325
18.	39146	32380
19.	44526	37807
20.	50580	43912
21.	55426	48816
22.	62904	56357*
23.	71355	64879
24.	80588	74191
25.	88777	82467
26.	100772	94559
27.	112647	106542
28.	125766	110780
29.	140328	134474
30.	156492	150785
31.	174434	168890
32.	194349	188986
33.	216455	211294
34.	240993	236054
35.	268230	263539
36.	298463	394047
37.	332022	327911
38.	369272	365499
39.	410620	407223
40.	456516	543536

**ALL INDIA ADVOCATES WELFARE SCHEME***Schedule Showing Benefits***TABLE II-A**(In cases where a lump-sum payment of Rs. 7,500  
is paid at the time of becoming a member)

Completed years of Membership	Maturity Value
(1)	(2)
1.	7909
2.	8779
3.	9744
4.	10816
5.	12006
6.	30000
7.	30000
8.	30000
9.	30000
10.	30000
11.	35000
12.	35000
13.	35000
14.	35000
15.	35000
16.	50000
17.	50000
18.	50000
19.	60000
20.	60000
21.	75000
22.	75000
23.	100000
24.	100000
25.	100000
26.	125000
27.	125000
28.	150000
29.	150000
30.	163108
31.	183049
32.	200965
33.	223071
34.	247609
35.	274864
36.	295079
37.	338638
38.	375888
39.	417235
40.	463131

**ALL INDIA ADVOCATES WELFARE SCHEME***Schedule Showing Benefits***TABLE II-B**

(In cases where annual subscription of Rs. 750 per annum are paid)

Completed years of Membership	Maturity Value
(1)	(2)
1.	791
2.	1669
3.	2643
4.	3725
5.	4925
6.	30000
7.	30000
8.	30000
9.	30000
10.	30000
11.	35000
12.	35000
13.	35000
14.	35000
15.	35000
16.	50000
17.	50000
18.	50000
19.	60000
20.	60000
21.	75000
22.	75000
23.	100000
24.	100000
25.	100000
26.	125000
27.	125000
28.	150000
29.	150000
30.	157401
31.	175506
32.	195602
33.	217909
34.	242670
35.	270155
36.	300663
37.	334526
38.	372115
39.	413939
40.	460152.

**APPLICATION FORM FOR THE BAR COUNCIL OF  
INDIA ADVOCATES WELFARE SCHEME, 1998**

THE STATE BAR COUNCIL OF.....

(with address).....

Advocates Welfare Committee  
of the Bar Council of India for  
the State of.....

Sir,

I want to become a member of Bar Council of India Welfare Scheme, 1998 and my particulars are:

1. Name
2. Father's name
3. Address
4. Enrolment No.
5. Date of birth
6. Mode of payment under the Scheme
  - Annual subscription/lump-sum
  - Draft enclosed for Rs.....
  - D/D No.....Date.....

The applicant is the member of the Bar Association and is in actual practice. The applicant nominates the following person as his/her nominee:

1. Name of the nominee.....
2. Father's name/husband's name.....
3. Relationship with the applicant.....

I hereby give an undertaking that I shall be bound by the Scheme and particulars mentioned by me in the application are true and correct.

.....  
Signature

Certification by the Bar Association  
where the applicant is a member

It is hereby certified that Shri/Ms./Mrs.....son of/daughter of/  
wife of.....is a Member of this Bar Association and his/her  
Membership Number of the Bar Association at present is.....

.....  
Seal and Signature of the  
President/Secretary

# THE ADVOCATES ACT, 1961

(25 OF 1961)

[19th May, 1961]

*An Act to amend and consolidate the law relating to legal practitioners and to provide for the constitution of Bar Councils and an All-India Bar.*

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

**Statement of Objects and Reasons.**—The Bill seeks to implement the recommendations of the All-India Bar Committee made in 1953, after taking into account the recommendations of the Law Commission on the subject of Reform of Judicial Administration insofar as the recommendations relate to the Bar and to legal education.

The main features of the Bill are,—

(1) the establishment of an All-India Bar Council and a common roll of advocates, and advocate on the common roll having a right to practise in any part of the country and in any Court, including the Supreme Court;

(2) the integration of the bar into a single class of legal practitioners known as advocates;

(3) the prescription of a uniform qualification for the admission of persons to be advocates;

(4) the division of advocates into senior advocates and other advocates based on merit;

(5) the creation of autonomous Bar Councils, one for the whole of India and one for each State.

Following the recommendations of the All-India Bar Committee and the Law Commission, the Bill recognises the continued existence of the system known as the dual system now prevailing in the High Courts of Calcutta and Bombay, by making suitable provisions in that behalf. It would, however, be open to the two High Courts, if they so desire, to discontinue this system at any time.

The Bill, being a comprehensive measure, repeals the Indian Bar Councils Act, 1926, and all other laws on the subject.

The Notes on clauses explain, wherever necessary, the various provisions of the Bill.

## CHAPTER I

### PRELIMINARY

**1. Short title, extent and commencement.**—(1) This Act may be called THE ADVOCATES ACT, 1961.

<sup>1</sup>[(2) It extends<sup>2</sup> to the whole of India.]

(3) It <sup>3</sup>[shall, in relation to the territories other than those referred to in sub-section (4), come into force] on such date<sup>4</sup> as the Central Government may, by notification in the Official Gazette, appoint, and different dates<sup>4</sup> may be appointed for different provisions of this Act.

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1. Substituted by Act 60 of 1973, S. 2, for sub-S. (2) (w.e.f. 31-1-1974).

2. The Act has been extended to the Union territory of Dadra and Nagar Haveli by Regn. 8 of 1963 and Union territory of Pondicherry by Act 26 of 1968, S. 3 and Sch.

3. Substituted by Act 60 of 1973, S. 2, for "shall come into force" (w.e.f. 31-1-1974).

4. The following are the Notifications by which different dates have been appointed for different provisions of this Act:—

Notification

S.O. 1870, dated 7th August, 1961

Date

16-8-1961

Provisions

Chapters I, II and VII.

<sup>5</sup>[(4) This Act shall, in relation to the State of Jammu and Kashmir<sup>6</sup> and the Union territory of Goa, Daman and Diu, come into force on such date<sup>6</sup> as the Central Government may, by notification in the Official Gazette, appoint in this behalf, and different dates may be appointed for different provisions of this Act.]

### COMMENTS

In its pith and substance, it deals with the qualifications, enrolment, right to practise and discipline of the advocates: *Bar Council of U.P. v. State of U.P.* A.I.R. 1973 S.C. 231.

**2. Definitions.**—<sup>7</sup>[(1)] In this Act, unless the context otherwise requires,—

(a) “advocate” means an advocate entered in any roll under the provisions of this Act;

(b) “appointed day”, in relation to any provision of this Act, means the day on which that provision comes into force;

<sup>8</sup>[\* \* \*]

(d) “Bar Council” means a Bar Council constituted under this Act;

(e) “Bar Council of India” means the Bar Council constituted under section 4 for the territories to which this Act extends;

<sup>9</sup>[\* \* \*]

(g) “High Court”, except in sub-section (1) <sup>10</sup>[and sub-section (1-A)] of section 34 and in sections 42 and 43, does not include a Court of the Judicial Commissioner; and, in relation to a State Bar Council, means,—

(i) in the case of a Bar Council constituted for a State or for a State and one or more Union territories, the High Court for the State;

(ii) in the case of the Bar Council constituted for Delhi, <sup>11</sup>[the High Court of Delhi];

S.O. 2790, dated 24th November, 1961	1-12-1961	Chapter III and sub-section (2) of section 50.
S.O. 2919, dated 13th December, 1961	15-12-1961	Sub-section (1) of section 50.
S.O. 297, dated 24th January 1962	24-1-1962	Sections 51 and 62.
S.O. 958, dated 29th March, 1962	29-3-1962	Section 46.
S.O. 50, dated 4th January, 1963	4-1-1963	Section 32 and Chapter VI [except section 46, sub-sections (1) and (2) of section 50, sections 51 and 52.]
S.O. 2509, dated 31st August, 1963	1-9-1963	Chapter V.
S.O. 63, dated 7th June 1968 in Union territory of Pondicherry	10-6-1968	Chapters I, II and III, section 32, Chapters IV, V, VI, VII and VIII.
S.O. 1500, dated 5th April, 1969	1-6-1969	Sections 29, 31, 33 and 34 of Chapter IV
G.S.R. 84(E), dated 21st February, 1979	1-6-1979	in the Union territory of Goa, Daman and Diu except section 30.
G.S.R. 1349(E), dated 9th June, 2011	15-6-2011	Section 30.

5. Inserted by Act 60 of 1973, S. 2 (w.e.f. 31-1-1974).

6. The Act, except section 30 thereof, came into force in the Union territory of Goa, Daman and Diu w.e.f. 1-6-1979 *vide* Noti. No. G.S.R. 84(E), dated 21-2-1979, published in the Gazette of India, 1979, Pt. II, S. 3(i), p. 168. The Act, except section 30 thereof, came into force in the State of Jammu and Kashmir w.e.f. 1-8-1986 *vide* Noti. No. G.S.R. 1946 (E), dated 15-7-1986.

7. S. 2 renumbered as sub-S. (1) thereof by Act 60 of 1973, S. 3 (w.e.f. 31-1-1974).

8. Cl. (c) omitted by Act 107 of 1976, S. 2 (w.e.f. 15-10-1976).

9. Cl. (f) omitted by Act 60 of 1973, S. 3 (w.e.f. 31-1-1974).

10. Inserted by Act 60 of 1973, S. 3 (w.e.f. 31-1-1974).

11. Substituted by Act 60 of 1973, S. 3, for “the High Court of Punjab” (w.e.f. 31-1-1974).

(h) "law graduate" means a person who has obtained a bachelor's degree in law from any University established by law in India;

(i) "legal practitioner" means an advocate, <sup>12</sup>[or vakil] of any High Court, a pleader, mukhtar or revenue agent;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "roll" means a roll of advocates prepared and maintained under this Act;

(l) "State" does not include a Union territory;

(m) "State Bar Council" means a Bar Council constituted under section 3;

(n) "State roll" means a roll of advocates prepared and maintained by State Bar Council under section 17.

<sup>13</sup>[(2) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir or in the Union territory of Goa\*, Daman and Diu, shall, in relation to that State or that territory, be construed as a reference to the corresponding law, if any, in force in that State or that territory, as the case may be.]

## CHAPTER II

### BAR COUNCILS

#### 3. State Bar Councils. — (1) There shall be a Bar Council —

(a) for each of States of Andhra Pradesh, Bihar, Gujarat, <sup>14</sup>[Jammu and Kashmir], <sup>15</sup>[Jharkhand], <sup>16</sup>[Madhya Pradesh and Chhattisgarh], <sup>17</sup>[\* \* \*], <sup>18</sup>[\* \* \*], <sup>19</sup>[Karnataka], Orissa, <sup>19a</sup>[Rajasthan, Telangana, <sup>20</sup>[Uttar Pradesh] <sup>20a</sup>[, Uttarakhand, Meghalaya, Manipur and Tripura]] to be known as the Bar Council of that State;

<sup>21</sup>[(b) for the States of Arunachal Pradesh, Assam, Mizoram and Nagaland to be known as the Bar Council of Arunachal Pradesh, Assam, Mizoram and Nagaland;]

(c) for the State of Kerala and the Union territory of <sup>22</sup>[Lakshadweep], to be known as the Bar Council of Kerala;

<sup>23</sup>[(cc) for the <sup>24</sup>[State of Tamil Nadu] and the Union territory of Pondicherry, to be known as the Bar Council of Madras\*\*];]

\*Goa is now a State, *see* Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), S. 3 (w.e.f. 30-5-1987).

\*\*Now Tamil Nadu.

12. Substituted by Act 107 of 1976, S. 2, for "vakil or attorney" (w.e.f. 15-10-1976).

13. Inserted by Act 60 of 1973, S. 3 (w.e.f. 31-1-1974).

14. Inserted by Act 60 of 1973, S. 4 (w.e.f. 31-1-1974).

15. Inserted by Act 30 of 2000, S. 28 (w.e.f. 15-11-2000).

16. Substituted by Act 28 of 2000, S. 24, for "and Madhya Pradesh" (w.e.f. 1-11-2000).

17. The word "Madras" omitted by Act 26 of 1968, S. 3 and Sch.

18. The word "Maharashtra" omitted by Regulation 8 of 1963, S. 12 (w.e.f. 1-7-1965).

19. Substituted by the Mysore State (Alteration of Name) Adaptation of Laws on Union Subjects) Order, 1974, for "Mysore" (w.e.f. 1-11-1973).

19a. Substituted by Act 6 of 2014, S. 34, for "Rajasthan, Uttar Pradesh" (w.e.f. 2-6-2014).

20. Substituted by Act 29 of 2000, S. 29, for "and Uttar Pradesh" (w.e.f. 9-11-2000).

20a. Substituted by Act 26 of 2012, S. 9, for "and Uttaranchal" (w.e.f. 23-3-2013).

21. Substituted by Act 26 of 2012, S. 9, for Cl. (b) (w.e.f. 23-3-2013).

22. Substituted by Act 34 of 1973, S. 5, for "Laccadive, Minicoy and Amindivi islands".

23. Inserted by Act 26 of 1968, S. 3 and Sch.

24. Substituted by the Madras State (Alteration of Name) (Adaptation of Laws on Union Subjects) Order, 1970, for "State of Madras" (w.e.f. 14-1-1969).

<sup>25</sup>[(ccc) for the States of Maharashtra and Goa and the Union territories of Dadra and Nagar Haveli and Daman and Diu, to be known as the Bar Council of Maharashtra and Goa;]

<sup>26</sup>[(d) for the States of Punjab and Haryana and the Union territory of Chandigarh, to be known as the Bar Council of Punjab and Haryana;

(dd) for the State of Himachal Pradesh, to be known as the Bar Council of Himachal Pradesh;]

(e) for the State of West Bengal and the <sup>27</sup>[Union territory of Andaman and Nicobar Islands], to be known as the Bar Council of West Bengal; and

(f) for the Union territory of Delhi, to be known as the Bar Council of Delhi.

(2) A State Bar Council shall consist of the following members, namely:—

(a) in the case of the State Bar Council of Delhi, the Additional Solicitor-General of India, *ex officio*, <sup>28</sup>[<sup>28a</sup>in the case of the State Bar Council of Assam, Arunachal Pradesh, Mizoram and Nagaland, the Advocate-General of each of the States of Assam, Arunachal Pradesh, Mizoram and Nagaland], *ex officio*; in the case of the State Bar Council of Punjab and Haryana, the Advocate-General of each of the States of Punjab and Haryana, *ex officio*;] and in the case of any other State Bar Council, the Advocate-General of the State, *ex officio*;

<sup>29</sup>[(b) in the case of a State Bar Council with an electorate not exceeding five thousand, fifteen members, in the case of a State Bar Council with an electorate exceeding five thousand but not exceeding ten thousand, twenty members, and in the case of the State Bar Council with an electorate exceeding ten thousand, twenty-five members, elected in accordance with the system of proportional representation by means of the single transferable vote from amongst advocates on the electoral roll of the State Bar Council;]

<sup>30</sup>[Provided that as nearly as possible one-half of such elected members shall subject to any rules that may be made in this behalf by the Bar Council of India, be persons who have for at least ten years been advocates on a State roll, and in computing the said period of ten years in relation to any such person, there shall be included any period during which the person has been an advocate enrolled under the Indian Bar Councils Act, 1926 (38 of 1926).]

<sup>31</sup>[(3) There shall be a Chairman and a Vice-Chairman of each State Bar Council elected by the Council in such manner as may be prescribed.

(3-A) Every person holding office as Chairman or as Vice-Chairman of any State Bar Council immediately before the commencement of the Advocates (Amendment) Act, 1977 (38 of 1977) shall, on such commencement, cease to hold office as Chairman or Vice-Chairman, as the case may be:

25. Substituted by Act 18 of 1987, S. 21, for Cl. (ccc) as initially inserted by Regn. 8 of 1963, S. 12 and relettered by Act 26 of 1968, S. 3 and Sch. and subsequently amended by Act 60 of 1973, S. 4.

26. Substituted by Act 53 of 1970, S. 24, for Cl. (d) (w.e.f. 25-1-1971).

27. Substituted by Act 81 of 1971, S. 34, for "Certain words (w.e.f. 21-1-1972).

28. Inserted by Act 60 of 1973, S. 4 (w.e.f. 31-1-1974).

28a. Substituted by Act 26 of 2012, S. 9, for certain words (w.e.f. 23-3-2013).

29. Substituted by Act 60 of 1973, S. 4, for Cl. (b) (w.e.f. 31-1-1974).

30. Inserted by Act 21 of 1964, S. 2 (w.e.f. 16-5-1964).

31. Substituted by Act 38 of 1977, S. 2, for sub-Ss. (3) and (3-A) (w.e.f. 31-10-1977).

Provided that every such person shall continue to carry on the duties of his office until the Chairman or the Vice-Chairman, as the case may be, of each State Bar Council, elected after the commencement of the Advocates (Amendment) Act, 1977 (38 of 1977), assumes charge of the office.]

<sup>32</sup>[(4) An advocate shall be disqualified from voting at an election under sub-section (2) or for being chosen as, and for being, a member of a State Bar Council, unless he possesses such qualifications or satisfies such conditions as may be prescribed in this behalf by the Bar Council of India, and subject to any such rules that may be made, an electoral roll shall be prepared and revised from time to time by each State Bar Council.

(5) Nothing in the proviso to sub-section (2) shall affect the term of office of any member elected before the commencement of the Advocates (Amendment) Act, 1964 (21 of 1964), but every election after such commencement shall be held in accordance with the provisions of the rules made by the Bar Council of India to give effect to the said proviso.]

<sup>33</sup>[(6) Nothing in clause (b) of sub-section (2) shall affect the representation of elected members in any State Bar Council as constituted immediately before the commencement of the Advocates (Amendment) Act, 1973 (60 of 1973), until that State Bar Council is reconstituted in accordance with the provisions of this Act.]

**4. Bar Council of India.**—(1) There shall be a Bar Council for the territories to which this Act extends to be known as the Bar Council of India which shall consist of the following members, namely:—

(a) the Attorney-General of India, *ex officio*;

(b) the Solicitor-General of India, *ex officio*;

<sup>34</sup>[\*\*\*]

(c) one member elected by each State Bar Council from amongst its members.

<sup>35</sup>[(1-A) No person shall be eligible for being elected as a member of the Bar Council of India unless he possesses the qualifications specified in the proviso to sub-section (2) of section 3.]

<sup>36</sup>[(2) There shall be a Chairman and a Vice-Chairman of the Bar Council of India elected by the Council in such manner as may be prescribed.

(2-A) A person holding office as Chairman or as Vice-Chairman of the Bar Council of India immediately before the commencement of the Advocates (Amendment) Act, 1977 (38 of 1977), shall, on such commencement, cease to hold office as Chairman or Vice-Chairman, as the case may be:

Provided that such person shall continue to carry on the duties of his office until the Chairman or the Vice-Chairman, as the case may be, of the Council, elected after the commencement of the Advocates (Amendment) Act, 1977 (38 of 1977), assumes charge of the office.]

32. Inserted by Act 21 of 1964, S. 2 (w.e.f. 16-5-1964).

33. Inserted by Act 60 of 1973, S. 4 (w.e.f. 31-1-1974).

34. Cl. (bb) omitted by Act 38 of 1977, S. 3 (w.e.f. 31-10-1977).

35. Inserted by Act 60 of 1973, S. 5 (w.e.f. 31-1-1974).

36. Substituted by Act 38 of 1977, S. 3, for sub-Ss. (2) and (2-A) (w.e.f. 31-10-1977).

<sup>37</sup>[(3) The term of office of a member of the Bar Council of India elected by the State Bar Council shall—

(i) in the case of a member of a State Bar Council who holds office *ex officio*, be two years from the date of his election <sup>38</sup>[or till he ceases to be a member of the State Bar Council, whichever is earlier]; and

(ii) in any other case, be for the period for which he holds office as a member of the State Bar Council:

Provided that every such member shall continue to hold office as a member of the Bar Council of India until his successor is elected.]

**5. Bar Council to be body corporate.**—Every Bar Council shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and to contract, and may by the name by which it is known sue and be sued.

**6. Functions of State Bar Councils.**—(1) The functions of a State Bar Council shall be—

(a) to admit persons as advocates on its roll;

(b) to prepare and maintain such roll;

(c) to entertain and determine cases of misconduct against advocates on its roll;

(d) to safeguard the rights, privileges and interests of advocates on its roll;

<sup>39</sup>[(dd) to promote the growth of Bar Associations for the purposes of effective implementation of the welfare schemes referred to in clause (a) of sub-section (2) of this section and clause (a) of sub-section (2) of section 7;]

(e) to promote and support law reform;

<sup>40</sup>[(ee) to conduct seminars and organise talks on legal topics by eminent jurists and publish journals and paper of legal interest;

(eee) to organise legal aid to the poor in the prescribed manner;]

(f) to manage and invest the funds of the Bar Council;

(g) to provide for the election of its members;

<sup>39</sup>[(gg) to visit and inspect Universities in accordance with the directions given under clause (i) of sub-section (1) of section 7;]

(h) to perform all other functions conferred on it by or under this Act;

(i) to do all other things necessary for discharging the aforesaid functions.

<sup>41</sup>[(2) A State Bar Council may constitute one or more funds in the prescribed manner for the purpose of—

(a) giving financial assistance to organise welfare schemes for the indigent, disabled or other advocates;

37. Inserted by Act 21 of 1964, S. 3. .

38. Inserted by Act 60 of 1973, S. 5 (w.e.f. 31-1-1974).

39. Inserted by Act 70 of 1993, S. 2 (w.e.f. 26-1-1993).

40. Inserted by Act 60 of 1973, S. 6 (w.e.f. 31-1-1974).

41. Substituted by Act 60 of 1973, S. 6, for sub-S. (2) (w.e.f. 31-1-1974).

(b) giving legal aid or advice in accordance with the rules made in this behalf;

<sup>42</sup>[(c) establishing law libraries.]

(3) A State Bar Council may receive any grants, donations, gifts or benefactions for all or any of the purposes specified in sub-section (2) which shall be credited to the appropriate fund or funds constituted under that sub-section.]

**7. Functions of Bar Council of India.**—<sup>43</sup>[(1)] The functions of the Bar Council of India shall be—

<sup>44</sup>[\* \* \*]

(b) to lay down standards of professional conduct and etiquette for advocates;

(c) to lay down the procedure to be followed by its disciplinary committee and the disciplinary committee of each State Bar Council;

(d) to safeguard the rights, privileges and interests of advocates;

(e) to promote and support law reform;

(f) to deal with and dispose of any matter arising under this Act, which may be referred to it by a State Bar Council;

(g) to exercise general supervision and control over State Bar Councils;

(h) to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils;

(i) to recognise Universities whose degree in law shall be a qualification for enrolment as an advocate and for that purpose to visit and inspect Universities <sup>45</sup>[or cause the State Bar Councils to visit and inspect Universities in accordance with such directions as it may give in this behalf];

<sup>46</sup>[(ia) to conduct seminars and organise talks on legal topics by eminent jurists and publish journals and papers of legal interest;

(ib) to organise legal aid to the poor in the prescribed manner;

(ic) to recognise on a reciprocal basis foreign qualifications in law obtained outside India for the purpose of admission as an advocate under this Act;]

(j) to manage and invest the funds of the Bar Council;

(k) to provide for the election of its members;

(l) to perform all other functions conferred on it by or under this Act;

(m) to do all other things necessary for discharging the aforesaid functions;

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42. Inserted by Act 70 of 1993, S. 2 (w.e.f. 26-12-1993).

43. S. 7 renumbered as sub-S. (1) thereof by Act 60 of 1973, S. 7 (w.e.f. 31-1-1974).

44. Cl. (a) omitted by Act 60 of 1973, S. 7 (w.e.f. 31-1-1974).

45. Inserted by Act 70 of 1993, S. 3 (w.e.f. 26-12-1993).

46. Inserted by Act 60 of 1973, S. 7 (w.e.f. 31-1-1974).

<sup>47</sup>[(2) The Bar Council of India may constitute one or more funds in the prescribed manner for the purpose of—

(a) giving financial assistance to organise welfare schemes for indigent, disabled or other advocates;

(b) giving legal aid or advice in accordance with the rules made in this behalf;]

<sup>48</sup>[(c) establishing law libraries.]

<sup>47</sup>[(3) The Bar Council of India may receive any grants, donations, gifts or benefactions for all or any of the purposes specified in sub-section (2) which shall be credited to the appropriate fund or funds constituted under that sub-section.]

### COMMENTS

Save and except S. 7(1)(h), there is no sub-section in the said section which entitles the Bar Council of India to prescribe any pre-enrolment training or examination to be undertaken by the prospective professional who wants to enrol himself as such once he satisfies the requirements and the conditions for such enrolment as laid down by S. 24(1): *V. Sudeer v. Bar Council of India* A.I.R. 1999 S.C. 1167; (1999) 3 S.C.C. 176.

<sup>49</sup>[7-A. **Membership in international bodies.**—The Bar Council of India may become a member of international legal bodies such as the International Bar Association or the International Legal Aid Association, contribute such sums as it thinks fit to such bodies by way of subscription or otherwise and authorise expenditure on the participation of its representatives in any international legal conference or seminar.]

<sup>50</sup>[8. **Term of office of members of State Bar Council.**—The term of office of an elected member of a State Bar Council (other than an elected member thereof referred to in section 54) shall be five years from the date of publication of the result of his election:

Provided that where a State Bar Council fails to provide for the election of its members before the expiry of the said term, the Bar Council of India may, by order, for reasons to be recorded in writing, extend the said term for a period not exceeding six months.

**8-A. Constitution of Special Committee in the absence of election.**—

(1) Where a State Bar Council fails to provide for the election of its members before the expiry of the term of five years or the extended term, as the case may be, referred to in section 8, the Bar Council of India shall, on and from the date immediately following the day of such expiry, constitute a Special Committee consisting of—

(i) the *ex officio* member of the State Bar Council referred to in clause (a) of sub-section (2) of section 3 to be the Chairman:

Provided that where there are more than one *ex officio* members, the senior-most amongst them shall be the Chairman; and

(ii) two members to be nominated by the Bar Council of India from amongst advocates on the electoral roll of the State Bar Council,

47. Inserted by Act 60 of 1973, S. 7 (w.e.f. 31-1-1974).

48. Inserted by Act 70 of 1993, S. 3 (w.e.f. 26-12-1993).

49. Inserted by Act 60 of 1973, S. 8 (w.e.f. 31-1-1974).

50. Substituted by Act 70 of 1993, S. 4, for S. 8 (w.e.f. 26-12-1993).

to discharge the functions of the State Bar Council until the Bar Council is constituted under this Act.

(2) On the constitution of the Special Committee and until the State Bar Council is constituted—

(a) all properties and assets vesting in the State Bar Council shall vest in the Special Committee;

(b) all rights, liabilities and obligations of the State Bar Council, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations of the Special Committee;

(c) all proceedings pending before the State Bar Council in respect of any disciplinary matter or otherwise, shall stand transferred to the Special Committee.

(3) The Special Committee constituted under sub-section (1) shall, in accordance with such directions as the Bar Council of India may give to it in this behalf, hold election to the State Bar Council within a period of six months from the date of its constitution under sub-section (1), and where, for any reason the Special Committee is not in a position to conduct election within the said period of six months, the Bar Council of India may, for reasons to be recorded by it in writing, extend the said period.]

<sup>51</sup>[9. **Disciplinary committees.**—(1) A Bar Council shall constitute one or more disciplinary committees, each of which shall consist of three persons of whom two shall be persons elected by the Council from amongst its members and the other shall be a person co-opted by the Council from amongst advocates who possess the qualifications specified in the proviso to sub-section (2) of section 3 and who are not members of the Council, and the senior-most advocate amongst the members of a disciplinary committee shall be the Chairman thereof.

(2) Notwithstanding anything contained in sub-section (1), any disciplinary committee constituted prior to the commencement of the Advocates (Amendment) Act, 1964 (21 of 1964) may dispose of the proceedings pending before it as if this section had not been amended by the said Act.]

<sup>52</sup>[9-A. **Constitution of legal aid committees.**—(1) A Bar Council may constitute one or more legal aid committees each of which shall consist of such number of members, not exceeding nine but not less than five, as may be prescribed.

(2) The qualifications, the method of selection and the term of office of the members of legal aid committee shall be such as may be prescribed.]

**10. Constitution of committees other than disciplinary committees.**—(1) A State Bar Council shall constitute the following standing committees, namely:—

(a) an executive committee consisting of five members elected by the Council from amongst its members;

(b) an enrolment committee consisting of three members elected by the Council from amongst its members.

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51. Substituted by Act 21 of 1964, S. 5, for S. 9.

52. Inserted by Act 60 of 1973, S. 9 (w.e.f. 31-1-1974).

(2) The Bar Council of India shall constitute the following standing committees, namely:—

(a) an executive committee consisting of nine members elected by the Council from amongst its members;

(b) a legal education committee consisting of ten members, of whom five shall be persons elected by the Council from amongst its members and five shall be persons co-opted by the Council who are not members thereof.

(3) A State Bar Council and the Bar Council of India may constitute from amongst its members such other committees as it may deem necessary for the purpose of carrying out the provisions of this Act.

<sup>53</sup>[10-A. Transaction of business by Bar Councils and committees thereof.—<sup>54</sup>(1) The Bar Council of India shall meet at New Delhi or at such other place as it may, for reasons to be recorded in writing, determine.

(2) A State Bar Council shall meet at its headquarters or at such other place as it may, for reasons to be recorded in writing, determine.]

(3) The committees other than disciplinary committees constituted by the Bar Councils shall meet at the headquarters of the respective Bar Councils.

(4) Every Bar Council and every committee thereof except the disciplinary committees shall observe such rules of procedure in regard to the transaction of business at their meetings as may be prescribed.

(5) The disciplinary committees constituted under section 9 shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at their meetings as may be prescribed.]

<sup>55</sup>[<sup>56</sup>10-B.] Disqualification of Members of Bar Council.—An elected member of a Bar Council shall be deemed to have vacated his office if he is declared by the Bar Council of which he is a member to have been absent without sufficient excuse from three consecutive meetings of such Council, or if his name is, for any cause, removed from the roll of advocates or if he is otherwise disqualified under any rule made by the Bar Council of India.]

**11. Staff of Bar Council.**—(1) Every Bar Council shall appoint a Secretary and may appoint an accountant and such number of other persons on its staff as it may deem necessary.

(2) The Secretary and the accountant, if any, shall possess such qualifications as may be prescribed.

**12. Accounts and audit.**—(1) Every Bar Council shall cause to be maintained such books of accounts and other books in such form and in such manner as may be prescribed.

(2) The accounts of a Bar Council shall be audited by auditors duly qualified to act as auditors of companies under the Companies Act, 1956 (1 of 1956), at such times and in such manner as may be prescribed.

<sup>57</sup>(3) As soon as may be practicable at the end of each financial year, but not later than the 31st day of December of the year next following, a State Bar

53. Inserted by Act 60 of 1973, S. 10 (w.e.f. 31-1-1974).

54. Substituted by Act 70 of 1993, S. 5, for sub-S. (1) (w.e.f. 26-12-1993).

55. Inserted by Act 21 of 1964, S. 6.

56. S. 10-A renumbered as S. 10-B by Act 60 of 1973, S. 10 (w.e.f. 31-1-1974).

57. Substituted by Act 60 of 1973, S. 11, for sub-S. (3) (w.e.f. 31-1-1974).

Council shall send a copy of its accounts together with a copy of the report of the auditors thereon to the Bar Council of India and shall cause the same to be published in the Official Gazette.

(4) As soon as may be practicable at the end of each financial year, but not later than the 31st day of December of the year next following, the Bar Council of India shall send a copy of its accounts together with a copy of the report of the auditors thereon to the Central Government and shall cause the same to be published in the Gazette of India.

**13. Vacancies in Bar Council and committees thereof not to invalidate action taken.**—No acts done by a Bar Council or any committee thereof shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Council or committee, as the case may be.

**14. Election to Bar Councils not to be questioned on certain grounds.**—No election of a member to a Bar Council shall be called in question on the ground merely that due notice thereof has not been given to any person entitled to vote thereat, if notice of the date has, not less than thirty days before that date, been published in the Official Gazette.

**15. Power to make rules.**—(1) A Bar Council may make rules to carry out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

<sup>58</sup>[(a) the election of members of the Bar Council by secret ballot including the conditions subject to which persons can exercise the right to vote by postal ballot, the preparation and revision of electoral rolls and the manner in which the result of election shall be published;]

<sup>59</sup>[\* \* \*]

<sup>60</sup>[(c) the manner of election of the Chairman and the Vice-Chairman of the Bar Council;]

(d) the manner in which and the authority by which doubts and disputes as to the validity of an election to the Bar Council <sup>60</sup>[or to the office of the Chairman or Vice-Chairman] shall be finally decided;

<sup>61</sup>[\* \* \*]

(f) the filling of casual vacancies in the Bar Council;

(g) the powers and duties of the Chairman and the Vice-Chairman of the Bar Council;

<sup>62</sup>[(ga) the constitution of one or more funds by a Bar Council for the purpose of giving financial assistance or giving legal aid or advice referred to in sub-section (2) of section 6 and sub-section (2) of section 7;

(gb) organisation of legal aid and advice to the poor, constitution and functions of committees and sub-committees for that purpose and description of proceedings in connection with which legal aid or advice may be given;]

58. Substituted by Act 60 of 1973, S. 12, for Cl. (a) (w.e.f. 31-1-1974).

59. Cl. (b) omitted by Act 60 of 1973, S. 12 (w.e.f. 31-1-1974).

60. Inserted by Act 38 of 1977, S. 5 (w.e.f. 30-10-1977).

61. Cl. (e) omitted by Act 23 of 1966, S. 3.

62. Inserted by Act 60 of 1973, S. 12 (w.e.f. 31-1-1974).

(h) the summoning and holding of meetings of the Bar Council, <sup>63</sup>[\* \* \*] the conduct of business thereat, and the number of members necessary to constitute a quorum;

(i) the constitution and functions of any committee of the Bar Council and the term of office of members of any such committee;

(j) the summoning and holding of meetings, the conduct of business of any such committee, and the number of members necessary to constitute a quorum;

(k) the qualifications and the conditions of service of the secretary, the accountant and the other employees of the Bar Council;

(l) the maintenance of books of accounts and other books by the Bar Council;

(m) the appointment of auditors and the audit of the accounts of the Bar Council;

(n) the management and investment of the funds of the Bar Council.

(3) No rules made under this section by a State Bar Council shall have effect unless they have been approved by the Bar Council of India.

### CHAPTER III

#### ADMISSION AND ENROLMENT OF ADVOCATES

**16. Senior and other advocates.**—(1) There shall be two classes of advocates, namely, senior advocates and other advocates.

(2) An advocate may, with his consent, be designated as senior advocate if the Supreme Court or a High Court is of opinion that by virtue of his ability <sup>64</sup>[standing at the Bar or special knowledge or experience in law] he is deserving of such distinction.

(3) Senior advocates shall, in the matter of their practice, be subject to such restrictions as the Bar Council of India may, in the interest of the legal profession, prescribe.

(4) An advocate of the Supreme Court who was a senior advocate of that Court immediately before the appointed day shall, for the purposes of this section, be deemed to be a senior advocate:

<sup>65</sup>[Provided that where any such senior advocate makes an application before the 31st December, 1965 to the Bar Council maintaining the roll in which his name has been entered that he does not desire to continue as a senior advocate, the Bar Council may grant the application and the roll shall be altered accordingly.]

### COMMENTS

Once the distinction between an advocate and a senior advocate is accepted and accorded statutory recognition, the wearing of a distinct gown or a coat by a senior advocate, which is different from the one worn by advocates, cannot be questioned or assailed as discriminatory or violative of Art. 14 of the Constitution of India: *J.R. Parashar v. Bar Council of India* A.I.R. 2002 Del. 482.

63. The words "the times and places where such meetings are to be held" omitted by Act 60 of 1973, S. 12 (w.e.f. 31-1-1974).

64. Substituted by Act 60 of 1973, S. 13, for "experience and standing at the Bar" (w.e.f. 31-1-1974).

65. Inserted by Act 21 of 1964, S. 8.

**17. State Bar Councils to maintain roll of advocates.**—(1) Every State Bar Council shall prepare and maintain a roll of advocates in which shall be entered the names and addresses of—

(a) all persons who were entered as advocates on the roll of any High Court under the Indian Bar Councils Act, 1926 (38 of 1926), immediately before the appointed day <sup>66</sup>[including persons, being citizens of India, who before the 15th day of August, 1947, were enrolled as advocates under the said Act in any area which before the said date was comprised within India as defined in the Government of India Act, 1935, and who at any time] express an intention in the prescribed manner to practise within the jurisdiction of the Bar Council;

(b) all other persons who are admitted to be advocates on the roll of the State Bar Council under this Act on or after the appointed day.

(2) Each such roll of advocates shall consist of two parts, the first part containing the names of senior advocates and the second part, the names of other advocates.

(3) Entries in each part of the roll of advocates prepared and maintained by a State Bar Council under this section shall be in the order of seniority, <sup>67</sup>[and, subject to any rule that may be made by the Bar Council of India in this behalf, such seniority shall be determined] as follows:—

(a) the seniority of an advocate referred to in clause (a) sub-section (1) shall be determined in accordance with his date of enrolment under the Indian Bar Councils Act, 1926 (38 of 1926);

(b) the seniority of any person who was a senior advocate of the Supreme Court immediately before the appointed day shall, for the purposes of the first part of the State roll, be determined in accordance with such principles as the Bar Council of India may specify;

<sup>68</sup>[\* \* \*]

(d) the seniority of any other person who, on or after the appointed day, is enrolled as a senior advocate or is admitted as an advocate shall be determined by the date of such enrolment or admission, as the case may be;

<sup>69</sup>[(e) notwithstanding anything contained in clause (a), the seniority of an attorney enrolled [whether before or after the commencement of the Advocates (Amendment) Act, 1980 (47 of 1980)] as an advocate shall be determined in accordance with the date of his enrolment as an attorney.]

(4) No person shall be enrolled as an advocate on the roll of more than one State Bar Council.

**18. Transfer of name from one State roll to another.**—(1) Notwithstanding anything contained in section 17, any person whose name is entered as an advocate on the roll of any State Bar Council may make an application in the prescribed form to the Bar Council of India for the transfer of his name from the roll of that State Bar Council to the roll of any other State Bar Council and, on receipt of any such application the Bar Council of India shall direct that the

66. Substituted by Act 60 of 1973, S. 14, for "and who, within the prescribed time" (w.e.f. 31-1-1974).

67. Substituted by Act 21 of 1964, S. 9, for "and such seniority shall be determined".

68. Cl. (c) omitted by Act 60 of 1973, S. 14 (w.e.f. 31-1-1974).

69. Inserted by Act 47 of 1980, S. 2 (w.e.f. 29-11-1980).

name of such person shall, without the payment of any fee, be removed from the roll of the first mentioned State Bar Council and entered in the roll of the other State Bar Council and the State Bar Councils concerned shall comply with such direction:

<sup>70</sup>[Provided that where any such application for transfer is made by a person against whom any disciplinary proceeding is pending or where for any other reason it appears to the Bar Council of India that the application for transfer has not been made *bona fide* and that the transfer should not be made, the Bar Council of India may, after giving the person making the application an opportunity of making a representation in this behalf, reject the application.]

(2) For the removal of doubts it is hereby declared that where on an application made by an advocate under sub-section (1), his name is transferred from the roll of one State Bar Council to that of another, he shall retain the same seniority in the latter roll to which he was entitled in the former roll.

**19. State Bar Councils to send copies of rolls of advocates to the Bar Council of India.**—Every State Bar Council shall send to the Bar Council of India an authenticated copy of the roll of advocates prepared by it for the first time under this Act and shall thereafter communicate to the Bar Council of India all alterations in, and additions to, any such roll, as soon as the same have been made.

<sup>71</sup>**20. Special provision for enrolment of certain Supreme Court advocates.**—(1) Notwithstanding anything contained in this Chapter, every advocate who was entitled as of right to practise in the Supreme Court immediately before the appointed day and whose name is not entered in any State roll may, within the prescribed time, express his intention in the prescribed form to the Bar Council of India for the entry of his name in the roll of a State Bar Council and on receipt thereof the Bar Council of India shall direct that the name of such advocate shall, without payment of any fee, be entered in the roll of that State Bar Council, and the State Bar Council concerned shall comply with such direction.

(2) Any entry in the State roll made in compliance with the direction of the Bar Council of India under sub-section (1) shall be made in the order of seniority determined in accordance with the provisions of sub-section (3) of section 17.

(3) Where an advocate referred to in sub-section (1) omits or fails to express his intention within the prescribed time, his name shall be entered in the roll of the State Bar Council of Delhi.]

**21. Disputes regarding seniority.**—(1) Where the date of seniority of two or more persons is the same, the one senior in age shall be reckoned as senior to the other.

<sup>72</sup>[(2) Subject as aforesaid, if any dispute arises with respect to the seniority of any person, it shall be referred to the State Bar Council concerned for decision.]

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70. Added by Act 21 of 1964, S. 10.

71. Substituted by Act 60 of 1973, S. 15, for S. 20 (w.e.f. 31-1-1974).

72. Substituted by Act 60 of 1973, S. 16, for sub-S. (2) (w.e.f. 31-1-1974).

<sup>73</sup>[**22. Certificate of enrolment.**—(1) There shall be issued a certificate of enrolment in the prescribed form by the State Bar Council to every person whose name is entered in the roll of advocates maintained by it under this Act.

(2) Every person whose name is so entered in the State roll shall notify any change in the place of his permanent residence to the State Bar Council concerned within ninety days of such change.]

**23. Right of pre-audience.**—(1) The Attorney-General of India shall have pre-audience over all other advocates.

(2) Subject to the provisions of sub-section (1), the Solicitor-General of India shall have pre-audience over all other advocates.

(3) Subject to the provisions of sub-sections (1) and (2), the Additional Solicitor-General of India shall have pre-audience over all other advocates.

<sup>74</sup>[(3-A) Subject to the provisions of sub-sections (1), (2) and (3), the second Additional Solicitor-General of India shall have pre-audience over all other advocates.]

(4) Subject to the provisions of sub-sections (1), <sup>75</sup>[(2), (3) and (3-A)], the Advocate-General of any State shall have pre-audience over all other advocates, and the right of pre-audience among Advocates-General *inter se* shall be determined by their respective seniority.

(5) Subject as aforesaid—

(i) senior advocates shall have pre-audience over other advocates, and

(ii) the right of pre-audience of senior advocates and other advocates *inter se* shall be determined by their respective seniority.

#### COMMENTS

From the proviso to sub-R. (6) of R. 4 of O. 3, C.P.Code, it appears that if a pleader is engaged to plead, *i.e.*, argue on behalf of a party by advocate on record of such party, then the pleading advocate is not required to file memorandum of appearance. This may be the consequence of the proviso. But, still R. 3(2) of the Karnataka High Court Rules, 1959 requires an advocate on record engaging another advocate to argue for his client to file memorandum of appearance. Therefore, construing the two provisions in a harmonious way, it follows that in case an advocate is engaged for pleading, *i.e.*, appearing and arguing the case of a party on the instructions of an advocate on record, then he can do so only if advocate on record files a memorandum of appearance evidencing the fact that he has engaged the other counsel for the purpose of pleading, *i.e.*, to appear and argue his client's case. Such a construction will be in consonance with the avowed object that the records always will bear evidence that counsel appearing and arguing had due authority for doing so: *Kota Co-operative Agricultural Bank Ltd. v. State of Karnataka* A.I.R. 2003 Karn. 30 (D.B.).

**24. Persons who may be admitted as advocates on a State roll.**—(1) Subject to the provisions of this Act, and the rules made thereunder, a person shall be qualified to be admitted as an advocate on a State roll, if he fulfils the following conditions, namely:—

(a) he is a citizen of India:

Provided that subject to the other provisions contained in this Act, a national of any other country may be admitted as an advocate on a State roll, if

73. Substituted by Act 60 of 1973, S. 17, for S. 22 (w.e.f. 31-1-1974).

74. Inserted by Act 47 of 1980, S. 3 (w.e.f. 29-11-1980).

75. Substituted by Act 47 of 1980, S. 3, for "(2) and (3)" (w.e.f. 29-11-1980).

citizens of India, duly qualified, are permitted to practise law in that other country;

(b) he has completed the age of twenty-one years;

(c) he has obtained a degree in law—

(i) before the <sup>76</sup>[12th day of March, 1967], from any University in the territory of India; or

(ii) before the 15th August, 1947, from any University in any area which was comprised before that date within India as defined by the Government of India Act, 1935; or

<sup>77</sup>[(iii) after the 12th day of March, 1967, save as provided in sub-clause (iii-a), after undergoing a three year course of study in law from any University in India which is recognised for the purposes of this Act by the Bar Council of India; or

(iii-a) after undergoing a course of study in law, the duration of which is not less than two academic years commencing from the academic year 1967-68 or any earlier academic year from any University in India which is recognised for the purposes of this Act by the Bar Council of India; or]

<sup>78</sup>[(iv) in any other case, from any University outside the territory of India, if the degree is recognised for the purposes of this Act by the Bar Council of India or;]

<sup>79</sup>[he is a barrister and is called to the Bar on or before the 31st day of December, 1976; <sup>80</sup>[or has passed the article clerks examination or any other examination specified by the High Court at Bombay or Calcutta for enrolment as an attorney of that High Court;] or has obtained such other foreign qualification in law as is recognised by the Bar Council of India for the purpose of admission as an advocate under this Act;]

<sup>81</sup>[\*\*\*]

(e) he fulfils such other conditions as may be specified in the rules made by the State Bar Council under this Chapter;

<sup>82</sup>[(f) he has paid, in respect of the enrolment, stamp duty, if any, chargeable under the Indian Stamp Act, 1899 (2 of 1899), and an enrolment fee payable to the State Bar Council of <sup>83</sup>[six hundred rupees and to the Bar Council of India, one hundred and fifty rupees by way of a bank draft drawn in favour of that Council];

Provided that where such person is a member of the Scheduled Castes or the Scheduled Tribes and produces a certificate to that effect from such authority as may be prescribed, the enrolment fee payable by him to the State Bar

76. Substituted by Act 60 of 1973, S. 18, for "28th day of February, 1963" (w.e.f. 31-1-1974).

77. Substituted by Act 60 of 1973, S. 18, for sub-Cl. (iii) (w.e.f. 31-1-1974).

78. Inserted by Act 21 of 1964, S. 13.

79. Substituted by Act 60 of 1973, S. 18, for "he is a barrister" (w.e.f. 31-1-1974).

80. Inserted by Act 107 of 1976, S. 6 (w.e.f. 15-10-1976).

81. Cl. (d) omitted by Act 60 of 1973, S. 18 (w.e.f. 31-1-1974).

82. Substituted by Act 60 of 1973, S. 18, for Cl. (f) (w.e.f. 31-1-1974).

83. Substituted by Act 70 of 1993, S. 6, for "two hundred and fifty rupees" (w.e.f. 26-12-1993).

Council shall be <sup>84</sup>[one hundred rupees and to the Bar Council of India, twenty-five rupees].

<sup>85</sup>[*Explanation.*—For the purposes of this sub-section, a person shall be deemed to have obtained a degree in law from a University in India on the date on which the results of the examination for that degree are published by the University on its notice board or otherwise declaring him to have passed that examination.]

(2) Notwithstanding anything contained in sub-section (1), <sup>86</sup>[a vakil or a pleader who is a law graduate] may be admitted as an advocate on a State roll, if he—

(a) makes an application for such enrolment in accordance with the provisions of this Act, not later than two years from the appointed day; and

(b) fulfils the conditions specified in clauses (a), (b), (e) and (f) of sub-section (1).

<sup>87</sup>[(3) Notwithstanding anything contained in sub-section (1) a person who—

(a) <sup>88</sup>[\* \* \*] has, for at least three years, been a vakil or a pleader or a mukhtar, or, was entitled at any time to be enrolled under any law <sup>89</sup>[\* \* \*] as an advocate of a High Court (including a High Court of a former Part B State) or of a Court of Judicial Commissioner in any Union territory; or

<sup>90</sup>[(aa) before the 1st day of December, 1961, was entitled otherwise than as an advocate to practise the profession of law (whether by way of pleading or acting or both) by virtue of the provisions of any law, or who would have been so entitled had he not been in public service on the said date; or]

<sup>91</sup>[\* \* \*]

(c) before the 1st day of April, 1937, has been an advocate of any High Court in any area which was comprised within Burma as defined in the Government of India Act, 1935; or

(d) is entitled to be enrolled as an advocate under any rule made by the Bar Council of India in this behalf, may be admitted as an advocate on a State roll if he—

(i) makes an application for such enrolment in accordance with the provisions of this Act; and

(ii) fulfils the conditions specified in clauses (a), (b), (e) and (f) of sub-section (1).]

<sup>92</sup>[\* \* \*]

84. Substituted by Act 70 of 1993, S. 6, for "one hundred and twenty-five rupees" (w.e.f. 26-12-1993).

85. Inserted by Act 14 of 1962, S. 2.

86. Substituted by Act 21 of 1964, S. 64, S. 13, for certain words.

87. Inserted by Act 21 of 1964, S. 13.

88. The words and figures "before the 31st day of March, 1964" omitted by Act 33 of 1968, S. 2 (w.e.f. 5-6-1968).

89. The words "then in force" omitted by Act 33 of 1968, S. 2 (w.e.f. 5-6-1968).

90. Inserted by Act 60 of 1973, S. 18 (w.e.f. 31-1-1974).

91. Cl. (b) omitted by Act 60 of 1973, S. 18 (w.e.f. 31-1-1974).

92. Sub-S. (4) omitted by Act 107 of 1976, S. 6 (w.e.f. 15-10-1976).

## COMMENTS

Provisions of S. 24(3) are not *ultra vires* of the constitutional provisions in Arts. 19(1)(g) and 14: *Parmeshwar Prasad v. Union of India* A.I.R. 1971 Pat. 316.

R. 49 of Pt. VI, Ch. II, S. 7 of the Bar Council of India Rules has a specific purpose to serve when it states that an advocate shall not be a full-time salaried employee of any person, Government, firm, corporation or concern. S. 24(1) of the Advocates Act specifically states that a person in addition to satisfying other conditions has also to satisfy the provisions of the Act and the Rules. In other words, the Rules made by the Bar Council of India are to be satisfied. Mere non-framing of Rules by a State Bar Council under S. 28(2)(d) read with S. 24(1)(e) of the Act cannot dispense with obedience to R. 49: *Satish Kumar Sharma v. Bar Council of H.P.* A.I.R. 2001 S.C. 509; (2001) 2 S.C.C. 365.

The requirement under S. 24(1)(c)(iii) that the person seeking admission as advocate should have undergone a three year course of study in law from "any University in India which is recognized, for the purposes of this Act, by BCI" shall not be read as "any University and college in India which is recognized for the purpose of this Act by the Bar Council of India". The words "any University in India" refer only to a University constituted under any Central or State Act and does not include or refer to any independent private college which is affiliated to such University: *Manjula B.R. v. Karnataka State Bar Council* A.I.R. 2002 Karn. 274 (D.B.).

The provision of S. 24(1)(f) of the Act fixing enrolment fee is not unconstitutional. There is no constitutional vice in fixing the enrolment fee to the extent it has been fixed by Parliament under the Act: *Bar Council of Maharashtra v. Union of India* A.I.R. 2002 Bom. 220 (D.B.).

<sup>93</sup>[**24-A. Disqualification for enrolment.**—(1) No person shall be admitted as an advocate on a State roll—

(a) if he is convicted of an offence involving moral turpitude;

(b) if he is convicted of an offence under the provisions of the Untouchability (Offences) Act, 1955 (22 of 1955);

<sup>94</sup>[(c) if he is dismissed or removed from employment or office under the State on any charge involving moral turpitude.

*Explanation.*—In this clause, the expression "State" shall have the meaning assigned to it under article 12 of the Constitution:]

Provided that the disqualification for enrolment as aforesaid shall cease to have effect after a period of two years has elapsed since his <sup>95</sup>[release or dismissal or, as the case may be, removal].

(2) Nothing contained in sub-section (1) shall apply to a person who having been found guilty is dealt with under the provisions of the Probation of Offenders Act, 1958 (20 of 1958).]

## COMMENTS

S. 24-A does not disqualify a person permanently. It merely bars admission of such a person for a period of two years from conviction. A person who is convicted of an offence involving moral turpitude, is disqualified for being admitted as an advocate on the roll of State. This means that the conduct of being convicted of an offence concerning moral turpitude, which would disqualify a person from being enrolled as an advocate, has to be considered as serious misconduct when found to have been committed by a person, who is enrolled as an advocate, and it would call for imposition of punishment of removal of the

93. Inserted by Act 60 of 1973, S. 19 (w.e.f. 31-1-1974).

94. Inserted by Act 70 of 1993, S. 7 (w.e.f. 26-12-1993).

95. Substituted by Act 70 of 1993, S. 7, for "release" (w.e.f. 26-12-1993).

name of the advocates from the roll of advocates: *N. Ram Reddy v. Bar Council of the State of A.P.* A.I.R. 2002 Andh. Pra. 484.

**25. Authority to whom applications for enrolment may be made.**—An application for admission as an advocate shall be made in the prescribed form to the State Bar Council within whose jurisdiction the applicant proposes to practise.

**26. Disposal of applications for admission as an advocate.**—(1) A State Bar Council shall refer every application for admission as an advocate to its enrolment committee, and subject to the provisions of sub-sections (2) and (3) <sup>96</sup>[and to any direction that may be given in writing by the State Bar Council in this behalf], such committee shall dispose of the application in the prescribed manner:

<sup>96</sup>[Provided that the Bar Council of India may, if satisfied, either on a reference made to it in this behalf or otherwise, that any person has got his name entered on the roll of advocates by misrepresentation as to an essential fact or by fraud or undue influence, remove the name of such person from the roll of advocates after giving him an opportunity of being heard.]

(2) Where the enrolment committee of a State Bar Council proposes to refuse any such application, it shall refer the application for opinion to the Bar Council of India and every such reference shall be accompanied by a statement of the grounds in support of the refusal of the application.

(3) The enrolment committee of a State Bar Council shall dispose of any application referred to the Bar Council of India under sub-section (2) in conformity with the opinion of the Bar Council of India.

<sup>96</sup>[(4) Where the enrolment committee of a State Bar Council has refused any application for admission as an advocate on its roll, the State Bar Council shall, as soon as may be, send intimation to all other State Bar Councils about such refusal stating the name, address and qualifications of the person whose application was refused and the grounds for the refusal.]

<sup>97</sup>[**26-A. Power to remove names from roll.**—A State Bar Council may remove from the State roll the name of any advocate who is dead or from whom a request has been received to that effect.]

**27. Application once refused not to be entertained by another Bar Council except in certain circumstances.**—Where a State Bar Council has refused the application of any person for admission as an advocate on its roll, no other State Bar Council shall entertain an application for admission of such person as an advocate on its roll, except with the previous consent in writing of the State Bar Council which refused the application and of the Bar Council of India.

**28. Power to make rules.**—(1) A State Bar Council may make rules to carry out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

<sup>98</sup>[(a) the time within which and form in which an advocate shall express his intention for the entry of his name in the roll of a State Bar Council under section 20;]

96. Inserted by Act 21 of 1964, S. 14.

97. Substituted by Act 60 of 1973, S. 20, for S. 26-A (w.e.f. 31-1-1974).

98. Substituted by Act 60 of 1973, S. 21, for Cl. (a) (w.e.f. 31-1-1974).

99[\*\*\*]

(c) the form in which an application shall be made to the Bar Council for admission as an advocate on its roll and the manner in which such application shall be disposed of by the enrolment committee of the Bar Council;

(d) the conditions subject to which a person may be admitted as an advocate on any such roll;

(e) the instalments in which the enrolment fee may be paid.

(3) No rules made under this Chapter shall have effect unless they have been approved by the Bar Council of India.

#### COMMENTS

R. 49 of Pt. VI, Ch. II, S. 7 of the Bar Council of India Rules has a specific purpose to serve when it states that an advocate shall not be a full-time salaried employee of any person, Government, firm, corporation or concern. S. 24(1) of the Advocates Act specifically states that a person in addition to satisfying other conditions has also to satisfy the provisions of the Act and the Rules. In other words, the Rules made by the Bar Council of India are to be satisfied. Mere non-framing of Rules by a State Bar Council under S. 28(2)(d) read with S. 24(1)(e) of the Act cannot dispense with obedience to R. 49: *Satish Kumar Sharma v. Bar Council of H.P.* A.I.R. 2001 S.C. 509; (2001) 2 S.C.C. 365.

#### CHAPTER IV

#### RIGHT TO PRACTISE

**29. Advocates to be the only recognised class of persons entitled to practise law.**—Subject to the provisions of this Act and any rules made thereunder, there shall, as from the appointed day, be only one class of persons entitled to practise the profession of law, namely, advocates.

#### COMMENTS

No one can claim the right to practise as an advocate inherent within since it cannot be considered to be natural right or a normal avocation recognised to be available to every citizen. The right to plead for others in a Court of law or before any such forum or authority depends upon the permission to be granted by such Courts, subject to rules made in respect thereof by the High Court vide S. 34 and also depends upon the enrolment of the persons concerned by the State Bar Council in the State roll. Ss. 29, 30 and 33 of the Act also would go to show that the right to practise as an advocate is merely a statutory right and not fundamental right: *N. Ram Reddy v. Bar Council of the State of A.P.* A.I.R. 2002 Andh. Pra. 484.

**30. Right of advocates to practise.**—Subject to provisions of this Act, every advocate whose name is entered in the <sup>1</sup>[State roll] shall be entitled as of right to practise throughout the territories to which this Act extends,—

(i) in all Courts including the Supreme Court;

(ii) before any tribunal or person legally authorised to take evidence; and

(iii) before any other authority or person before whom such advocate is by or under any law for the time being in force entitled to practise.

#### COMMENTS

The right to practise, is the genus of which the right to appear and conduct cases in the Court may be a specie. But the right to appear and conduct cases in the Court is a matter on which the Court must have the major supervisory power. Hence the Court cannot be

99. Cl. (b) omitted by Act 60 of 1973, S. 21 (w.e.f. 31-1-1974).

1. Substituted by Act 60 of 1973, S. 22, for "common roll" (w.e.f. 31-1-1974).

divested of the control or supervision of the Court merely because it may involve the right of an advocate: *Pravin C. Shahi v. K.A. Mohd. Ali* (2001) 8 S.C.C. 650.

**31. Special provision for attorneys.**—[*Repealed by the Advocates (Amendment) Act, 1976 (107 of 1976), section 7 (w.e.f. 1-1-1977)*].

**32. Power of Court to permit appearances in particular cases.**—Notwithstanding anything contained in this Chapter, any Court, authority, or person may permit any person, not enrolled as an advocate under this Act, to appear before it or him in any particular case.

#### COMMENTS

A private person not an advocate cannot argue the case of a litigant without the permission of the Court and the litigant must apply for it: *Harishankar Rastogi v. Girdhari Sharma* A.I.R. 1978 S.C. 1019.

The definition of “pleader” in S. 2(q) of the Cr.P. Code envelopes two kinds of pleaders within its ambit. The first refers to legal practitioners who are authorized to practise law and the second refers to “any other person”. If it is the latter, its essential requisite is that such person should have been appointed with the permission of the Court to act in such proceedings. This is in tune with S. 32 of the Advocates Act, 1961 which empowers a Court to permit any person, who is not enrolled as an Advocate, to appear before it in any particular case. But if he is to represent another person in a criminal Court, such permission should be sought for by that person. It is not necessary that the “pleader” so appointed should be the power of attorney holder of a party in the case. What seems to be a condition precedent is that his appointment should have been preceded by grant of permission of the Court. It is for the Court to consider whether such permission is necessary in the given case: *Jimmy Jahangir Madan v. Bolly Cariyappa Hindley* A.I.R. 2005 S.C. 48.

**33. Advocates alone entitled to practise.**—Except as otherwise provided in this Act or in any other law for the time being in force, no person shall, on or after the appointed day, be entitled to practise in any Court or before any authority or person unless he is enrolled as an advocate under this Act.

#### COMMENTS

From the proviso to sub-R. (6) of R. 4 of O. 3, C.P.Code, it appears that if a pleader is engaged to plead, i.e., argue on behalf of a party by advocate on record of such party, then the pleading advocate is not required to file memorandum of appearance. This may be the consequence of the proviso. But, still R. 3(2) of the Karnataka High Court Rules, 1959 requires an advocate on record engaging another advocate to argue for his client to file memorandum of appearance. Therefore, construing the two provisions in a harmonious way, it follows that in case an advocate is engaged for pleading, i.e., appearing and arguing the case of a party on the instructions of an advocate on record, then he can do so only if advocate on record files a memorandum of appearance evidencing the fact that he has engaged the other counsel for the purpose of pleading, i.e., to appear and argue his client’s case. Such a construction will be in consonance with the avowed object that the records always will bear evidence that counsel appearing and arguing had due authority for doing so: *Kota Co-operative Agricultural Bank Ltd. v. State of Karnataka* A.I.R. 2003 Karn. 30 (D.B.).

No one can claim the right to practise as an advocate inherent within since it cannot be considered to be natural right or a normal avocation recognised to be available to every citizen. The right to plead for others in a Court of law or before any such forum or authority depends upon the permission to be granted by such Courts, subject to rules made in respect thereof by the High Court vide S. 34 and also depends upon the enrolment of the persons concerned by the State Bar Council in the State roll. Ss. 29, 30 and 33 of the Act also would go to show that the right to practise as an advocate is merely a statutory right and not fundamental right: *N. Ram Reddy v. Bar Council of the State of A.P.* A.I.R. 2002 Andh. Pra. 484.

A party to the proceeding before the District Forum/State Commission has right to authorise a person of his choice to represent him and appearance of such agent authorised by

the party on the date of hearing before District Forum/State Commission is not restricted to physical appearance but includes in terms of Rr. 4(7), 8(7) or 9(6) of Rules of 2000 to examine and cross-examine the witnesses, address the Court and take part in the proceedings, as the case may be. Any other view may defeat the very objective for which Act of 1986 was enacted. The complainant to the proceeding before District Forum/State Commission who cannot conduct the case himself shall be compelled to engage the services of legal practitioner when the law makers intended to provide remedy with nil or no expense: *Sanjay R. Kothari v. South Mumbai Consumer Disputes Redressal Forum* A.I.R. 2003 Bom. 15(D.B.).

**34. Power of High Courts to make rules.**—(1) The High Court may make rules laying down the conditions subject to which an advocate shall be permitted to practise in the High Court and the Courts subordinate thereto.

<sup>2</sup>[(1-A) The High Court shall make rules for fixing and regulating by taxation or otherwise the fees payable as costs by any party in respect of the fees of his adversary's advocate upon all proceedings in the High Court or in any Court subordinate thereto.]

<sup>3</sup>[(2) Without prejudice to the provisions contained in sub-section (1), the High Court at Calcutta may make rules providing for the holding of the Intermediate and the Final examinations for articled clerks to be passed by the persons referred to in section 58-AG for the purpose of being admitted as advocates on the State roll and any other matter connected therewith.]

<sup>4</sup>[\* \* \*]

#### COMMENTS

From the proviso to sub-R. (6) of R. 4 of O. 3, C.P.Code, it appears that if a pleader is engaged to plead, *i.e.*, argue on behalf of a party by advocate on record of such party, then the pleading advocate is not required to file memorandum of appearance. This may be the consequence of the proviso. But, still R. 3(2) of the Karnataka High Court Rules, 1959 requires an advocate on record engaging another advocate to argue for his client to file memorandum of appearance. Therefore, construing the two provisions in a harmonious way, it follows that in case an advocate is engaged for pleading, *i.e.*, appearing and arguing the case of a party on the instructions of an advocate on record, then he can do so only if advocate on record files a memorandum of appearance evidencing the fact that he has engaged the other counsel for the purpose of pleading, *i.e.*, to appear and argue his client's case. Such a construction will be in consonance with the avowed object that the records always will bear evidence that counsel appearing and arguing had due authority for doing so: *Kota Co-operative Agricultural Bank Ltd. v. State of Karnataka* A.I.R. 2003 Karn. 30 (D.B.).

No one can claim the right to practise as an advocate inherent within since it cannot be considered to be natural right or a normal avocation recognised to be available to every citizen. The right to plead for others in a Court of law or before any such forum or authority depends upon the permission to be granted by such Courts, subject to rules made in respect thereof by the High Court vide S. 34 and also depends upon the enrolment of the persons concerned by the State Bar Council in the State roll. Ss. 29, 30 and 33 of the Act also would go to show that the right to practise as an advocate is merely a statutory right and not fundamental right: *N. Ram Reddy v. Bar Council of the State of A.P.* A.I.R. 2002 Andh. Pra. 484.

#### CHAPTER V

#### CONDUCT OF ADVOCATES

**35. Punishment of advocates for misconduct.**—(1) Where on receipt of a complaint or otherwise a State Bar Council has reason to believe that any advocate on its roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee.

2. Inserted by Act 60 of 1973, S. 23 (w.e.f. 31-1-1974).

3. Sub-S. (2) omitted by Act 107 of 1976, S. 8 (w.e.f. 1-1-1977) and again inserted by Act 38 of 1977, S. 6 (w.e.f. 30-10-1977).

4. Sub-S. (3) omitted by Act 107 of 1976, S. 8 (w.e.f. 1-1-1977).

<sup>5</sup>[(1-A) The State Bar Council may, either of its own motion or on application made to it by any person interested, withdraw a proceeding pending before its disciplinary committee and direct the inquiry to be made by any other disciplinary committee of that State Bar Council.]

(2) The disciplinary committee of a State Bar Council <sup>6</sup>[\*\*] shall fix a date for the hearing of the case and shall cause a notice thereof to be given to the advocate concerned and to the Advocate-General of the State.

(3) The disciplinary committee of a State Bar Council after giving the advocate concerned and the Advocate-General an opportunity of being heard, may make any of the following orders, namely:—

(a) dismiss the complaint or, where the proceedings were initiated at the instance of the State Bar Council, direct that the proceedings be filed;

(b) reprimand the advocate;

(c) suspend the advocate from practice for such period as it may deem fit;

(d) remove the name of the advocate from the State roll of advocates.

(4) Where an advocate is suspended from practice under clause (c) of sub-section (3), he shall, during the period of suspension, be debarred from practising in any Court or before any authority or person in India.

(5) Where any notice is issued to the Advocate-General under sub-section (2), the Advocate-General may appear before the disciplinary committee of the State Bar Council either in person or through any advocate appearing on his behalf.

<sup>7</sup>[Explanation.—In this section, <sup>8</sup>[section 37 and section 38], the expressions “Advocate-General” and “Advocate-General of the State” shall, in relation to the Union territory of Delhi, mean the Additional Solicitor General of India.

#### COMMENTS

The requirement of reasons to believe cannot be converted into or formalised procedural road blocks, it being essentially a barrier against frivolous enquiries: *Bar Council of Maharashtra v. M.V. Dabhol Kar* A.I.R. 1976 S.C. 242.

It is not in accordance with professional etiquette for an advocate to handover his brief to another advocate to take his place at the hearing and conduct the case as if the latter himself been briefed, unless the client agrees to his own: *V.C. Rangadurai v. D. Gopalan* A.I.R. 1979 S.C. 281.

A mere error of judgment or expression of a reasonable opinion or taking a stand on a doubtful or debatable issue of law is not a misconduct; the term takes its colour from the underlying intention. But at the same time misconduct is not necessarily something involving moral turpitude. It is a relative term to be construed by reference to the subject-matter and the context wherein the term is called upon to be employed: *D.P. Chadha v. Triyugi Narain Mishra* A.I.R. 2001 S.C. 457: (2001) 2 S.C.C. 221.

A lawyer in discharging his professional assignment has a duty to his client, a duty to his opponent, a duty to the Court, a duty to the society at large and a duty to himself. It needs a high degree of probity and poise to strike a balance and arrive at the place of righteous stand, more so, when there are conflicting claims. While discharging duty to the Court, a lawyer should never knowingly be a party to any deception, design or fraud: *D.P. Chadha v. Triyugi Narain Mishra* A.I.R. 2001 S.C. 457: (2001) 2 S.C.C. 221.

5. Inserted by Act 60 of 1973, S. 24 (w.e.f. 31-1-1974).

6. The words “if it does not summarily reject the complaint” omitted by Act 60 of 1973, S. 24 (w.e.f. 31-1-1974).

7. Inserted by Act 21 of 1964, S. 17.

8. Inserted by Act 60 of 1973, S. 24 (w.e.f. 31-1-1974).

Professional misconduct is grave when it consists of betraying the confidence of a client and is gravest when it is a deliberate attempt at misleading the Court or an attempt at practising deception or fraud on the Court: *D.P. Chadha v. Triyugi Narain Mishra* A.I.R. 2001 S.C. 457: (2001) 2 S.C.C. 221.

In determining the punishment to be awarded by the Disciplinary Committee on proven misconduct in each case, the Committee should weigh various factors. One of them is the acute need to cleanse the legal profession from those who are prone to misappropriating the money of the clients. Deterrence is thus a prominent consideration: *Harish Chandra Tiwari v. Baiju* A.I.R. 2002 S.C. 548: (2002) 2 S.C.C. 67: 2002 S.C.C. (Cr.) 294.

The only authority which can effectively maintain the probity of the legal profession is the Disciplinary Committee of the Bar Council, either of the State or of India. The proper message which should go to all members of the legal profession is that they are all being watched, regarding their professional activities, through binoculars by the Bar Council of the State as well as by the Bar Council of India and that their Disciplinary Committee would not acquiesce any professional delinquency with flea-bite punishment: *Harish Chandra Tiwari v. Baiju* A.I.R. 2002 S.C. 548: (2002) 2 S.C.C. 67: 2002 S.C.C. (Cr.) 294.

Where appellant-advocate had been found to be continuously engaged in his three businesses, a PCO booth and a photocopying centre, both allotted under handicapped persons quota, and a firm dealing in coal briquettes after his enrolment as an advocate, *held* having regard to the nature of misconduct and taking note of the handicap of the appellant, it must be concluded that debarring him from practising for all time was too harsh. It would be just and appropriate to modify the punishment to debar the appellant from practising up to the end of December 2006: *Bhupinder Kumar Sharma v. Bar Assn., Pathankot* A.I.R. 2002 S.C. 47: (2002) 1 S.C.C. 470.

The refusal to return the files to the client when he demanded the same amounted to misconduct under S. 35 of the Act: *R.D. Saxena v. Balram Prasad Sharma* A.I.R. 2000 S.C. 2912: (2000) 7 S.C.C. 264.

Concealment of information from plaintiff client about his having conducted a suit on behalf of the defendant although not a professional misconduct, *held*, did not speak well of the conduct of the said advocate. He should have, according to best traditions of the Bar, disclosed the said fact to his subsequent client: *H.V. Panchaksharappa v. K.G. Eshwar* (2000) 6 S.C.C. 721.

Before S. 35 can be pressed into service by any complainant, the following two requirements of misconduct have to be alleged and proved before any disciplinary proceedings can result in punishment of the delinquent advocate: (1) The advocate concerned must be alleged to be guilty of professional or other misconduct; (2) Such misconduct must have been committed by him while he was a practising advocate enrolled as such on the roll of the State Bar Council concerned: *Baldev Singh Dhingra v. Madan Lal Gupta* A.I.R. 1999 S.C. 902: (1999) 2 S.C.C. 745: 1999 S.C.C. (Cr.) 317.

Relationship between an advocate and his client is of trust and, therefore, sacred. Such acts of professional misconduct and the frequency with which such acts are coming to light distresses as well as saddens the Supreme Court. Preservation of the mutual trust between the advocate and the client is a must otherwise the prevalent judicial system in the country would collapse and fail. Such acts do not only affect the lawyers found guilty of such acts but erode the confidence of the general public in the prevalent judicial system. It is more so, because today hundred percent recruitment to the Bench is from the Bar starting from the subordinate judiciary to the higher judiciary. You cannot find honest and hard working Judges unless you find honest and hard working lawyers in their chambers. Time has come when the Society in general, respective Bar Council of the States and the Judges should take note of the warning bells and take remedial steps and nip the evil or the curse, if we may say so, in the bud: *Vikas Deshpande v. Bar Council of India* A.I.R. 2003 S.C. 308.

Complainants had been sentenced to death by trial Court—Appellant-advocate met them in prison and stated that he would file appeal on their behalf—the fraudulently got power-of-attorney signed in his favour and on the basis of that, he sold their land—*Held*, appellant-advocate took advantage of the situation that the complainants were facing death sentence and obtained the power-of-attorney on misrepresentation in his favour and sold the property of the complainants. Further, the appellant fraudulently appropriated the sale proceeds for his gain. He committed a grave professional misconduct: *Vikas Deshpande v. Bar Council of India* A.I.R. 2003 S.C. 308.

Where there were four acknowledgements on the record which showed that the appellant-advocate had been duly served four times and inspite of the notices having been served on the appellant he did not choose to appear before the Disciplinary Committee at any point of time, *held*, action of Disciplinary Committee in proceeding *ex parte* was justified: *Vikas Deshpandev. Bar Council of India* A.I.R. 2003 S.C. 308.

Advocates have no lien over the papers of their clients. At the most the advocate may resort to legal remedies for unpaid remuneration. Further, the right of the litigant to have the files returned to him is a corresponding counterpart of the professional duty of the advocate and that dispute regarding fees would be a *lis* to be decided in an appropriate proceeding in Court: *New India Assurance Co. Ltd. v. A.K. Saxena* A.I.R. 2004 S.C. 311: (2004) 1 S.C.C. 117. See also *R.D. Saxena v. Balram Prasad Sharma* (2000) 7 S.C.C. 264.

**Breach of Duty—Law on.**—The spirit contained in the Rule 33 of Section II of Part VI of Bar Council of India Rules is that where a lawyer has committed breach of his duty in respect of fiduciary obligation arising out of the relationship between himself and his client, he is guilty of misconduct of conflict of interest: *Chander Prakash Tyagi v. Benarsi Das* A.I.R. 2015 S.C. 2297.

**36. Disciplinary powers of Bar Council of India.**—(1) Where on receipt of a complaint or otherwise the Bar Council of India has reason to believe that any advocate <sup>9</sup>[\* \* \*] whose name is not entered on any State roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee.

(2) Notwithstanding anything contained in this Chapter, the disciplinary committee of the Bar Council of India may, <sup>10</sup>[either of its own motion or on a report by any State Bar Council or on an application made to it by any person interested], withdraw for inquiry before itself any proceedings for disciplinary action against any advocate pending before the disciplinary committee of any State Bar Council and dispose of the same.

(3) The disciplinary committee of the Bar Council of India, in disposing of any case under this section, shall observe, so far as may be, the procedure laid down in section 35, the references to the Advocate-General in that section being construed as references to the Attorney-General of India.

(4) In disposing of any proceedings under this section the disciplinary committee of the Bar Council of India may make any order which the disciplinary committee of a State Bar Council can make under sub-section (3) of section 35, and where any proceedings have been withdrawn for inquiry <sup>11</sup>[before the disciplinary committee of the Bar Council of India], the State Bar Council concerned shall give effect to any such order.

<sup>12</sup>**36-A. Changes in constitution of disciplinary committees.**—Whenever in respect of any proceedings under section 35 or section 36, a disciplinary committee of the State Bar Council or a disciplinary committee of the Bar Council of India ceases to exercise jurisdiction and is succeeded by another committee which has and exercises jurisdiction, the disciplinary committee of the State Bar Council or the disciplinary committee of the Bar Council of India, as the case may be, so succeeding may continue the proceedings from the stage at which the proceedings were so left by its predecessor committee.

**36-B. Disposal of disciplinary proceedings.**—(1) The disciplinary committee of a State Bar Council shall dispose of the complaint received by it under section 35 expeditiously and in each case the proceedings shall be

9. The words "on the common roll" omitted by Act 60 of 1973, S. 25 (w.e.f. 31-1-1974).

10. Substituted by Act 60 of 1973, S. 25, for "of its own motion" (w.e.f. 31-1-1974).

11. Substituted by Act 60 of 1973, S. 25, for "before the Bar Council of India" (w.e.f. 31-1-1974).

12. Inserted by Act 60 of 1973, S. 26 (w.e.f. 31-1-1974).

concluded within a period of one year from the date of the receipt of the complaint or the date of initiation of the proceedings at the instance of the State Bar Council, as the case may be, failing which such proceedings shall stand transferred to the Bar Council of India which may dispose of the same as if it were a proceeding withdrawn for inquiry under sub-section (2) of section 36.

(2) Notwithstanding anything contained in sub-section (1), where on the commencement of the Advocates (Amendment) Act, 1973 (60 of 1973), any proceedings in respect of any disciplinary matter against an advocate is pending before the disciplinary committee of a State Bar Council, that disciplinary committee of the State Bar Council shall dispose of the same within a period of six months from the date of such commencement or within a period of one year from the date of the receipt of the complaint or, as the case may be, the date of initiation of the proceedings at the instance of the State Bar Council, whichever is later, failing which such other proceedings shall stand transferred to the Bar Council of India for disposal under sub-section (1).]

**37. Appeal to the Bar Council of India.**—(1) Any person aggrieved by an order of the disciplinary committee of a State Bar Council made <sup>13</sup>[under section 35] <sup>14</sup>[or the Advocate-General of the State] may, within sixty days of the date of the communication of the order to him, prefer an appeal to the Bar Council of India.

(2) Every such appeal shall be heard by the disciplinary committee of the Bar Council of India which may pass such order <sup>14</sup>[(including an order varying the punishment awarded by the disciplinary committee of the State Bar Council)] thereon as it deems fit:

<sup>14</sup>[Provided that no order of the disciplinary committee of the State Bar Council shall be varied by the disciplinary committee of the Bar Council of India so as to prejudicially affect the person aggrieved without giving him reasonable opportunity of being heard.]

**38. Appeal to the Supreme Court.**—Any person aggrieved by an order made by the disciplinary committee of the Bar Council of India under section 36 or section 37 <sup>15</sup>[or the Attorney-General of India or the Advocate-General of the State concerned, as the case may be], may, within sixty days of the date on which the order is communicated to him, prefer an appeal to the Supreme Court and the Supreme Court may pass such order <sup>15</sup>[(including an order varying the punishment awarded by the disciplinary committee of the Bar Council of India)] thereon as it deems fit:

<sup>15</sup>[Provided that no order of the disciplinary committee of the Bar Council of India shall be varied by the Supreme Court so as to prejudicially affect the person aggrieved without giving him a reasonable opportunity of being heard.]

#### COMMENTS

In seven Judge Constitution Bench judgment in *Bar Council of Maharashtra v. M.V. Dabholkar* (1975) 2 S.C.C. 702, it has been held that the role of the Bar Council is of dual capacity, one as the prosecutor through its Executive Committee and the other quasi-judicial performed through its Disciplinary Committee. Being the prosecutor the State Bar Council would be an "aggrieved person" and, therefore, the appeal under S. 38 of the

13. Substituted by Act 21 of 1964, S. 18, for "under sub-section (3) of section 35".

14. Inserted by Act 60 of 1973, S. 27 (w.e.f. 31-1-1974).

15. Inserted by Act 60 of 1973, S. 28 (w.e.f. 31-1-1974).

Advocates Act, 1961 would be maintainable on its behalf: *Bar Council of Andhra Pradesh v. Kurapati Satyanarayana* A.I.R. 2003 S.C. 175.

Act of misappropriation of client's money by the advocate was trivialised by the Disciplinary Committee of the Bar Council of India by saying that the delinquent did not make the payment to the *de facto* complainant as he had utilised the money for his personal need for treatment and that such like instances do take place when a person is in trouble, however, it was neither pleaded nor shown by the delinquent that he was in dire financial difficulty which prompted him to utilise the decretal amount for his treatment which was with him in trust, *held*, having regard to the serious nature of misconduct the punishment of removal of his name from the roll of Bar Council would be the only appropriate punishment: *Bar Council of Andhra Pradesh v. Kurapati Satyanarayana* A.I.R. 2003 S.C. 175.

<sup>16</sup>[39. **Application of sections 5 and 12 of Limitation Act, 1963.**—The provisions of sections 5 and 12 of the Limitation Act, 1963 (36 of 1963), shall, so far as may be, apply to appeals under section 37 and section 38.]

**40. Stay of order.**—<sup>17</sup>[(1)] An appeal, made under section 37 or section 38, shall not operate as a stay of the order appealed against, but the disciplinary committee of the Bar Council of India, or the Supreme Court, as the case may be, may, for sufficient cause, direct the stay of such order on such terms and conditions as it may deem fit.

<sup>17</sup>[(2) Where an application is made for the stay of the order before the expiration of the times allowed for appealing therefrom under section 37 or section 38, the disciplinary committee of the State Bar Council, or the disciplinary committee of the Bar Council of India, as the case may be, may, for sufficient cause, direct the stay of such order on such terms and conditions as it may deem fit.]

**41. Alteration in roll of Advocates.**—(1) Where an order is made under this Chapter reprimanding or suspending an advocate, a record of the punishment shall be entered against his name—

(a) in the case of, an advocate whose name is entered in a State roll, in that roll;

<sup>18</sup>[\* \* \*]

and where any order is made removing an advocate from practice, his name shall be struck off the State roll <sup>19</sup>[\* \* \*].

<sup>20</sup>[\* \* \*]

(3) Where any advocate is suspended or removed from practice, the certificate granted to him under section 22, in respect of his enrolment shall be recalled.

**42. Powers of disciplinary committee.**—(1) The disciplinary committee of a Bar Council shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

16. Substituted by Act 60 of 1973, S. 29 (w.e.f. 31-1-1974).

17. S. 40 renumbered as sub-S. (1) thereof and sub-S. (2) inserted by Act 60 of 1973, S. 30 (w.e.f. 31-1-1974).

18. Cl. (b) omitted by Act 60 of 1973, S. 31 (w.e.f. 31-1-1974).

19. The words "or the common roll, as the case may be" omitted by Act 60 of 1973, S. 31 (w.e.f. 31-1-1974).

20. Sub-S. (2) omitted by Act 60 of 1973, S. 31 (w.e.f. 31-1-1974).

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring discovery and production of any documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copies thereof from any Court or office;
- (e) issuing commissions for the examination of witnesses or documents; and
- (f) any other matter which may be prescribed:

Provided that no such disciplinary committee shall have the right to require the attendance of—

(a) any presiding officer of a Court except with the previous sanction of the High Court to which such Court is subordinate;

(b) any officer of a revenue Court except with the previous sanction of the State Government.

(2) All proceedings before a disciplinary committee of a Bar Council shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860), and every such disciplinary committee shall be deemed to be a Civil Court for the purposes of sections 480, 482 and 485 of the Code of Criminal Procedure, 1898 (5 of 1898)\*.

(3) For the purposes of exercising any of the powers conferred by sub-section (1), a disciplinary committee may send to any Civil Court in the territories to which this Act extends, any summons or other process, for the attendance of a witness or the production of a document required by the committee or any commission which it desires to issue, and the Civil Court shall cause such process to be served or such commission to be issued, as the case may be, and may enforce any such process as if it were a process for attendance or production before itself.

<sup>21</sup>[(4) Notwithstanding the absence of the Chairman or any member of a disciplinary committee on a date fixed for the hearing of a case before it, the disciplinary committee may, if it so thinks fit, hold or continue the proceedings on the date so fixed and no such proceedings and no order made by the disciplinary committee in any such proceedings shall be invalid merely by reason of the absence of the Chairman or member thereof on any such date:

Provided that no final orders of the nature referred to in sub-section (3) of section 35 shall be made in any proceeding unless the Chairman and other members of the disciplinary committee are present.

(5) Where no final orders of the nature referred to in sub-section (3) of section 35 can be made in any proceeding in accordance with the opinion of the Chairman and the members of a disciplinary committee either for want of majority opinion amongst themselves or otherwise, the case, with their opinion thereon, shall be laid before the Chairman of the Bar Council concerned or if the Chairman of the Bar Council is acting as the Chairman or a member of the disciplinary committee, before the Vice-Chairman of the Bar

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\*Now see the Code of Criminal Procedure, 1973 (2 of 1974), Ss. 345(1), 346 and 349.

21. Inserted by Act 60 of 1973, S. 32 (w.e.f. 31-1-1974).

Council, and the said Chairman or the Vice-Chairman of the Bar Council, as the case may be, after such hearing as he thinks fit, shall deliver his opinion and the final order of the disciplinary committee shall follow such opinion.]

<sup>22</sup>[**42-A. Powers of Bar Council of India and other committees.**—The provisions of section 42 shall, so far as may be, apply in relation to the Bar Council of India, the enrolment committee, the election committee, the legal aid committee, or any other committee of a Bar Council as they apply in relation to the disciplinary committee of a Bar Council.]

**43. Cost of proceedings before a disciplinary committee.**—The disciplinary committee of a Bar Council may make such order as to the costs of any proceedings before it as it may deem fit and any such order shall be executable as if it were an order—

(a) in the case of an order of the disciplinary committee of the Bar Council of India, of the Supreme Court;

(b) in the case of an order of the disciplinary committee of a State Bar Council, of the High Court.

**44. Review of orders by disciplinary committee.**—The disciplinary committee of a Bar Council may of its own motion or otherwise review any order <sup>23</sup>[within sixty days of the date of that order] passed by it under this Chapter:

Provided that no such order of review of the disciplinary committee of a State Bar Council shall have effect unless it has been approved by the Bar Council of India.

## CHAPTER VI MISCELLANEOUS

**45. Penalty for persons illegally practising in Courts and before other authorities.**—Any person who practises in any Court or before any authority or person, in or before whom he is not entitled to practise under the provisions of this Act, shall be punishable with imprisonment for a term which may extend to six months.

**46. Payment of part of enrolment fees to the Bar Council of India.**—*[Omitted by the Advocates (Amendment) Act, 1993 (70 of 1993), section 8 (w.e.f. 26-12-1993).]*

<sup>24</sup>[**46-A. Financial assistance to State Bar Council.**—The Bar Council of India may, if it is satisfied that any State Bar Council is in need of funds for the purpose of performing its functions under this Act, give such financial assistance as it deems fit to that Bar Council by way of grant or otherwise.]

**47. Reciprocity.**—(1) Where any country, specified by the Central Government in this behalf by notification in the Official Gazette, prevents citizens of India from practising the profession of law or subjects them to unfair discrimination in that country, no subject of any such country shall be entitled to practise the profession of law in India.

(2) Subject to the provisions of sub-section (1), the Bar Council of India may prescribe the conditions, if any, subject to which foreign qualifications in

22. Inserted by Act 60 of 1973, S. 33 (w.e.f. 31-1-1974).

23. Inserted by Act 60 of 1973, S. 34 (w.e.f. 31-1-1974).

24. Inserted by Act 60 of 1973, S. 35 (w.e.f. 31-1-1974).

law obtained by persons other than citizens of India shall be recognised for the purpose of admission as an advocate under this Act.

**48. Indemnity against legal proceedings.**—No suit or other legal proceeding shall lie against any Bar Council or any committee thereof or a member of a Bar Council <sup>25</sup>[or any committee thereof] for any act in good faith done or intended to be done in pursuance of the provisions of this Act or of any rules made thereunder.

<sup>26</sup>**[48-A. Power of revision.]**—(1) The Bar Council of India may, at any time, call for the record of any proceeding under this Act which has been disposed of by a State Bar Council or a committee thereof, and from which no appeal lies, for the purpose of satisfying itself as to the legality or propriety of such disposal and may pass such orders in relation thereto as it may think fit.

(2) No order which prejudicially affects any person shall be passed under this section without giving him a reasonable opportunity of being heard.]

<sup>27</sup>**[48-AA. Review.]**—The Bar Council of India or any of its committees, other than its disciplinary committee, may of its own motion or otherwise review any order, within sixty days of the date of that order, passed by it under this Act.]

<sup>28</sup>**[48-B. Power to give directions.]**—(1) For the proper and efficient discharge of the functions of a State Bar Council or any committee thereof, the Bar Council of India may, in the exercise of its powers of general supervision and control, give such directions to the State Bar Council or any committee thereof as may appear to it to be necessary, and the State Bar Council or the committee shall comply with such directions.

(2) Where a State Bar Council is unable to perform its functions for any reason whatsoever, the Bar Council of India may, without prejudice to the generality of the foregoing power, give such directions, to the *ex officio* member thereof as may appear to it to be necessary, and such directions shall have effect, notwithstanding anything contained in the rules made by the State Bar Council.]

**49. General power of the Bar Council of India to make rules.**—<sup>29</sup>[(1)] The Bar Council of India may make rules for discharging its functions under this Act, and, in particular, such rules may prescribe—

<sup>30</sup>[(a) the conditions subject to which an advocate may be entitled to vote at an election to the State Bar Council including the qualifications or disqualifications of voters, and the manner in which an electoral roll of voters may be prepared and revised by a State Bar Council;

(ab) qualifications for membership of a Bar Council and the disqualifications for such membership;

(ac) the time within which and the manner in which effect may be given to the proviso to sub-section (2) of section (3);

25. Inserted by Act 60 of 1973, S. 36 (w.e.f. 31-1-1974).

26. Inserted by Act 21 of 1964, S. 19.

27. Inserted by Act 60 of 1973, S. 37 (w.e.f. 31-1-1974).

28. Inserted by Act 21 of 1964, S. 19.

29. S. 49 renumbered as sub-S. (1) thereof by Act 60 of 1973, S. 38 (w.e.f. 31-1-1974).

30. Substituted by Act 21 of 1964, S. 20, for Cl. (a).

(ad) the manner in which the name of any advocate may be prevented from being entered in more than one State roll;

(ae) the manner in which the seniority among advocates may be determined;

<sup>31</sup>[(af) the minimum qualifications required for admission to a course of degree in law in any recognised University;]

(ag) the class or category of persons entitled to be enrolled as advocates;

(ah) the conditions subject to which an advocate shall have the right to practise and the circumstances under which a person shall be deemed to practise as an advocate in a Court;]

(b) the form in which an application shall be made for the transfer of the name of an advocate from one State roll to another;

(c) the standard of professional conduct and etiquette to be observed by advocates;

(d) the standards of legal education to be observed by Universities in India and the inspection of Universities for that purpose;

(e) the foreign qualifications in law obtained by persons other than citizens of India which shall be recognised for the purpose of admission as an advocate under this Act;

(f) the procedure to be followed by the disciplinary committee of a State Bar Council and by its own disciplinary committee;

(g) the restrictions in the matter of practice to which senior advocates shall be subject;

<sup>32</sup>[(gg) the form of dresses or robes to be worn by advocates, having regard to the climatic conditions, appearing before any Court or tribunal;]

(h) the fees which may be levied in respect of any matter under this Act;

<sup>33</sup>[(i) general principles for guidance of State Bar Councils and the manner in which directions issued or orders made by the Bar Council of India may be enforced;

(j) any other matter which may be prescribed:]

<sup>32</sup>[Provided that no rules made with reference to clause (c) or clause (gg) shall have effect unless they have been approved by the Chief Justice of India:]

<sup>34</sup>[Provided further that] no rules made with reference to clause (e) shall have effect unless they have been approved by the Central Government.

<sup>32</sup>[(2) Notwithstanding anything contained in the first proviso to sub-section (1), any rules made with reference to clause (c) or clause (gg) of the said sub-section and in force immediately before commencement of the Advocates (Amendment) Act, 1973 (60 of 1973), shall continue in force until altered or repealed or amended in accordance with the provisions of this Act.]

31. Substituted by Act 60 of 1973, S. 38, for Cl. (af) (w.e.f. 31-1-1974).

32. Inserted by Act 60 of 1973, S. 38 (w.e.f. 31-1-1974).

33. Substituted by Act 21 of 1964, S. 20, for Cl. (i).

34. Substituted by Act 60 of 1973, S. 38, for "provided that" (w.e.f. 31-1-1974).

### COMMENTS

Admission to Law College—University can prescribe higher conditions of eligibility than be one prescribed by the Bar Council for the admission to Law College: *Sabhana Kumar S. v. Managalore University* A.I.R. 1985 Karn. 223.

The proposed rule of the State Bar Council providing for vote of no confidence against a member of the Bar Council of India, elected to the State Bar Council is not in violation of the Act: *Bar Council of Kerala v. Thankappan Pillai* A.I.R. 1986 Ker. 144.

Once the distinction between an advocate and a senior advocate is accepted and accorded statutory recognition, the wearing of a distinct gown or a coat by a senior advocate, which is different from the one worn by advocates, cannot be questioned or assailed as discriminatory or violative of Art. 14 of the Constitution of India: *J.R. Parashar v. Bar Council of India* A.I.R. 2002 Del. 482.

**Bar Council—Powers of.**—Bar Council has the independent power to recognize any equivalent qualification to a graduate degree for the purpose of admission in the course of graduate degree in law: *Archana Girish Sabnis v. Bar Council of India* A.I.R. 2015 S.C. 913: (2015) 4 S.C.C. 498.

<sup>35</sup>[49-A. Power of Central Government to make rules.—(1) The Central Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act including rules with respect to any matter for which the Bar Council of India or a State Bar Council has power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) qualifications for membership of a Bar Council and disqualifications for such membership;

(b) the manner in which the Bar Council of India may exercise supervision and control over State Bar Councils and the manner in which the directions issued or orders made by the Bar Council of India may be enforced;

(c) the class or category of persons entitled to be enrolled as advocates under this Act;

(d) the category of persons who may be exempted from undergoing a course of training and passing an examination prescribed under clause (d) of sub-section (1) of section 24;

(e) the manner in which seniority among advocates may be determined;

(f) the procedure to be followed by a disciplinary committee of a Bar Council in hearing cases and the procedure to be followed by a disciplinary committee of the Bar Council of India in hearing appeals; and

(g) any other matter which may be prescribed.

(3) Rules under this section may be made either for the whole of India or for all or any of the Bar Councils.

(4) If any provision of a rule made by a Bar Council is repugnant to any provision of a rule made by the Central Government under this section, then, the rule under this section, whether made before or after the rule made by the Bar Council, shall prevail and the rule made by the Bar Council shall, to the extent of the repugnancy, be void.

<sup>36</sup>[(5) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two

35. Inserted by Act 21 of 1964, S. 21.

36. Substituted by Act 60 of 1973, S. 39, for sub-S. (5) (w.e.f. 31-1-1974).

more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

**50. Repeal of certain enactments.**—(1) On the date on which a State Bar Council is constituted under this Act, the provisions of sections 3 to 7 (inclusive), sub-sections (1), (2) and (3) of section 9, section 15 and section 20 of the Indian Bar Councils Act, 1926 (38 of 1926), shall stand repealed in the territory for which the State Bar Council is constituted.

(2) On the date on which Chapter III comes into force, the following shall stand repealed, namely:—

(a) sections 6, 7, 18 and 37 of the Legal Practitioners Act, 1879 (18 of 1879), and so much of sections 8, 9, 16, 17, 19 and 41 of that Act as relate to the admission and enrolment of legal practitioners;

(b) sections 3, 4 and 6 of the Bombay Pleaders Act, 1920 (Bombay Act 17 of 1920);

(c) so much of section 8 of the Indian Bar Councils Act, 1926 (38 of 1926), as relates to the admission and enrolment of legal practitioners;

(d) the provisions of the Letters Patent of any High Court and of any other law insofar as they relate to the admission and enrolment of legal practitioners.

(3) On the date on which Chapter IV comes into force, the following shall stand repealed, namely:—

(a) sections 4, 5, 10 and 20 of the Legal Practitioners Act, 1879 (18 of 1879), and so much of sections 8, 9, 19 and 41 of that Act as confer on legal practitioners the right to practise in any Court or before any authority or person;

(b) sections 5, 7, 8 and 9 of the Bombay Pleaders Act, 1920 (Bombay Act 17 of 1920);

(c) section 14 of the Indian Bar Councils Act, 1926 (38 of 1926), and so much of sections 8 and 15 of that Act as confer on legal practitioners the right to practise in any Court or before any authority or person;

(d) the Supreme Court Advocates (Practice in High Courts) Act, 1951 (18 of 1951);

(e) the provisions of the Letters Patent of any High Court and of any other law conferring on legal practitioners the right to practise in any Court or before any authority or person.

(4) On the date on which Chapter V comes into force, the following shall stand repealed, namely:—

(a) sections 12 to 15 (inclusive), sections 21 to 24 (inclusive) and sections 39 and 40 of the Legal Practitioners Act, 1879 (18 of 1879), and so much of sections 16, 17 and 41 of that Act as relate to the suspension, removal or dismissal of legal practitioners;

(b) sections 24 to 27 (inclusive) of the Bombay Pleaders Act, 1920 (Bombay Act 17 of 1920);

(c) sections 10 to 13 (inclusive) of the Indian Bar Councils Act, 1926 (38 of 1926);

(d) the provisions of the Letters Patent of any High Court and of any other law insofar as they relate to the suspension, removal or dismissal of legal practitioners.

(5) When the whole of this Act has come into force—

(a) the remaining provisions of the Acts referred to in this section which do not stand repealed by virtue of any of the foregoing provisions of this section [except sections 1, 3 and 36 of the Legal Practitioners Act, 1879 (18 of 1879)] shall stand repealed;

(b) the enactments specified in the Schedule shall stand repealed to the extent mentioned therein.

**51. Rule of construction.**—On and from the appointed day, references in any enactment to an advocate enrolled by a High Court in any form of words shall be construed as references to an advocate enrolled under this Act.

**52. Saving.**—Nothing in this Act shall be deemed to affect the power of the Supreme Court to make rules under article 145 of the Constitution—

(a) for laying down the conditions, subject to which a senior advocate shall be entitled to practise in that Court;

(b) for determining the persons who shall be entitled to <sup>37</sup>[act or plead] in that Court.

## CHAPTER VII

### TEMPORARY AND TRANSITIONAL PROVISIONS

**53. Elections to first State Bar Council.**—Notwithstanding anything contained in this Act, the elected members of a State Bar Council, constituted for the first time under this Act, shall be elected by and from amongst advocates, vakils, pleaders and attorneys who, on the date of the election, are entitled as of right to practise in the High Court and are ordinarily practising within the territory for which the Bar Council is to be constituted.

*Explanation.*—Where the territory for which the Bar Council is to be constituted includes a Union territory, the expression “High Court” shall include the Court of the Judicial Commissioner of that Union territory.

**54. Term of office of members of first <sup>38</sup>[\* \* \*] State Bar Councils.**—Notwithstanding anything contained in this Act, the term of office of the <sup>39</sup>[\* \* \*] elected members of <sup>38</sup>[\* \* \*] a State Bar Council constituted for the first time, shall be two years from the date of the first meeting of the Council:

<sup>40</sup>[Provided that such members shall continue to hold office until the State Bar Council is reconstituted in accordance with the provisions of this Act.]

**55. Rights of certain existing legal practitioners not affected.**—Notwithstanding anything contained in this Act,—

37. Substituted by Act 70 of 1993, S. 9, for “act” (w.e.f. 24-12-1993).

38. The words “the Bar Council of India and” omitted by Act 21 of 1964, S. 22.

39. The words “nominated and” omitted by Act 14 of 1962, S. 3.

40. Inserted by Act 21 of 1964, S. 22.

(a) every pleader or vakil practising as such immediately before the date on which Chapter IV comes into force (hereinafter in this section referred to as the said date) by virtue of the provisions of the Legal Practitioners Act, 1879 (18 of 1879), the Bombay Pleaders Act, 1920 (17 of 1920), or any other law who does not elect to be, or is not qualified to be, enrolled as an advocate under this Act;

<sup>41</sup>[\*\*\*]

<sup>42</sup>[(c) every mukhtar practising as such immediately before the said date by virtue of the provisions of the Legal Practitioners Act, 1879 (18 of 1879), or any other law, who does not elect to be, or is not qualified to be, enrolled as an advocate under this Act;

(d) every revenue agent practising as such immediately before the said date by virtue of the provisions of the Legal Practitioners Act, 1879 (18 of 1879), or any other law,]

shall, notwithstanding the repeal by this Act of the relevant provisions of the Legal Practitioners Act, 1879 (18 of 1879), the Bombay Pleaders Act, 1920 (Bombay Act 17 of 1920), or other law, continue to enjoy the same rights as respects practice in any Court or revenue office or before any authority or person and be subject to the disciplinary jurisdiction of the same authority which he enjoyed or, as the case may be, to which he was subject immediately before the said date and accordingly the relevant provisions of the Acts or law aforesaid shall have effect in relation to such persons as if they had not been repealed.

**56. Dissolution of existing Bar Councils.**—(1) On the constitution under this Act of a State Bar Council, other than the Bar Council of Delhi (hereinafter referred to as the new Bar Council)—

(a) all properties and assets vesting in the corresponding Bar Council shall vest in the new Bar Council;

(b) all rights, liabilities and obligations of the corresponding Bar Council, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the new Bar Council;

(c) all proceedings pending before the corresponding Bar Council in respect of any disciplinary matter or otherwise shall stand transferred to the new Bar Council.

(2) In this section, "corresponding Bar Council" in relation to a State Bar Council, other than the Bar Council of Delhi, means the Bar Council for the High Court in territory for which the State Bar Council is constituted under this Act.

**57. Power to make rules pending the constitution of a Bar Council.**—Until a Bar Council is constituted under this Act, the power of that Bar Council to make rules under this Act shall be exercised—

(a) in the case of the Bar Council of India, by the Supreme Court;

(b) in the case of a State Bar Council, by the High Court.

<sup>43</sup>**[58. Special provisions during the transitional period.**—(1) Where a State Bar Council has not been constituted under this Act or where a State Bar

41. Cl. (b) omitted by Act 107 of 1976, S. 10 (w.e.f. 1-1-1977).

42. Substituted by Act 21 of 1964, S. 23, for Cl. (c).

43. Inserted by Act 14 of 1962, S. 4.

Council so constituted is unable to perform its functions by reason of any order of a Court or otherwise, the functions of that Bar Council or of any Committee thereof, insofar as they relate to the admission and enrolment of advocates, shall be performed by the High Court in accordance with the provisions of this Act.

(2) Until Chapter IV comes into force, a State Bar Council or a High Court performing the functions of a State Bar Council may enrol any person to be an advocate on a State roll, if he is qualified to be so enrolled under this Act, notwithstanding that no rules have been made under section 28 or that the rules so made have not been approved by the Bar Council of India, and every person so enrolled shall, until that Chapter comes into force, be entitled to all the rights of practice conferred on an advocate under section 14 of the Indian Bar Councils Act, 1926 (38 of 1926).

(3) Notwithstanding anything contained in this Act, every person who, immediately before the 1st day of December, 1961, was an advocate on the roll of any High Court under the Indian Bar Councils Act, 1926 (38 of 1926), or who has been enrolled as an advocate under this Act shall, until Chapter IV comes into force, be entitled as of right to practise in the Supreme Court, subject to the rules made by the Supreme Court in this behalf.

(4) Notwithstanding the repeal by sub-section (2) of section 50 of the provisions of the Legal Practitioners Act, 1879 (18 of 1879), or of the Bombay Pleaders Act, 1920 (Bombay Act 17 of 1920), <sup>44</sup>[or of any other law relating to the admission and enrolment of legal practitioners, the provisions of the Acts and law aforesaid] and any rules made thereunder insofar as they relate to <sup>45</sup>[the renewal or the issue by way of renewal] of a certificate to a legal practitioner authorising him to practise shall have effect until Chapter IV comes into force and, accordingly, every certificate issued or renewed to a legal practitioner (who is not enrolled as an advocate under this Act) which is or purports to be issued or renewed under the provisions of either of the aforesaid Acts <sup>46</sup>[or of the other law] during the period beginning with the 1st day of December, 1961 and ending with the date on which Chapter IV comes into force, shall be deemed to have been validly issued or renewed.]

<sup>47</sup>[58-A. Special provisions with respect to certain advocates.—

(1) Notwithstanding anything contained in this Act, all advocates who, immediately before the 26th day of July, 1948, were entitled to practise in the High Court in Allahabad or the Chief Court in Oudh and who under the provisions of the United Provinces High Courts (Amalgamation) Order, 1948 were recognised as advocates entitled to practise in the new High Court of Judicature at Allahabad but whose names were not formally entered on the roll of advocates of that High Court merely by reason of the non-payment of the fee payable to the Bar Council of the said High Court, and all advocates who were enrolled as such between the said date and the 26th day of May, 1952, shall, for the purposes of clause (a) of sub-section (1) of section 17 be deemed to be persons who were entered as advocates on the roll of the said High Court under the Indian Bar Councils Act, 1926 (38 of 1926), and every

44. Substituted by Act 32 of 1962, S. 3, for certain words.

45. Substituted by Act 21 of 1964, S. 24, for "the issue and renewal".

46. Inserted by Act 32 of 1962, S. 3.

47. Inserted by Act 21 of 1964, S. 25.

such person may, on an application being made in this behalf, be admitted as an advocate on the State roll of Uttar Pradesh.

(2) Notwithstanding anything contained in this Act, all advocates who, immediately before the 10th day of October, 1952, were entitled to practise in the High Court of Hyderabad but whose names were not formally entered on the roll of advocates of that High Court merely by reason of the non-payment of the fee payable to the Bar Council of the said High Court shall, for the purposes of clause (a) of sub-section (1) of section 17, be deemed to be persons who were entered as advocates on the roll of the said High Court under the Indian Bar Councils Act, 1926 (38 of 1926), and every such person may, on an application being made in this behalf, be admitted as an advocate on the State roll of Andhra Pradesh or of Maharashtra.

(3) Notwithstanding anything contained in this Act, all advocates who, immediately before the 1st day of May, 1960, were entitled to practise in the High Court of Bombay and who applied to get their names entered on the roll of advocates of the High Court of Gujarat under the provisions of section 8 of the Indian Bar Councils Act, 1926 (38 of 1926), but whose names were not so entered by reason of the repeal of the said provision shall, for the purposes of clause (a) of sub-section (1) of section 17, be deemed to be persons who were entered as advocates on the roll of the High Court of Gujarat under the said Act and every such person may, on an application being made in this behalf, be admitted as an advocate on the State roll of Gujarat.

(4) Notwithstanding anything contained in this Act, all persons who immediately before the 1st day of December, 1961, were advocates on the roll of the Court of Judicial Commissioner in any Union territory under any law in force in that territory shall, for the purposes of clause (a) of sub-section (1) of section 17, be deemed to be persons who were entered as advocates on the roll of a High Court under the Indian Bar Councils Act, 1926 (38 of 1926), and every such person may, on an application made in this behalf, be admitted as an advocate on the State roll maintained in respect of that Union territory.]

<sup>48</sup>[58-AA. Special provisions in relation to the Union territory of Pondicherry.—(1) Notwithstanding anything contained in this Act, all persons who, immediately before the date on which the provisions of Chapter III are brought into force in the Union territory of Pondicherry, were entitled to practise the profession of law (whether by way of pleading or acting or both) under any law in force in the said Union territory or who would have been so entitled had they not been in public service on the said date, shall for the purposes of clause (a) of sub-section (1) of section 17, be deemed to be persons who were entered as advocates on the roll of a High Court under the Indian Bar Councils Act, 1926 (38 of 1926), and every such person may, on an application made in this behalf within such time as may be specified by the Bar Council of Madras, be admitted as an advocate on the State roll maintained in respect of the said Union territory.

(2) Notwithstanding anything contained in this Act, every person who, immediately before the date on which the provisions of Chapter IV are brought into force in the Union territory of Pondicherry, was practising the profession of law (whether by way of pleading or acting or both or in any other way) by virtue of the provisions of any law in force in the said Union territory,

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48. Inserted by Act 26 of 1968, S. 3 and Sch.

who does not elect to be or is not qualified to be, enrolled as an advocate under sub-section (1), shall, notwithstanding the repeal of the relevant provisions of such law by the Pondicherry (Extension of Laws) Act, 1968 (26 of 1968), continue to enjoy the same rights as respects practice in any Court or revenue office or before any authority or person and be subject to the disciplinary jurisdiction of the same authority which he enjoyed, or, as the case may be, to which he was subject, immediately before the said date and accordingly the relevant provisions of the law aforesaid shall have effect in relation to such persons as if they had not been repealed.

<sup>49</sup>[58-AB. Special provisions with respect to certain persons enrolled by Mysore State Bar Council.—Notwithstanding anything contained in this Act or any judgment, decree or order of any Court or any resolution passed or direction given by the Bar Council of India, every person who was admitted as an advocate on the State roll by the State Bar Council of <sup>50</sup>[Karnataka] during the period beginning with the 28th day of February, 1963, and ending on the 31st day of March, 1964, on the basis of his having obtained a certificate of pleadership from the High Court of <sup>50</sup>[Karnataka], shall, save as otherwise provided, be deemed to have been validly admitted as an advocate on that State roll and accordingly entitled to practise the profession of law (whether by way of pleading or acting or both):

Provided that where any such person has elected to be enrolled as an advocate on the roll of any other State Bar Council, his name shall be deemed to have been struck off the roll of the State Bar Council of Mysore from the date he was enrolled by the other State Bar Council:

Provided further that the seniority of such person, whether his name is borne on the State roll of the State Bar Council of <sup>50</sup>[Karnataka], or on the State roll of any other Bar Council, shall, for the purposes of clause (d) of sub-section (3) of section 17, be determined by reckoning the 16th day of May, 1964, as the date of admission.]

<sup>51</sup>[58-AC. Special provisions with respect to certain persons enrolled by Uttar Pradesh State Bar Council.—Notwithstanding anything contained in this Act or any judgment, decree or order of any Court, every person who was enrolled as an advocate by the High Court during the period beginning with the 2nd day of January, 1962 and ending on the 25th day of May, 1962 and was subsequently admitted as an advocate on the State roll by the State Bar Council of Uttar Pradesh shall be deemed to have been validly admitted as an advocate on that State roll from the date of his enrolment by the High Court and accordingly entitled to practise the profession of law (whether by way of pleading or acting or both).

**58-AD. Special provisions with respect to certain persons migrating to India.**—Notwithstanding the repeal by this Act of the provisions of the Legal Practitioners Act, 1879 (18 of 1879), or of any other law relating to the admission and enrolment of legal practitioners (hereafter in this section referred to as such Act or law), every person who migrates to the territory of India from any area which, before the 15th day of August, 1947, was comprised within India as defined in the Government of India Act, 1935, and who has,

49. Inserted by Act 33 of 1968, S. 3 (w.e.f. 5-6-1968).

50. Substituted by the Mysore State (Alteration of Name) (Adaptation of Laws on Union Subjects) Order, 1974, for "Mysore" (w.e.f. 1-11-1973).

51. Inserted by Act 60 of 1973, S. 40 (w.e.f. 31-1-1974).

before such migration, been a pleader, mukhtar or revenue agent in any such area under any law in force therein, may be admitted and enrolled under the relevant provisions of such Act or law as a pleader, mukhtar or, as the case may be, revenue agent, if he—

(a) makes an application for the purpose to the appropriate authority under such Act or law; and

(b) is a citizen of India and fulfils other conditions, if any, specified in this behalf by the appropriate authority aforesaid,

and notwithstanding the repeal by this Act of the relevant provisions of such Act or law, every pleader, mukhtar or revenue agent so enrolled shall have the same rights as respects practice in any Court or revenue office or before any other authority or person and be subject to the disciplinary jurisdiction of the same authority to which he would be subject under the relevant provisions of such Act or law as if they had been repealed and accordingly, those provisions shall have effect in relation to such persons.

**58-AE. Special provisions in relation to the Union territory of Goa, Daman and Diu.**—(1) Notwithstanding anything contained in this Act, all persons who, immediately before the date on which the provisions of Chapter III are brought into force in the Union territory of Goa, Daman and Diu, were entitled to practise the profession of law (whether by way of pleading or acting or both) under any law in force in the said Union territory or who would have been so entitled had they not been in public service on the said date, shall for the purpose of clause (a) of sub-section (1) of section 17, be deemed to be persons who were entered as advocates on the roll of a High Court under the Indian Bar Councils Act, 1926 (38 of 1926), and every such person may, on an application made in this behalf within such time as may be specified by the Bar Council of Maharashtra, be admitted as an advocate on the State roll maintained in respect of the said Union territory:

Provided that the provisions of this sub-section shall not apply to any person who, on the date of the application aforesaid, was not a citizen of India.

(2) Notwithstanding anything contained in this Act, every person who, immediately before the date on which the provisions of Chapter IV are brought into force in the Union territory of Goa, Daman and Diu, was practising the profession of law (whether by way of pleading or acting or both or in any other way) by virtue of the provisions of any law in force in the said Union territory, or who does not elect to be or is not qualified to be enrolled as an advocate under sub-section (1), shall, notwithstanding the repeal by this Act of the relevant provisions of such law, continue to enjoy the same rights as respects practice in any Court or revenue office or before any other authority or person and be, subject to the disciplinary jurisdiction of the same authority which he enjoyed, or, as the case may be, to which he was subject, immediately before the said date and accordingly the relevant provisions of the law aforesaid shall have effect in relation to such persons as if they had not been repealed.

(3) On the date on which this Act or any part thereof comes into force in the Union territory of Goa, Daman and Diu, the law in force in that Union territory which corresponds to this Act or such part and which does not stand repealed by virtue of the provisions of section 50 of this Act, shall also stand repealed.

**58-AF. Special provisions in relation to Jammu and Kashmir.—**

(1) Notwithstanding anything contained in this Act, all advocates who, immediately before the date on which the provisions of Chapter III are brought into force in the State of Jammu and Kashmir, were entitled to practise in the High Court of that State, or who would have been so entitled had they not been in public service on the said date, shall, for the purpose of the clause (a) of sub-section (1) of section 17, be deemed to be persons who were entered as advocates on the roll of a High Court under the Indian Bar Councils Act, 1926 (38 of 1926), and every such person may, on an application made in this behalf within such time as may be specified by the Bar Council of India, be admitted as an advocate on the State roll maintained in respect of the said State.

(2) Notwithstanding anything contained in this Act, every person who, immediately before the date on which the provisions of Chapter III are brought into force in the State of Jammu and Kashmir, was entitled otherwise than as an advocate to practise the profession of law (whether by way of pleading or acting or both) by virtue of the provisions of any law in force in the said State, or who would have been so entitled had he not been in public service on the said date, may be admitted as an advocate on the State roll maintained in respect of the said State, if he—

(i) makes an application for such enrolment in accordance with the provisions of this Act; and

(ii) fulfils the conditions specified in clauses (a), (b), (e) and (f) of sub-section (1) of section 24.

(3) Notwithstanding anything contained in this Act, every person who, immediately before the date on which the provisions of Chapter IV are brought into force in the State of Jammu and Kashmir, was practising the profession of law (whether by way of pleading or acting or both or in any other way) by virtue of the provisions of any law in force therein, or who does not elect to be or is not qualified to be enrolled as an advocate under sub-section (1) or sub-section (2), shall, notwithstanding the repeal by this Act of the relevant provisions of such law, continue to enjoy the same rights as respects practice in any Court or revenue office or before any other authority or person and be subject to the disciplinary jurisdiction of the same authority which he enjoyed, or, as the case may be, to which he was subject, immediately before the said date and accordingly the relevant provisions of the law aforesaid shall have effect in relation to such persons as if they had not been repealed.

(4) On the date on which this Act or any part thereof comes into force in the State of Jammu and Kashmir, the law in force in that State which corresponds to this Act or such part thereof which does not stand repealed by virtue of the provisions of section 50 of this Act, shall also stand repealed.]

<sup>52</sup>[**58-AG. Special provisions in relation to articled clerks.—**Notwithstanding anything contained in this Act, every person who, immediately before the 31st day of December, 1976, has commenced his articleship and passed the preliminary examination, for the purpose of enrolment as an attorney of the High Court at Calcutta in accordance with the rules made under sub-section (2) of section 34, before the omission of that sub-section by the Advocates

52. Inserted by Act 38 of 1977, S. 7 (w.e.f. 31-10-1977).

(Amendment) Act, 1976 (107 of 1976), may be admitted as an advocate on the State roll if he—

(i) passes, on or before the 31st day of December, 1980,—

(a) the Final examination in a case where such person has, before the 31st day of December, 1976, passed the Intermediate examination,

(b) the Intermediate and the Final examinations in any other case.

*Explanation.*—For the purpose of this clause, the High Court at Calcutta may prescribe such rules as may be necessary under sub-section (2) of section 34, specifying the nature of the examinations and any other matter relating thereto;

(ii) makes an application for such enrolment in accordance with the provisions of this Act; and

(iii) fulfils the conditions specified in clauses (a), (b), (e) and (f) of sub-section (1) of section 24.]

<sup>53</sup>[**58-B. Special provision relating to certain disciplinary proceedings.**—

(1) As from the 1st day of September, 1963, every proceeding in respect of any disciplinary matter in relation to an existing advocate of a High Court shall, save as provided in the first proviso to sub-section (2), be disposed of by the State Bar Council in relation to that High Court, as if the existing advocate had been enrolled as an advocate on its roll.

(2) If immediately before the said date, there is any proceeding in respect of any disciplinary matter in relation to an existing advocate pending before any High Court under the Indian Bar Councils Act, 1926 (38 of 1926), such proceeding shall stand transferred to the State Bar Council in relation to that High Court, as if it were a proceeding pending before the corresponding Bar Council under clause (c) of sub-section (1) of section 56:

Provided that where in respect of any such proceeding the High Court has received the finding of a Tribunal constituted under section 11 of the Indian Bar Councils Act, 1926 (38 of 1926), the High Court shall dispose of the case and it shall be lawful for the High Court to exercise for the purpose all powers conferred on it under section 12 of the said Act as if that section had not been repealed:

Provided further that where the High Court has referred back any case for further inquiry under sub-section (4) of section 12 of the said Act, the proceeding shall stand transferred to the State Bar Council in relation to the High Court as if it were a proceeding pending before the corresponding Bar Council under clause (c) of sub-section (1) of section 56.

(3) If immediately before the said date there is any proceeding in respect of any disciplinary matter pending in relation to any pleader, vakil, mukhtar or attorney, who has been enrolled as an advocate on any State roll under the Act, such proceeding shall stand transferred to the State Bar Council on the roll of which he has been enrolled and be dealt with under this Act as if it were a proceeding arising against him thereunder.

(4) In this section "existing advocate" means a person who was enrolled as an advocate on the roll of any High Court under the Indian Bar Councils Act, 1926 (38 of 1926) and who, at the time when any proceeding in respect of

53. Inserted by Act 21 of 1964, S. 25.

any disciplinary matter is initiated against him, is not enrolled as an advocate on a State roll under this Act.

(5) The provisions of this section shall have effect, notwithstanding anything contained in this Act.]

<sup>54</sup>[**59. Removal of difficulties.**—(1) If any difficulty arises in giving effect to the provisions of this Act, particularly in relation to the transition from the enactments repealed by this Act to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

(2) An order under sub-section (1) may be made so as to have retrospective effect from a date not earlier than the 1st day of December, 1961.]

<sup>55</sup>[**60. Powers of Central Government to make rules.**—(1) Until rules in respect of any matter under this Act are made by a State Bar Council and approved by the Bar Council of India, the power to make rules in respect of that matter shall be exercisable by the Central Government.

(2) The Central Government after consultation with the Bar Council of India may, by notification in the Official Gazette, make rules under sub-section (1) either for any State Bar Council or generally for all State Bar Councils and the rules so made shall have effect, notwithstanding anything contained in this Act.

(3) Where in respect of any matter any rules made by the Central Government under this section for any State Bar Council, and in respect of the same matter, rules are made by the State Bar Council and approved by the Bar Council of India, the Central Government may, by notification in the Official Gazette, direct that the rules made by it in respect of such matter shall cease to be in force in relation to the Bar Council with effect from such date as may be specified in the notification and on the issue of such notification, the rules made by the Central Government shall, accordingly, cease to be in force except as respects things done or omitted to be done before the said date.]

#### THE SCHEDULE

[See section 50(5)]

#### REPEAL OF CERTAIN ENACTMENTS

Short title	Extent of repeal
1. The Legal Practitioners (Women) Act, 1923 (23 of 1923).	The whole.
2. The Legal Practitioners (Fees) Act, 1926 (21 of 1926).	The whole.
3. The States Reorganisation Act, 1956 (37 of 1956).	Section 53.
4. The Bombay Reorganisation Act, 1960 (11 of 1960).	Section 31.

54. Inserted by Act 14 of 1962, S. 4.

55. Inserted by Act 32 of 1962, S. 4.

# THE BAR COUNCILS (VALIDATION OF STATE LAWS) ACT, 1956

[13th March, 1956]

*An Act to validate certain State laws amending the Indian Bar Councils Act, 1926.*

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

**1. Short title.**—This Act may be called THE BAR COUNCILS (VALIDATION OF STATE LAWS) ACT, 1956.

**2. Validation of certain State laws amending the Indian Bar Councils Act, 1926 (38 of 1926).**—The laws specified in the Schedule shall be, and shall be deemed always to have been, as valid as if the provisions contained herein had been enacted by Parliament.

## THE SCHEDULE

(See section 2)

1. The Indian Bar Councils (Andhra Amendment) Act, 1954 (President's Act VII of 1954).
  2. The Indian Bar Councils (Uttar Pradesh Amendment) Act, 1950 (U.P. Act XXIV of 1950).
  3. The Indian Bar Councils (Madras Amendment) Act, 1954 (Madras Act XXXV of 1954).
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## THE CERTIFICATE AND PLACE OF PRACTICE (VERIFICATION) RULES, 2015<sup>1</sup>

The Council considered the Draft Rules with regard to verification of Certificate and Place of Practice of Advocates and to repeal the Bar Council of India Certificate of Practice and Renewal Rules, 2014 and passed the following resolution:—

The Council resolves to modify the Resolution No. 169 of 2014 (Item No. 276/2014) dated 17th October, 2014. The Council further resolves that Draft Rules with regard to Verification of Certificate and Place of Practice submitted by the sub-Committee be and is hereby approved. These new Rules shall be named as Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015 depending on the year of its publication in the Gazette of India) and it shall come into force from the date of its publication in the Gazette of India. The Council further resolves to repeal Bar Council of India Certificate of Practice and Renewal Rules, 2014, accordingly the Bar Council of India Certificate of Practice Renewal Rules, 2014 stand repealed.

Bar Council of India Certificate and Place of Practice (Verification) Rules have been framed in exercise of powers conferred on Bar Council of India by section 49(1)(ag), 49(ah) and 49(i) of the Advocates Act, 1961 and in exercise of powers under Part V, Chapter 1, Rule 1(1) & (2) and Rule 2 of Bar Council of India Rules, Chapter III Rules 3, 4 and Part IX, Rules 17, 18(h), 20, 22, 24 of Bar Council of India Rules.

**Statement of objects and reasons.**—The legal profession is an Honorable one and it has critical role to play in protecting and promoting the Civil and Constitutional rights of the people. An independent and fearless Bar is vital and crucial for sustaining and promoting a true and healthy democracy. The Bar which is subject to manipulation and influence from extraneous powers, howsoever mighty and esteemed they may be, cannot do justice either to the Legal Profession or to the Rule of Law. Bench and Bar are the two wheels of a chariot and one cannot function without the other. Sadly, this profession has fallen under a cloud.

In the Joint Meeting of the representatives of all State Bar Councils and Bar Council of India, concerns were raised by all that trend of Advocates switching over to other professions/services/business without any information to the State Bar Council has reached alarming proportions. This trend is endangering the legal profession as a whole. It has also made a dent in its sanctity and standards. Names of such advocates continue to be included in the “Roll of advocates” being maintained by the State Bar Councils, notwithstanding the fact that they have left the legal profession or have since died. Though under section 19 of the Advocates Act, the State bar Councils are under legal obligation to send a copy of the Roll of advocates prepared by it under section 17 of the Act and subsequent alterations/additions thereto but practically no State Bar Council has observed this mandatory provision of the Act up till now.

Under these circumstances it appears that a definite trend is visible that the control of Bar Associations and of other elected bodies under the Advocates Act is slipping out of the hands of the advocates who practice law. It is also being experienced that after certificate of enrolment is issued to an advocate, practically no communicative and continuing contact survives between him and the Council.

Under the existing state of affairs, All India Bar Examination introduced on the directions/observations of the Supreme Court of India to improve the standard of legal profession has also failed to fully achieve its objective. Advocates enrolled with the State Bar Councils obtain “Provisional Certificate of Practice” (valid for 2 years) and

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1. *Vide* Resolution No. 216/2014, dated 12-1-2015, published in the Gazette of India, Ext., Pt. III, S. 4, dated 13-1-2015.

thereafter most of them are practicing Law without caring to appear for All India Bar Examination and to pass it.

Various welfare schemes for advocates have been floated in India both under State Legislations as well as under various welfare schemes framed by different State Bar Councils and by Bar Council of India but benefits thereunder are being enjoyed by those also who have left the profession.

There is also an urgent need for laying down some conditions for practicing law in different Courts so as to give due weightage and credence to experience. Before an advocate could practice law in higher Courts, there is need that he is exposed to real court experience in lower Courts/trial Courts. This will help in integrating the whole judicial system from the perspective of the Bar.

Therefore, in order to achieve better and effective administrative and disciplinary control of the local Bar Associations, State Bar Councils and the Bar Council of India over the advocates entered on the Rolls of advocates being maintained by different State Bar Councils under section 22 of the Advocates Act and further in order to weed out advocates who have left practice, the Bar Council of India, in the exercise of powers conferred on it by section 49(1) (ag), 49 (ah) and 49(i) of the Advocates Act, 1961 and by all other enabling and residuary powers vested in it, had brought the rules titled "Bar Council of India Certificate of Practice and Renewal Rules, 2014" for the purposes of carrying into effect the provisions and objectives of the Act:—

But in some of the places, the Advocates raised objection with regard to the word Renewal, though in fact it is not the renewal of enrolment, rather it aimed at periodical verification of the details of an Advocate already enrolled with some State Bar Council. The aim was/is only to verify the place where the Advocate normally practices, the Bar Association of which he is a member (if any), the address/email id, enrolment number/year, the Institutions from which the Advocate has passed his Graduation and LL.B. The purpose is the maintenance of record of all the Advocates of the country; two passport size photographs of Advocate was/is also required to be furnished to the State Bar Council. The other object was/is also to introduce certain electoral reforms in the Bar Council/Bar Association elections, because in recent past, the Bar Council of India and the State Bar Councils have come across the cases of rigging in the polls and the allegations of bogus voting has now become frequent, since the State Bar Councils and/or majority of Bar Associations of the country have no record of the Advocates who died after enrolment or who joined other jobs, business or professions; the Bar Council of India being the regular of Legal profession and Legal education of the country has, therefore, decided to undertake the detailed verification and then to prepare a Voters' List alongwith recent photographs of the Advocate (Voter). The Council has framed these Rules in the light of the verdict of Hon'ble Apex Court in the case of Supreme Court Bar Association. The Bar Council of India has already decided to develop the web-portal for this purpose to have full details of all the Advocates of the country, all the Institutions imparting Legal Education, details of Law students, the Law Teachers and details of all the Bar Associations. The detailed information and photograph is necessary for that purpose also. Furthermore, since some of the Bar Associations have raised baseless objection with regard to the sum of Rs. 500 as Practice Fee (as per them it is a heavy amount); the major portion (about Rs. 400) of this Rs. 400 was aimed (in 2014 Rules) for providing welfare schemes (like Insurance for Advocates and their family members and improvement of infrastructure and Library of Bar Associations, Pensions, etc.) But due to objection, now the Council has resolved to segregate this amount of Rs. 400 for welfare-schemes from the process fee of verification. Now only Rs.100 is to be charged from the Advocates as Process fee and rest of Rs. 400 would be optional not mandatory, depending upon the decision of concerned State Bar Council and the concerned Advocate. Even from this process fee of Rs. 100, besides the expenditure incurred for undertaking the work of verification, the State Bar Council, Bar Associations and Bar Council of India are required to spend the rest of the amount for the improvement of

infrastructures of Associations only. State Bar Councils shall be required to open and maintain a separate Bank Account for this purpose which would be audited every year. The report of Audit shall be sent to Bar Council of India and the Bar Association soon after the submission of report.

The Bar Council of India has also come to know that a number of fake (farzi) persons (without any Law Degree or enrolment certificate) are indulged in Legal practice and are cheating the Litigants, courts and other stake-holders; and neither the Bar Associations nor the concerned State Bar Councils have any control over such fake persons. Shockingly, it has come to the notice of the Council that at some places, the office-bearers of Bar Associations or some vote-seekers knowingly make such people members and voters of their Associations with a motive to get their votes in the elections of Bar Associations or Bar Councils. Similarly, many persons, after getting enrolled as Advocates in any State Bar Council, get involve in Property-Dealings, contract or switch over to some other business, profession or job and have no more concern with the Legal profession. Such "non-practicing Advocates" are sometimes being used by some of the office-bearers/candidates for elections of Bar Associations or Bar Councils (only for their votes). But in fact, the Council has realized that such practice is degrading the standard of Legal profession, and this mal-practice has to be stopped.

Few of the office-bearers/representatives of some of the Bar Associations had raised unnecessary objections and protests to these reformatory steps. Such protests were/are only to serve their vested interests. Bar Council of India has to maintain the dignity and standard of Legal profession, we shall have to oust fake people from the Court-campus and we shall have to identify the "non-practicing Advocates", (who are involved in other job, business or profession). We are to ensure that such Advocates do not involve in deciding the fate of our Associations and the Bar Councils; And such Advocates are not allowed to get any benefit of welfare schemes or to practice Legal profession so long they are in any other business, job or profession.

It is due to these reasons, the Council has decided to make provisions for identification of such fake persons and non-practicing Advocates. And the Council has also felt it necessary to discourage those Advocates who raise unnecessary protests with an intent to keep and protect the fake and/or non-Practicing Advocates with an object to get their votes. Therefore, the Council has resolved to make suitable provisions in these Rules so that if any Advocate is found to be indulged in making deliberate effort to—

- (i) Protect fake people practicing legal profession illegally,
- (ii) to create any hurdle in identification of "non-Practicing Advocates", and
- (iii) create any objection in verification of the certificate of practice, credentials, place of Practice and details of Advocates, such Advocates would be debarred from contesting any election of Bar Association or Bar Council for a period of three years from the date of order to this effect.

Under the circumstances and for the abovementioned reasons, the Council has resolved to repeal the "Bar Council of India Certificate of Practice and Renewal Rules, 2014" and has made and passed the new "Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015", and has decided to implement it.

## CHAPTER I PRELIMINARY

**1. Short title.**—These rules shall be called as THE CERTIFICATE AND PLACE OF PRACTICE (VERIFICATION) RULES, 2015.

**2. Extent.**—These rules will be applicable to all the advocates whose names appear on the State Rolls being maintained by the State Bar Councils under section 17 of the Advocates Act, 1961.

**3. Date of commencement.**—These rules, except rule 7 of Chapter III, shall come into force at once from the date of publication of these Rules in the Gazette of India. Rule 7 of Chapter III shall come into force on such date as the Bar Council of India may, by notification in the Gazette of India, appoint in this behalf.

**4. Definitions.**—(a) Act means the Advocates Act, 1961.

(b) Advocate means an advocate whose name is entered in the Roll of advocates being maintained by the State Bar Councils under section 17 of the Advocates Act, 1961.

(c) Certificate of Enrolment means the certificate of enrollment held by an advocate issued under section 22 of the Advocates Act, 1961.

(d) Certificate of Practice in relation to an advocate having obtained graduate degree in law before the academic year 2010 enrolled on the roll of Advocates shall mean Certificate of Practice issued under rule 13 and in relation to an advocate graduating in law in academic year 2009-2010 (1st July, 2009 to 30th June, 2010) and thereafter, enrolled on or after 12th Day of June, 2010, Certificate of Practice means the "Certificate of Practice" issued under All India Bar Examination Rules or under rule 13 of these Rules or the enrolment certificate issued by the State Bar Council.

(e) State Bar Council means the State Bar Councils as defined under section 3 (1) (a) of the Advocates Act, 1961.

(f) Verification/process fee means the amount/s payable under these rules as fee and amount for processing of Application and its verification. This amount may be varied by the Bar Council of India from time to time and on such variation, the varied amount shall mean the fee.

(g) Bar Association of a given area/town/city means an area/territory and court work based association of advocates, whether registered under the Societies Registration Act (Act No. XXI of 1860) or not having its area/territory defined in terms of the whole or part of the territorial jurisdiction of Courts/Tribunals/Persons or any other Authorities legally competent to take evidence before which its members ordinarily practice law and it includes Bar Association exclusively dealing in specific fields of law, viz., Income Tax, Corporate Law, Central/State Excise Law, etc., in relation to the authorities/tribunals/boards, etc., thereunder.

(h) "Roll of advocates" means "roll" as defined in the Advocates Act.

(i) "Administrative Committee" shall mean a committee comprising of three members of the State Council, constituted by the State Bar Council by way of election, for discharging such functions and duties as are entrusted to it under these Rules. There may be more than one such Committee depending upon the work load of a particular State Bar Council.

(j) An non-practicing advocate means an Advocate enrolled with any State Bar Council, but is not in actual practice of Law and is engaged in some other public or private job, business, contract, etc., not related to Legal profession: and who has been so declared under rule 13 and rule 20.2 of these Rules and whose name stands published under rule 20.4.

(k) Fake Person is a person who is involved in practicing in Courts of Law/Tribunals or other Legal forums without having a valid Degree in Law

(without any enrolment in any State Bar Council) and use to appear in such Courts, Tribunals or Forums illegally posing him as an Advocate.

(l) All terms and phrases used in these Rules shall have the same meaning as they have under the Advocates Act, 1961, unless the context in which such words and phrases are used, expressly suggest to the contrary.

**5. Necessity of "Certificate of Practice".**—An advocate shall not be entitled to practice law unless he holds a valid and verified certificate of practice issued either under All India Bar Examination Rules or under these Rules.

This disability to practice law would come into force only when the name/ names of such advocate/s is/are published under rule 20.4.

*Exemption of certain categories of Advocates.*—However, it is made clear that the senior Advocates designated under section 16 of the Act and the Advocates-on-Record of Supreme Court of India shall not be required to fill up the form for Verification. The senior Advocates and Advocates on Record of Supreme Court of India are simply required to send their two passport size photographs with their names and current Address to the concerned Bar Council through their respective Associations so that their names could be included in the voters-list of State Bar Council. There is a separate form "Form E" for that purpose.

## CHAPTER II

### LOCAL BAR ASSOCIATIONS

**6. Advocate to be a member of the Bar Association where he/she normally practices law.**—6.1 An advocate, after having obtained a Certificate of Enrollment under section 22 of the Advocates Act, 1961, is required to get himself registered as a member of the Bar Association where he ordinarily practices law or intends to practice law. And if any Advocate does not intend to be a member of any Bar Association duly recognized by concerned State Bar Council, then he shall be required to intimate the same to the State Bar Council and he shall have to explain as to how shall he be getting the benefits of any welfare scheme floated by the State Bar Council or the Local Bar Association. The decision of State Bar Council shall be final in this regard.

6.2 In case an advocate leaves one Bar Association and joins another by reason of change of place of practice or by reason of change of field of law, he/she shall intimate such change with all the relevant particulars to the State Bar Council, of which he is a member.

Such fact of leaving as well as of joining shall be independently intimated to the aforesaid said Bar Council within a period of one month.

6.3 Bar Associations to apply to the respective Bar Council within whose jurisdiction they are located, for being recognized under these Rules. Recognition shall be accorded to such a Bar Association only which falls within the definition of Bar Association as defined in these Rules.

## CHAPTER III

7.1 If it comes to the notice of the Council through any source that any office-bearer of any Bar Association or any Advocate is involved in making unnecessary, baseless and deliberate protests/objections in the process of identification of fake persons (involved in Legal profession) or in the

identification of non-practicing Advocates (who are doing some other job, business, etc.,) and/or making any attempt to mislead the Advocates of his Association or State by making irresponsible statements with ill motive to create hurdle in implementation of these reformatory Rules, a Tribunal constituted by the Bar Council of India and the State Bar Council may pass an order debaring such Advocate or office-bearer from contesting the elections of Bar Association/State Bar Council for a period of three years from the date of passing of such order.

7.2 Any such order be passed only by a Tribunal consisting of one former Judge of any High Court (nominated by Bar Council of India) one senior Advocate and one Senior Member of State Bar Council (nominated by the Chairman and the Vice-Chairman of that Bar Council.) Hon'ble Former Judge of High Court shall be the Presiding Officer of the Tribunal and no adverse order can be passed by such Tribunal unless the concerned office-bearer/Advocate is given an opportunity of hearing. The decision of majority will prevail in such decision. The Tribunal shall have power to pass interim orders also.

The State Bar Council or Bar Council of India may refer the matters to such Tribunals and the Tribunal shall dispose of the matters expeditiously. There shall be a separate Tribunal for each State Bar Council.

7.3 An Appeal/Revision shall lie before the Bar Council of India against any order passed by the said Tribunal, if preferred within a period of 60 days from the date of order: However, the Council shall have the power to condone the delay in filing such Appeal/Revision beyond 60 days, if sufficient cause is shown by the appellant/petitioner.

#### CHAPTER IV

#### APPLICATIONS/ORDERS/OBJECTION PETITION WITH RESPECT TO GRANT/VERIFICATION OF CERTIFICATE AND PLACE OF PRACTICE

**8. Application for verification of "Certificate to practice and place of Practice" by advocates enrolled on or before June 12, 2010.**—8.1 An advocate graduating in law in academic year 2009-2010 (1st July, 2009 to 30th June, 2010) and thereafter, enrolled on the "Roll of Advocates" on or after June 12, 2010, is required to apply for issuance of "Certificate of Practice" under All India Bar Examination Rules, 2010 and for verification of such "Certificate of Practice" from the State Bar Council in which he/she is enrolled as an advocate under rule 9.

8.2 An advocate having obtained graduate degree in law before the academic year 2010 enrolled on the "Roll of Advocates", is required to apply for verification of "Certificate of Practice and place of practice" from the State Bar Council in which he/she is enrolled as an advocate under this rule within a period of 6 months of the enforcement of these Rules/date of enrolment.

8.3 Every application for issuance of verified Certificate of Practice shall be submitted in the prescribed format as given in Form A Column I and Column II annexed with these Rules disclosing all the necessary informations as required thereunder to the State Bar Council, with which he/she is enrolled.

8.4 Every such application shall be accompanied by the following documents, certificates, declaration, fee, etc:—

(i) Verification fee/process fee in the sum of Rs.100 (rupees one hundred only) by way of Bank Drafts/Account payee bank cheque or cash in the name of:—

(a) Secretary State Bar Council, with which the applicant is enrolled (or it may be paid in cash also);

(b) Out of this Rs. 100, the Secretary, State Bar Council shall send a sum of Rs. 20 to the concerned Bar Association and Rs. 30 to Bar Council of India, rest Rs. 50 is to be kept in the Account of State Bar Council.

(ii) A declaration in the prescribed format as given in Column II of Form A annexed with these Rules;

(iii) Two passport size photographs duly attested by the President/Secretary of the Bar Association or by any other office bearer of the Association who is duly authorized for this purpose by the Bar Association, of which the applicant is a member, or by a member of the State Bar Council duly authorized by the State Bar Council or Bar Council of India;

(iv) Certificate in Form A Column III issued by the President/Secretary or by any other office bearer of the Association, who is duly authorized for this purpose by the Bar Association/to the effect that the applicant advocate is a bona fide member of the concerned Bar Association and that he has not left law practice or by any member of State Bar Council duly authorized by State Bar Council or by the Bar Council of India.

In case, the applicant has been a member of different Bar Associations at different times since the issuance of certificate of enrolment under section 22 of the Advocates Act, 1961, such certificates may be obtained from the Presidents/Secretaries of the different Bar Associations, of which the applicant remained a member, at different times.

In case, the certificate of enrolment under section 22 of the Advocates Act, 1961 was granted more than five (5) years prior to the date of application, such certificate/certificates needs to be confined only to a period of five (5) years:

Provided that in case it is established at any stage that any such Authority has deliberately issued a certificate in Column III of Form A even after knowing that the Advocate is not in practice, the State Bar Council will be at Liberty to take appropriate action against such Authority issuing such certificate.

8.5 That the aforesaid application may be filed by the applicant along with all the aforesaid documents either by hand in the Office of the State Bar Council against proper receipt or send to the Secretary under registered post or through the Bar Association, of which he/she is a member.

**9. Application for verification of Certificate of Practice issued by State Bar Council.**—9.1 The Certificate of Practice issued to an advocate under rule 13 of these Rules or under All India Bar Examination Rules and verification thereof, shall be valid for a period of five (5) years only and is liable to be verified every five (5) years by filing an application for verification in advance within a period of six (6) months, before the validity period of "Certificate of Practice" or of its verification, expires.

9.2 All such applications for verification shall be filed in the format as given in Form A annexed with these Rules and it shall be accompanied by such documents, certificates, declaration, fee, etc., as are mentioned in clauses (i), (ii) and (iv) of rule 8.4 and the same may be submitted as per rule 8.5.

**10. Delayed application with late fee.**—That all the applications for verification of “Certificate of Practice” filed after the time fixed by rule 8/rule 9.1 of these Rules shall not be received by the Office/Secretary unless it is accompanied by late fee in the sum of Rs. 100 (one hundred only) and such late applications would be entertained only for a period of six (6) months.

**11. Delayed application for verification with penalty clause.**—That all applications for verification of certificate of practice filed after the period fixed under rule 10 shall not be received and processed by the Office/Secretary unless it is accompanied by a penalty fee of Rs. 50 (rupees fifty only) per month reckoned from the last date on which such an application ought to have been made under rule 10 of these Rules but such late application with penalty clause attached thereto would be entertained only for a period of six (6) months.

**12. Incomplete and faulty applications.**—That in case, the applications so received, are found to be incomplete/faulty, the Office of State Bar Council shall intimate the concerned advocate of such shortcomings/ defects by issuing letter under registered Post and such applications shall be processed further by the Office on removal of such shortcomings/defects.

The time taken to remove such shortcomings/defects by the concerned applicant may be counted towards late fee payable by the concerned advocate at the rate of Rs. 100 per month unless it is waived by the Chairman/Vice-Chairman of the State Bar Council in case sufficient cause is shown for such delay.

**13. Order on the application for verification of Certificate of Practice.**—That every application for verification of certificate of practice and place of practice received shall be scrutinized by the Office within a period of one month from the date of its receipt and if found in order, it shall be placed along with the personal file of the applicant before the Administrative Committee, for passing the requisite order allowing or dismissing the application.

Such application is liable to be dismissed only in case it is found that the advocate has left law practice and that he/she has no *bona fide* intent and interest in continuing it in future also and such an advocate shall be treated as a non-practicing advocate under these Rules.

No adverse order can be passed under this rule unless a reasonable opportunity of being heard is afforded to the applicant.

**14. Objection Petition.**—14.1 An advocate or any person may file an objection petition before the State Bar Council seeking to add the name/ names of an advocate/advocates in the List of non-practicing Advocates on the ground that such an advocate has left law practice and that he/she has no *bona fide* intent and interest in continuing it in future also.

14.2 Rule A. I(1) and rule A. I(2) of Chapter I of Part VII of the Bar Council of India Rules relating to complaints under section 35 of the Advocates Act shall, *mutatis mutandis*, apply to these objection petitions

except that such objection petition shall be accompanied by a security amount of Rs. 1,000 and not such fee as is prescribed in the aforesaid Rules relating to complaints under section 35 of the Advocates Act.

14.3 That in case the State Bar Council finds that there is a *prima facie* case in favor of the applicant; it shall refer it for decision to its Administrative Committee.

14.4 That the "Administrative Committee" of the State Bar Council shall decide and dispose of such an objection petition along with application for issuance/verification of Certificate of Practice of the concerned advocate, if any. But if no such proceedings are pending, such objection petition shall be decided independently.

Such procedure as is applicable to complaints under section 35 of the Advocates Act shall apply, *mutatis mutandis*, to proceedings under this rule.

14.5 That in case the complaint is found to be vexatious, frivolous and mala fide, the security amount deposited with the objection petition shall be forfeited to the State Bar Council.

14.6 The "Administrative Committee" shall be required to decide the objection petitions within a period of 15 days from the date of objection.

*Explanation.*—An Advocate shall be deemed to be in practice, if he is able to establish that he has appeared in any Court of law or has filed *Vakalatnama* even in one case before any Court of Law/other forum in a year before these Rules came into force.

## CHAPTER V FOLLOW UP ACTION

**15. Follow up action of order passed under rule 13.**—15.1 That immediately after the application for verification of Certificate of Practice is allowed under rule 13 of these Rules; the Office of the State Bar Council shall prepare the verified Certificate in Form B in duplicate duly signed by the Chairman of the State Bar Council and in his absence by the Vice-Chairman of the State Bar Council or by such other member of the State Bar Council who is specifically authorized for the said purpose by the State Bar Council.

15.2 That one copy of such verified Certificate of Practice shall be dispatched to the advocate concerned under registered Post AD without any delay and the other copy shall be kept in the personal file of the advocate. The State Bar Council shall also make rules and issue an Identity card of such Advocates containing their photographs, which I-card shall be valid for a period of 5 years from the date of issuance and it shall be required to be produced at the time of voting election of State Bar Council or Bar Association.

15.3 That the State Bar Council shall maintain a separate Dispatch Register containing all the details as to the particulars of issuance/verification of the certificate of practice, original certificate of enrolment and full particulars of the advocate as to age, date of birth, address, e-mail id, etc.

This Register shall be maintained year wise in such manner as may be prescribed by the State Council.

15.4 Every State Bar Council shall send to the Bar Council of India an authenticated soft copy of the record maintained by it under rule 15.3 every year.

CHAPTER VI  
CONSEQUENCES OF ORDER U/R 13 AND OF FAILURE  
TO MAKE APPLICATIONS

**16. Consequence of dismissal of application under rule 13.**—In the event of dismissal of application under rule 13, such consequences as are laid down by rule 20.4 would follow.

**17. Consequences of failure to make application as stipulated by rules 7 to 11.**—That in case an advocate fails to make an application for verification of Certificate of Practice within such period/extended periods as provided for under rules 8 to 11 and in case he fails to remove the shortcomings/defects in his application despite intimation under rule 12 for a period of 6 months, it shall, *prima facie*, be presumed that the such an advocate has left law practice and that he/she has no *bona fide* intent and interest in continuing it in future also.

**18. Follow up action against advocates who fail to respond and fall within the ambit of rule 17 and publication of “list of defaulting advocates”.**—18.1 That the Office of the State Bar Council shall prepare a list of such defaulting advocate/advocates who has/have failed to apply for issuance/verification of Certificate of Practice within such period/extended period as provided for by these Rules or have failed to remove shortcomings/defects in their applications despite intimation within the stipulated period of 6 months.

This list may be titled as the “List of the Defaulting Advocates”.

18.2 All such advocates whose name/names have been included in the list of “defaulting advocates” shall be given due notice of the fact that their name/names stood included in the above list and further notice of this list shall also be given in the following manner:

(i) One copy of such List shall be displayed outside the Office of the Bar Council;

(ii) Copies of such list shall also be sent to such District/Tauka Bar Association/s to which such advocate/advocates belong as per the address last disclosed by him/her and also to the concerned High Court/ Supreme Court Bar Association;

(iii) A letter of intimation that his/her name stands included in such list shall also be sent to the defaulting advocate at the address last disclosed by him/her under registered Post.

(iv) This List shall also be published by the State Bar Council as per law.

**19. Late Applications after publication under rule 18.**—If an application for issuance/verification of Certificate of Practice is received by the State Bar Council within a period of 6 months of the publication of the aforesaid list of defaulting advocates under clause (iv) of rule 18, it shall be accompanied by such late fee and penalties as are specified by rules 10 to 12 of these Rules.

All such applications shall be processed by the Office as per the procedure laid down by rules 10 to 12 and thereafter order on such applications shall be obtained under rule 13 and such order shall be given effect to as per these Rules.

**20. Consequences of failure to respond and publication of “list of non-practicing Advocates”.**—20.1 That if no application for issuance/verification of Certificate of Practice is made under these Rules or if an application is filed but defects are not removed as per rule 17, it shall be presumed for the purposes of these Rules that such an advocate has left law practice and that he/she has no *bona fide* intent and interest in continuing it in future also.

20.2 That on the expiry of a period of 6 months of the publication of such “List of Defaulting Advocates”, the State Bar Council shall pass an order directing that the name/names of such advocate/advocates appearing “List of the Defaulting Advocates” be put in the list of “non-practicing Advocates”.

20.3 That due notice of the list of “non-practicing Advocates” shall be given to the followings:—

(i) One copy of such List shall be sent to the Bar Council of India and to all other State Bar Councils;

(ii) One copy of this list shall be sent to all the Courts situated within the territorial limits of the State Bar Council and also to the concerned High Court. Once copy shall be sent to Supreme Court of India also;

(iii) Copies of such list shall also be sent to such District Bar Association/s to which such advocate/advocates belong as per the address last disclosed by him/her and also to the concerned High Court/Supreme Court Bar Association;

20.4 The List of non-practicing Advocates and name/names of advocates whose application for issuance/ verification of Certificate of Practice stands dismissed under rule 13 shall also be published by the State Bar Council as per law after such list/name/names is/are approved by the Bar Council of India.

List of such non-practicing Advocates is to be furnished by the concerned State Bar Council to Registrar of Supreme Court of India, Registrar of all the High Courts, Subordinate Courts of the States, Bar Association of Supreme Court of India and Bar Associations of all the High Courts and Subordinate Courts.

**21. Non-practicing Advocates as included in the list of “non-practicing Advocates” not entitled to practice law and to other privileges and rights.**—21.1 From the date of publication of the aforesaid list of non-practicing Advocates, all such advocate/s whose name/names has/have been included in the aforesaid list, shall not be entitled to appear in any Court of Law, before any Tribunal or person legally authorized to take evidence and before any other authority or person before whom such advocate is by or under any law for the time being in force entitled to practice, notwithstanding the fact that name/names of such advocates is/are entered in the State Roll and that he is holding certificate of enrolment under section 22 of the Advocates Act.

Further, name/s of such advocate/s shall not be included in the electoral roll for the purposes of elections to the State Bar Councils. Such an advocate/s shall cease to be a member of any Bar Association and further he/she shall not be entitled to cast vote/s in any elections of the Bar Associations.

The status and rights of such advocate/s “as advocate/s entitled to participate and receive benefits” under Welfare Schemes of Bar Council of

India created under rules 40 to 44-B of section IV-A of Chapter II contained in Part VI of the Bar Council of India Rules and other schemes floated by the State Bar Council shall come to an end w.e.f. the date of publication of the List/name/names of non-practicing Advocates under rule 20.4 with the exception that such an advocate would be entitled to receive such benefits under the relevant scheme/s, if any, which have already accrued in his/her favour.

## CHAPTER VII

### UPDATING OF THE RECORD OF PRACTICING AND NON-PRACTISING ADVOCATES

#### **22. Record with respect to practicing and non-practicing Advocates.—**

22.1 That on culmination of the initial process of identification of non-practicing Advocates in the aforesaid manner in the publication of the List of such advocates under rule 20.4, the State Bar Council shall create and maintain a separate record of such Advocates with all particulars as to name, address, date of birth, date of enrolment, enrolment number, particulars of application for issuance/verification of Certificate of Practice, if any, and of its dismissal. This record shall be updated regularly.

22.2 Every State Bar Council shall send to the Bar Council of India an authenticated soft copy of the record as maintained under rule 22.1 every year.

22.3 All the Advocates whose certificate of Practice are duly verified shall be issued a certificate of Practice affixing his photograph and mentioning the period of its validity Form B; And the State Bar Council shall also issue an Identity card to such Advocates containing a Xerox copy of his photograph and the period of its validity Form D. The Advocates would be supposed to carry it while practicing in Courts/Tribunals or other Forums, so that in case of demand by any Law Court/Authority or any Advocate or any Litigant or citizen one can easily establish that he is an Advocate.

22.4 An Advocate after getting the verified Certificate of Practice under these Rules can appear before any Court of Law/Tribunal or other forum in India as per section 30 of the Advocates Act subject to fulfillment of any condition imposed by any competent or Court of Law.

**23. Updating of the electoral rolls of the State Bar Council for the purposes of elections.—**On the publication of list of non-practicing Advocates under rule 20.4 and after sending copy of such record to the Bar Council of India under rule 22.2, the State Bar Councils shall start the process of preparation of electoral roll for elections to the State Bar Councils as per Chapter I, Part III of the Bar Council of India Rules. No State Bar Council shall undertake to prepare electoral roll or to conduct elections to the State Bar Councils unless the process of verification of Certificate of Practice and of identification of non-practicing Advocates is completed under these Rules by publication of their names under rule 20.4:

Provided that the election/s of the State Bar Council/s where a special committee/committees under section 8-A of the Act is/are already functioning on the date of commencement of these Rules, shall continue under the existing rules as if these Rules have not been enforced. In such State Bar Councils, these Rules shall come into force only after the new State Bar Council is constituted on the declaration/publication of the results of the elections.

The State Bar Councils are required to constitute various Committees for implementation of these Rules. If any State Bar Council is proved to be deliberately slack unnecessarily in verification of Certificate of Practice and identification of non-practicing Advocates, then in that case Bar Council of India would be at Liberty to take appropriate action under the provisions of Advocates Act, 1961.

## CHAPTER VIII APPEAL, REVISION, ETC.

**24. Appellate Tribunal.**—24.1 There shall be an Appellate Tribunal for disposal of appeals under these Rules with respect to each State Bar Council and such Tribunal shall comprise of the following members:—

(i) Two Members of the State Bar Council elected by the State Bar Council under rule 44-A(2)(i) of Bar Council of India Rules under Part VI, Chapter II, section IV-A;

(ii) One member of the State Bar Council from amongst the members of the Executive Committee to be nominated by the Chairman of the State Bar Council and another member nominated by the Member, Bar Council of India from the concerned State Bar Council;

(iii) Member of the Bar Council of India from the concerned State Bar Council who shall be its Chairman;

24.2 That the quorum of the Appellate Tribunal shall be three members but no final order shall be passed unless the Chairman of the Appellate Tribunal is party thereto.

**25. Appeal against order passed under rule 13/rule 20.2.**—That in case the application of an Advocate for verification of Certificate of Practice is dismissed under rule 13 of these Rules/in case the name of an Advocate is ordered to be included in the list of “non-practicing Advocates” by the State Bar Council under rule 20.2, the aggrieved party may, within a period of 60 days of the date of passing of the order or publication of the list of non-practicing advocates under rule 20.4, prefer an appeal against such order to the Appellate Tribunal but delay in filing the appeal can be condoned, if sufficient cause is shown for such delay.

Every such appeal shall be accompanied by an attested copy of the impugned Order. The appeal shall not be received and entertained unless it is accompanied by a fee of Rs. 200 in the form of a Bank draft/Account Payee Bank Cheque favoring Secretary, State Bar Council of the concerned State Bar Council.

Out of this amount of Rs. 200, the Secretary, State Bar Council shall send/deposit remit a sum of Rs. 50 to the Account of the Bar Council of India and a sum of Rs. 50 shall be transferred to the fund known as “Fund for Promotion Bar Associations” under these Rules.

Every such appeal shall be heard by the Appellate Tribunal, which may pass such order there on as it deems fit. Appeal is to be decided expeditiously preferably within 90 days of its filing.

**26. Stay of operation of order passed under rule 13 and rule 19.2.**—Mere filing of an appeal against order passed under rules 13 and 20.2 shall not operate to stay the operation of order appealed against unless its operation is stayed by the Appellate Tribunal on such conditions as it may deem fit.

**27. Power of revision.**—27.1 The Bar Council of India may, at any time, call for the record of any proceeding under these Rules which has been disposed of by the State Bar Council or by the Appellate Tribunal, and from which no appeal lies, for the purpose of satisfying itself as to the legality and propriety of such order or disposal and may pass such orders in relation thereto as it may deem fit.

This revision shall be under Part II, Chapter IX of BCI Rules, *viz.*, section 48-A of the Advocates Act, 1961.

27.2 No order which prejudicially affects any Advocate shall be passed under this Rule unless an opportunity of being heard has been afforded to him.

## CHAPTER IX RESUMPTION OF PRACTICE

**28. Resumption of practice.**—28.1 If an advocate whose name has been included in the “list of non-practicing Advocates” published under rule 20.4, intends to resume law practice in the changed circumstances, he may apply to the State Bar Council that his/her name may be taken out of such list.

28.2 Application for resumption shall be made in Form C along with resumption fee of Rs. 2,000 and declaration.

Such an application shall be supported by a certificate in Column III of Form A issued by the President/Secretary of the Bar Association, of which the applicant intends to become member for doing practice in law.

28.3 The State Bar Council shall refer such an application for resumption to the Administrative Committee which may pass an appropriate order allowing or dismissing such application provided that such an application shall be allowed only if the Administrative Committee is satisfied that the intent of the applicant to resume law practice is *bona fide*.

28.4 In case application for resumption is allowed, the name of the applicant shall be taken out of the list of the “non-practicing Advocates” and such exclusion shall be duly notified and published as provided by rule 20.3 qua “list of non-practicing Advocates”.

28.5 That from the date of publication under rule 28.4, all disabilities suffered by the applicant under rule 21, shall not survive but he/she shall not be entitled for any benefits/privileges that were denied to him under rule 21 for the period his/her name remained in the “list of non-practicing Advocates”.

28.6 Out of Rs. 2,000, a sum of Rs. 1,000 shall be utilized by State Bar Council for the purpose of welfare of Advocates and Rs. 500 shall be transferred to the concerned Bar Association and Rs. 500 shall be utilized by Bar Council of India for the welfare of Advocates.

## CHAPTER X PROCESS FEE FUND

**29. The Verification/Process Fee Fund.**—The State Bar Council shall open a separate account for this purpose to be operated jointly by the Chairman and Secretary of the State Bar Council.

29.1 That all the payments towards application verification fee, late fee and penalties payable under these Rules shall be paid by way of bank drafts/

account payee bank cheques only in the name of Secretary State Bar Council or it may also be deposited in cash to the Secretary, State Bar Council or it may also be deposited in cash to the Secretary, State Bar Council.

29.2 That the all the amount collected under these Rules shall be utilized for the following purposes only:—

(a) To meet the administrative and other expenses arising in connection with these Rules;

(b) To make contributions to different Bar Associations for the following purposes only:—

(i) Establishing and improving Law libraries.

(ii) Improvement of infrastructure in the premises of the Bar Associations which is reserved for the common use of the advocates and to make such other contributions for promoting and strengthening the Bar Associations at the Taluka, District, High Court and Supreme Court levels as it may deem fit.

(iii) To promote welfare schemes for advocates. Such welfare schemes may include insurance of all kinds with respect to the advocates and their dependent members of the family; pension schemes, stipends for junior and disabled advocates, continued legal education/training of advocates.

## CHAPTER XI MISCELLENIOUS

**30. Removal of difficulties.**—In case of any doubt or dispute as to the meaning, interpretation, execution of these Rules arises, the Appellate Tribunal shall be the final authority to settle all such issues and its decision thereon shall be final.

**31. Regulatory powers.**—The Bar Council of India shall have the right of issuing such regulations to the State Bar Council from time to time, as are necessary for the proper implementation and execution of these Rules and such regulations shall be complied with by the State Bar Council in letter and spirit so that uniformity is maintained in the application of these Rules throughout the Country.

**32. Power of Bar Council of India to form *ad hoc* Committees.**—In case the term of elected members of any State Bar Council is likely to expire/expires due to delay in the process of identification of non-practicing Advocates under these Rules or in case of delay in the preparation of the electoral roll for the elections to the State Bar Councils, the Bar Council of India shall constitute an *ad hoc* Committee consisting of required number of elected members of the State Bar Council for smooth running of the State Bar Council and for expeditious execution of the aforesaid process. This *ad hoc* Committee of State Bar Council shall function under the Special Committee constituted under section 8-A of the Act till the process of preparation of electoral roll as per Chapter I, Part III of the Bar Council of India Rules for the purpose of elections to the State Bar Council is completed.

**33. Saving clause.**—The Bar Council of India Certificate of Practice and Renewal Rules, 2014 are hereby repealed. However, any certificate of the nature of Certificate of Practice as defined in those Rules and verification/renewal thereof (by whatever name/manner or form they may have been

issued/granted by the State Bar Councils) or under Bar Council of India Certificate of Practice Renewal Rules, 2014 and any other action taken/order passed by the State Bar Council in connection with any such Rule, before the enforcement of these Rules, shall continue to be valid for a period of five years from the date of its issuance/renewal, but on the expiry of period of five years, such certificate issued by the State Bar Council is required to be verified under these Rules.

**34. Repeal of all Resolutions/Rules passed/framed either by any State Bar Council or by Bar Council of India.**—Any Resolutions/Rules passed/framed by any State Bar Council or by Bar Council of India, which are inconsistent with these Rules, shall stand repealed from the date on which these Rules come into force.

**35.** The decision with regard to Rs. 500 or Rs. 200 (as the case may be) as paid by any Advocate as Practice fee as provided under Bar Council of India Certificate of Practice and Renewal Rules, 2014, prior to the date of commencement of these Rules of 2015, shall be taken by the concerned State Bar Council. Either after deducting Rs. 100 as Process/Verification fee the rest of Rs. 400 or Rs. 100 (as the case may be) is to be refunded to the Advocate or it may be utilized for the insurance of the Advocate and his family or for the benefit and welfare of concerned Advocate. This decision is to be taken by the concerned State Bar Council only after obtaining option of concerned Advocate.

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**NOTIFICATION\***  
**BAR COUNCIL OF INDIA**

New Delhi, the 22nd January, 2016

Extract of the minutes of meeting of the General Council of the Bar Council of India which was held on Sunday, 18th October, 2015.

Resolution No. 264 /2015

*Item No. 379/2015.*—Hon'ble Members Mr. Vijay Bhatt, Mr. Apurba Kumar Sharma, Mr. Dinesh Pathak, Mr. Bhoj Chander Thakur and Mr. Debi Prasad Dhal raised a question that the frequent meetings of the General House incur huge expenses and moreover the requisition meetings by the Members as per the Bar Council of India Rules should be rarest of the rare measure. The Rules Committee has also expressed its view that the rule with regard to a requisition meeting needs thorough change and there should be some criteria and reasons for any emergent meeting to be convened by the Hon'ble Chairman.

Accordingly, the Hon'ble Members have unanimously expressed their willingness to amend the Chapter I, Part II, Rule A of the Bar Council of India Rules. The Council accordingly resolved as follows:—

The minimum time gap between the two meetings of General House shall be of 60 days. The same shall be the gap between two meetings of Executive Committees. There shall be no such time limit for the meeting of Sub-Committees or other Committees. However, the Chairman of the Council, if he thinks it necessary or emergent, may convene the meeting of General Body or of any other Committee for the reasons to be recorded.

Amendment of the Rule for requisition meetings.—If any member or members want to requisition a meeting of General Body of the House, at least 15 Members (elected) and one *ex officio* members will have to give the requisition for such meeting in writing to the Chairman assigning the reasons and urgency for such meeting, and the Chairman shall convene the meeting on such requisition within a period of 30 days of the receipt of such requisition by him. If the Chairman fails to convene the meeting on such requisition, the Vice-Chairman shall convene it within a period of 15 days from the date of such refusal or failure (*i.e.*, total period of 45 days from the date of receipt of requisition by Chairman), And if, even the Vice-Chairman fails or refuses to convene the meeting, then the Senior most member may convene the meeting. The quorum for any requisition meeting shall be atleast 17 in which at least one ex-officio member shall required to be present, failing which it will not be a valid meeting. While for normal or emergent meetings of the General Body convened by the Chairman, the stands amended accordingly. The quorum will be 10 instead of 7. The quorum for the meetings of Executive Committee shall now be seven (7). The rule aforesaid stands amended accordingly.

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