
BAR COUNCIL OF INDIA RULES, 1975

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SCHEDULE 1 :- SCHEDULE 1

BAR COUNCIL OF INDIA RULES, 1975

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

PART 1

DEFINITIONS

1. 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 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 2

MATTERS RELATING TO THE BAR COUNCIL OF INDIA

CHAPTER 1

CHAPTER 1

1. 1 :-

No person shall be eligible for being elected as a member of the Council under Section 4(1C) of the Act, unless he is a person who has been an advocate on a State Roll for atleast ten years 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 Council's Act, 1926 .

2. 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(1C) 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. 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. 4 :-

A person elected as a member of the Council under Section 4(1C) 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) of the Act,

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

5. 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 Rule 4(b) shall be held within 30 days from the date of the vacancy.

6. 6 :-

(a) If the State Council does not take steps in time for the holding of the election as referred it in these Rules, and

(b) in the case of a vacancy of the member of the Council arising under Section 10B 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. 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. Bar Council of India, Rule 7 not ultra vires.- Rule 7 of the Bar Council of India rules cannot be held to be beyond the rule-making power of the Bar Council of India. Rule 7 has been framed by the Bar Council of India in exercise of the delegated legislative power conferred on it by Section 49 of the Advocates Act. Nothing has been brought to their Lordship notice making it incumbent to invite objections, before the exercise of a legislative power. In the absence of any statutory requirement in this behalf the mere fact that no objections were invited before framing Rule 7 by the Bar Council of India it cannot be said that the said rule is arbitrary. ¹

1. Indra Bahadur Singh v. Bar Council of U.P., Allahabad, A.I.R. 1986 All. 56 at p. 61; see also P.S. Mudholkar v. Bar Council of India, 1979 Mah. L.J. 415 at p. 419.

8. 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

(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, 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. 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. 10 :-

- (1) The Council may reject any petition received under Rule 9, if in its opinion, there is no prima fade case.
- (2) If the Council is of the opinion that there is a prima fade 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 haw 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 Councils.
- (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.

11. 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 State Council for which he was elected under Section 8 of the Act, and fresh elections thereto shall be held for the residue of the term of the said office.

12. 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.
 - (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.

(2) The Chairman or the Vice-Chairman shall hold office for a period of 2 years, or until his term of office in the State Council in which he was elected under Section 4(1C) 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.

13. 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. 14 :-

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

15. 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. 16 :-

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

17. 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 the agenda for the meetings of the Council.

18. 18 :-

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

19. 19 :-

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

20. 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. 21 :-

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

CHAPTER 2

Meeting of Council and its Committees other than those of the Disciplinary Committee

1. 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. 2 :-

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

3. 3 :-

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

4. 4 :-

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

5. 5 :-

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

6. 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. taker shall be forth with 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. 7 :-

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

8. 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. 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. 10 :-

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

11. 11 :-

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

12. 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 3

Constitution, functions and procedure of Committees of the Bar Council of India

1. 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. 2 :-

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

3. 3 :-

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

4. 4 :-

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

5. Executive Committee :-

(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.

(3) The Committee shall elect its own Chariman 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 in 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;

(1) to fix travelling and other allowances to members of the Committees or the Council, and to members of the staff;

(m) to delegate to the Chairman and/or the Vice-Chairman any of aforementioned powers;

(n) to do all other things necessary for discharging the aforesaid functions.

6. Legal Education Committee :-

(1) The procedure for the election of the Members of the Legal Education Committee shall be by secret ballot, and accordance with the rules, in so far as they are applicable, laid down in rule : 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 the 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. 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. 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(1C)(3) of the Act; and
- (ii) to recommend the discontinuance of any recognition already made by the Council.

9. Disciplinary Committee :-

- (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, 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.

10. 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 Bar Councils Act, 1926 .

11. Election of representatives :-

The procedure for electing its representative to Press Council Act, 1965, or for electing any other representative or representatives by or from amongst its 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.

CHAPTER 4

Qualifications and Conditions of Service of the Secretary, Accountant and other Members of the Staff

1. Secretary :-

The Secretary shall-

- (a) be a citizen of India,
- (b) be a law graduate or barrister-at-law,
- (c) have been either-
 - (i) Registrar of the Supreme Court or of a High Court in India, or
 - (ii) an Advocate with 10 year's practice at the Bar, or
 - (iii) Secretary of a Bar Council for at least 10 years, or
 - (iv) District Judge having five years experience as a 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 recognized by the Council with 10 years standing and having seven years experience at the Bar. and
- (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.

2. 2 :-

The Secretary shall draw a salary in the grade of Rs. 1800-100-2000-E.B.-125/2- 2500-E.B.-125/2-2750. He shall be paid such allowances as the Council may determine from time to time.

3. 3 :-

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 the Disciplinary Committee, 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.

4. 4 :-

The Secretary shall retire on attaining the age of 60 years provided that the Council may extend his term by a period not exceeding 2 years at a time, but not exceeding 5 years in the aggregate.

5. 5 :-

Additional, joint, assistant secretaries.- The Council may also appoint one or more Additional, Joint, or Assistant Secretaries on such scales of pay and allowances as may be fixed by it.

6. 6 :-

The Additional, Joint or Assistant Secretary shall, save as otherwise directed by the Council or the Executive Committee perform such work or discharge such functions as may be entrusted to them by the Secretary.

7. 7 :-

The Additional, Joint or Assistant Secretary shall retire on attaining the age of 60 years provided that the Council may extend the term by a period not exceeding two years if it thinks fit.

8. Accountant :-

The qualifications of the Accountant shall be:-

- (a) M. Com. of any University in India or its equivalent or a Chartered Accountant,
- (b) experience as Accountant preferably in a limited company or reputed commercial concern for not less than 5 years,
- (c) ordinarily not less than 30 years of age, at the time of appointment: 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 Assistant Accountant or otherwise and is considered fit 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; Provided further the "Accountant" shall mean and include the Accounts Officer wherever it occurs.

9. 9 :-

The Accountant shall draw a salary in the grade of Rs. 650-30-740-35-880-40-1200 with effect from 1st April, 1977.

10. 10 :-

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.

11. 11 :-

The Accountant shall retire on attaining the age of 60 years provided that the Council may extend his term by a period not exceeding two years if it thinks fit.

12. 12 :-

The Accountant and other permanent members of the staff shall be entitled to Dearness Allowance, House Rent Allowance and City Compensatory Allowance from 1st January, 1973, at the rate as is paid to the staff of the Supreme Court of India.

13. 13 :-

All the permanent employees of the Council shall be entitled to the benefit of Provident Fund and Gratuity in accordance with such rules as may be framed in that behalf by the Executive Committee.

14. 14 :-

All the employees of the Council shall be subject to such conditions of service as to leave and such other matters as may be resolved in this behalf by the Executive Committee of the Council.

CHAPTER 5

Rules relating to Finance

1. 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. 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. 3 :-

Receipt forms shall be numbered consecutively and bound into books of 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 duplicate. The first part shall remain in the book and the second part shall be given to the payer. All receipts shall be signed by the Secretary or by such person as the Council may direct.

4. 4 :-

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

5. 5 :-

Bill 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. 6 :-

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

7. 7 :-

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

8. 8 :-

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

9. 9 :-

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

10. 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.

11. 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. 2000 a month for the purpose of the Council.

12. 12 :-

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

13. 13 :-

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

14. 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. 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 Trusts Act, 1882, as the Council may decide;

(iii) in Fixed Deposit with Government Companies as defined in the Company's Act, 1956.

16. 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. 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 of the Council, 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 upon by the Secretary of the Council.

18. 18 :-

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

19. 19 :-

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

CHAPTER 6

CH-6

1. 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. 2 :-

Information infer aha, 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 26A of the Act and orders on matters dealt with under Section 48A and Section 48B 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.

(iv) Decisions of the Council relating to recognition of degrees referred to in Section 24(1C)(3) or Section 24(1C)(4) of the Act.

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

3. 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 Section 36 , Section 36B am Section 37 of the Act.

4. 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. I after deleting the names 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. 5 :-

Whenever any disciplinary action is taken of 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 a the said State Bar Council may deem fit.

6. 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 present tation 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 7

Proceedings for removal of name from roll under proviso to Sec. 26 (1) of the Act

1. 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. 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 as it may deem fit. The State Council or the Committee, as the case may be, shall follow the procedure mentioned in rule 1.

CHAPTER 8

Additional qualification for Enrolment as Advocates

CHAPTER 9

Revision under Sec. 48-A of the Act

1. 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. 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 in a 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. 3 :-

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

4. 4 :-

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

5. 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. 6 :-

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

CHAPTER 10

Application for review under Sec. 48-AA of the Act

1. 1 :-

(1) An application for Review made under Section 48AA 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 along with the application.

(3) If the applications 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. 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 11

Orders of the Bar Council of India

1. 1 :-

Every decision of the Council under the Proviso to Section 26(1) or under Section 48A 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 of the Secretary on behalf of the Council.

2. 2 :-

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

PART 3

CERTAIN MATTERS RELATING TO STATE COUNCIL

CHAPTER 1

Electoral Roll, disqualification of membership and vacation of office

1. 1 :-

Every advocate whose name is on the Electoral Roll of the State Council shall be entitled to vote at an election.

2. 2 :-

The name of an advocate appearing in the State Roll shall not be on the Electoral Roll, if on information furnished by the advocate concerned in terms of rule 4 information received or obtained by the State Bar Council concerned 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.

3. 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. 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 news papers one English and the other of 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 with in 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 (rule 2 has to be quoted in the notice). By the said notice the Secretary shall also inform the advocates concerned that unless informations required by the said notice in question is received by the State Bar Council in the prescribed form or forms exactly similar thereto, within the specified time or within the extended time as stated herein above, his name shall not be included in the Electoral Roll and he shall not be entitled to take part in the election in question.

(2) The Secretary of the State Bar Council shall also send a similar notice along with a prescribed form to all advocates on the roll of the State Bar Council concerned at their respective addresses as maintained by the State Bar Council in ordinary post with certificate of posting, asking the advocate concerned to furnish all the informations mentioned in the said notice and in the form attached therewith or in a form exactly similar thereto either typed, printed or cyclostyled, within the time specified in the notice. Unless such informations is furnished within the time specified the name of the advocate concerned shall not be included in the electoral roll and he shall not be entitled to take part in the election in question.

(3) Before final publication of Electoral Roll, a State Bar Council may, if satisfied, on an application made by any particular advocate giving sufficient reasons for not being able to furnish the informations sought in terms of this Rule, allow the name of the advocate who has made such application to be included in the Electoral Roll in question, and on such inclusion advocate concerned shall be entitled to take part in the election in question. Any accidental omission to send this personal notice to any advocate or advocates shall not invalidate the election.

Statutory Act Provisions empowers Bar Council to prepare Electoral Roll.- Even the provisions of rule 2 of the Bar Council of India Rules give power to the concerned Bar Council to prepare an electoral roll after following the procedure laid down in rule 4. The argument raised by the learned counsel for the petitioner that all the Advocates whose names are entered in the State Roll should be allowed to vote at the ensuing general election is against the scheme of the Advocates Act, 1961 Act and the Rules inasmuch as under the Act and the Rules framed by the Bar Council of India, two rolls have to be maintained, i.e. State Roll and Electoral Roll. Only those Advocates whose name appears in the Electoral Roll are entitled to vote and contest in the election. The preparation of the Electoral Roll in accordance with Rule 4(1) and Rule 4(2) of the Bar Council of India Rules is perfectly valid and the Advocates who have not sent information in prescribed form have been rightly excluded from the Electoral Roll. ¹

1. High Court Bar Association, Allahabad v. Bar Council of U.P., Allahabad, 1987 All. L.J. 1519 at p. 1525.

5. 5 :-

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 this rule shall not apply to the State Bar Council the term of office of which has expired prior to the commencement of these rules. Provided further that the Bar Councils whose term of office has 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.

6. 6 :-

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 Associations aforesaid).

7. Revision of Electoral Roll :-

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 upto 75 clear days before the date of the election.

8. Particulars to be maintained in the Electoral Roll :-

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 advocate.

9. 9 :-

Disqualification for being a candidate in the election.- 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.

10. 10 :-

Application of these rules: These rules shall govern the 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.

11. 11 :-

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.

12. 12 :-

No Elections 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 insofar 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 Rule 2 and Rule 3 of Chapter I, Part III of the Rules framed by the Bar Council of India under Section 3(4), Rule 10B, Rule 15(2)(a), Rule 49(1)(a) and rule 23(ab) of the Advocates Act, 1961, for the next election of Members to this Council, the following particulars are required regarding every advocate whose name is on the State Roll of this Council and as such he/she is required to furnish the particulars on or before -19- as enumerated in the proforma noted below. The advocate concerned is specifically to note that unless he/she furnishes the particulars notice below, his/her name shall not be included in the Electoral Roll. Dated, the 19- Secretary. Number on the State Roll: 1. Name of the Advocate as on the Roll: (In block letters) 2. (a) Address of the Advocate: (as on the State Roll) (b) Present address: 3. (a) 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

CHAPTER 2

Rules to secure at least a minimum number of advocates of 10 years standing

1. 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. 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. 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. 4 :-

In the case of an election by a State Council for electing all the members specified in Section 3(2B) 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 been not on the State Roll for at least 10 years shall be elected under Section 3(2B) 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(2B) 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(2B) of the Act and these rules shall be excluded from the poll as provided in Rule 4B 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-clause (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 is:-

(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;

(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 candidates having got the above quota in that count are declared, and their votes transferred as provided for in these Rules.

(c)

(1) When at end of any count the number of continuing candidates is reduced to the number of seats remaining unfilled, the continuing candidates 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 the State Roll for at least 10 years shall be declared elected and the other candidates shall be excluded.

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

(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 atleast 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 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.

(6) For the purpose of computing the minimum period of 10 years provided for in the proviso to Section 3(2B) 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 on the roll of any High Court or High Courts under 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.

Section 7H and Section 24(i) and Section 49(1) of the Advocates Act, 1961, and all other powers enabling it so to do; made the following rules.

PART 4

STANDARDS OF LEGAL EDUCATION AND RECOGNITION OF DEGREES IN LAW FOR ADMISSION AS ADVOCATE

1. 1 :-

There shall be a five years course of law after 10+2 or 11+1 comprising of two Parts viz. Part I which will be a two-year core programme of pre-law study and Part II which will be a three-year programme for professional training in law.

2. 2 :-

(1) Save as provided in rules Rule 7, Rule 23, Rule 24 and Rule 25 of the rules hereunder, a degree in law obtained from any university in the territory of India shall not be recognised for purposes for enrolment as advocate under the Advocates Act, 1961 from June 1, 1982, unless the following conditions are fulfilled :

(a) That at the time of joining the course of instruction in law for a degree in law, the person concerned has passed an examination in 10+2 course of schooling recognised by the educational authority of the Central or the State Governments or possesses such academic qualifications which are considered equivalent to 10+2 courses by the Bar Council of India;

(b) The law degree has been obtained after undergoing a regular course of study in a duly recognised law college under these rules for a minimum period of five years, out of which the first two years shall be devoted to study of pre-law courses as necessary qualification for admission to three year course of study in law to be commenced thereafter. The last six months of the three years of the law course shall include a regular course of practical training;

(c) That the course of study in law has been by regular attendance for the requisite number of lectures, tutorials, moot courts and practical training

(d) That the law degree has been obtained without undergoing any other course of instruction simultaneously during the period of five years of study in law.

3. 3 :-

(1) That the law education shall only be through wholetime Law Colleges or University Departments: Provided such of the Universities which cannot implement the new rules from June 1, 1982, may continue the old system under intimation to the Bar Council of India for a term not exceeding two years from 1982-83. After such intimation the said Universities shall comply with requirement of Rule 23; Provided further that the students who have been admitted to the 1st year LL.B. before 1st June, 1982, can continue to receive their education through part-time morning/evening colleges as the case may be.

(2) A college will be deemed to be wholetime college for the purpose of sub-rule 3(1) if the working time of the college or University department extends to at least thirty hours per week including contact and correspondence programme, tutorials, home assignments, library, clinical work, etc. with the further provision that the actual time for classroom lectures is not less than 20 hours per week.

4. 4 :-

The present three-year law course after graduation may continue upto 1986-87 but from the session 1987-88, all universities will be required to offer the five year law course. Students admitted to the three-year course during 1986-87 would be eligible to be enrolled as Advocates.

5. 5 :-

Admission of students to the course of instruction in law shall ordinarily be on the basis of merit. No student shall be admitted to the course of instruction in law unless he has inter alia, obtained 45 per cent marks in the aggregate in the qualifying examination for admission: Provided that in the case of students of Scheduled Castes and Scheduled Tribes a relaxation of marks upto 5 per cent in the qualifying examination may be given; Provided further that in case of physically/orthopaedically handicapped relaxation of marks upto 5 per cent in the qualifying examination may be given on production of a certificate of disability from the Medical Officer, to the satisfaction of the authority concerned. Explanation.- Physically handicapped means and includes the following categories of physically handicapped persons- (A) Blind-Blind is that who is suffering from either of the following conditions- (i) total absence of sight, and (ii) visual acuity in existing 6/16 or 20/200 (snellam) in better eye with correcting lenses. (B) Deaf/Mute- (i) Deaf are those in whom the sense of hearing is non-functional for ordinary purpose of life; (ii) mute are those who cannot speak. (C) Orthopaedically handicapped- 'Orthopaedically handicapped are those who have a major physical defect or deformity which causes an interference with normal functioning of bones, muscles and joints."

6. 6 :-

The students shall be required to put in a minimum attendance of 66 per cent of the lectures on each of the subject as also at tutorials, moot courts and practical training course:

Statutory Rules Rule is not arbitrary.- There was almost complete unanimity of opinion in the country that the legal education needs to be drastically altered and improved and that the piecemeal change introduced from time to time had not brought about any significant raising of standards and improvement in the quality of new entrants to the Bar. It is also categorically stated in the preamble that the rules were framed in discharge of the statutory obligation cast upon the Bar Council of India to promote the legal education and to lay down the standard of such education for the purpose of admission to the Bar and that the rules were formulated after the legal Education Committee of the Bar Council of India examined the problem in great depth in consultation with the Universities and State Bar Councils and after considering the implications and import of the proposals. It cannot be denied that fixing a particular percentage for admission to new course is an important step towards improvement of the standard of legal education. Considering the complexity of the legal system and ever expanding sweep of that the legislation in a welfare State having a democratic system and committed to social, economic and political justice, a student aspiring to having a legal career must have the basic equipment needed to acquire knowledge of humanities which deal with various facets of the complex modern human life. One of the methods of ensuring that only such students take up law course as having aptitude for it, is to lay down a minimum qualifying standard for admission. No profession can maintain high standard if it is allowed to be inundated by persons who reluctantly took up the law course because having failed to secure admissions to the course of their choice, they have nothing else to do. The prescribed minimum qualification, therefore, has a rational nexus to the purpose sought to be achieved. The percentage fixed is not in any manner arbitrary. It is reasonable and more so in view of the general pattern of percentage of marks generally obtained at the qualifying examinations' Provided that in exceptional cases for reasons to be recorded and communicated to the Bar Council of India, the Dean of the Faculty of Law and the Principals of the Law Colleges may condone attendance short of those required by the Rule, if the student had attended 66 per cent of the lectures in the aggregate for the semester or examination as the case may be.

7. 7 :-

Lateral entry will be permitted to Part II of the five-year law course at the discretion of the concerned university in respect of the following-

- (i) Candidates who have a post-graduate degree in Arts, Science or Commerce;
- (ii) Candidates who have done a three-year degree course (pass or honours) in arts, science or commerce with at least 50 per cent marks in the Bachelors's Degree examination or B grade in the 7 point scale;
- (iii) Candidates who have done a three-year degree course in any faculty other than those in 7 (ii) above or those who have done a bridge course of one

Provided that the relaxation of marks provided under Rule 5 shall also apply to the candidates seeking admission under Rule 7: Provided that the introduction of the five-year law course is a condition precedent for such lateral entry.

8. 8 :-

- (1) The Part I examination should be so conducted as to be called a university examination. A student

who has passed Part I of the law course shall be eligible for enrolment in the Final year of the three-year degree course in arts, social science, etc., to supplicate for the B.A. degree.

(2) Papers listed in Rule 12(1) of the Bar Council of India Rules (Part IV) for the two-year pre-law study under the scheme of five-year law course may be adopted by the universities with such modifications to make it possible for students to enter the B.A. programme after passing Part I with a view to supplicating for B.A. degree in one year. Modification of the listed papers must also keep in view the requirements of legal education for those who enter Part II of the course from other faculties. (The subject relating to legal language including legal writing may have to be shifted to Part II of the course).

9. 9 :-

The medium of instruction shall ordinarily be English. Where the medium of instruction is not English, or where pupil has in fact answered the papers for the law examination in a language other than English, he shall as a condition of his enrolment be required to pass a written test on 'Proficiency in English' to be conducted by a State Bar Council except when he has passed such a test as a part of his course of instruction in law. Explanation.-The test above mentioned shall require the standards of a holder of Bachelor's degree of a recognised university.

10. 10 :-

Individual universities may frame either own rules of admission to Part II in such a manner that post graduates as well as graduates may be able to get admission.

11. 11 :-

(1) A law college shall be located at a place where there is a District Court or a Circuit District Court or within such distance thereof as the Bar Council of India permits.

(2) The Principal of the College shall ordinarily be full-time teacher in the College.

(3) The strength of part-time teachers shall not be more than 50 per cent of the total strength of the teachers.

(4) The library of the college or University department shall remain open for at least 8 hours on every working day.

12. 12 :-

(1) The courses of instruction for the preparatory for law degree course shall include the following 7 compulsory subjects:

NOTE.-The Bar Council of India in consultation with experts formulated tentative outlines of the courses in the preparatory stage and recommends them to the Universities imparting professional education in law. The suggested course outline are attached to these rules as Appendices A to G.

(2) The courses of instruction for three years of the study in law shall include the following 12 compulsory subjects:

(3) Not less than 6 more subjects which may be chosen from the list hereunder and from amongst such other law subjects locally relevant as may be prescribed by the Universities at their option: 1. Equity 2. Company Law 3. Labour Law 4. Taxation 5. International Organisation 6. Bankruptcy 7. Law of Co-operation and Public Control of Business 8. Legislative Drafting 9. Military Law 10. Insurance 11. Trusts and other Fiduciary Obligation 12. Trade Marks, Copy Rights and Patents 13. International Economic Law 14. Criminology and Criminal Administration 15. Interpretation of Statutes and Principles of Legislation 16. Legal Remedies 17. Private International Law 18. Comparative Law 19. Law and Social Change 20. Law and Poverty 21. Law relating to Land Revenue, Land Reform and Rural Development 22. Law and Planning 23. Law relating to Local Self Government.

13. 13 :-

For each paper there shall be lecture classes for at least 3 hours and one hour of tutorial work per week.

14. 14 :-

The examination shall ordinarily be held at the end of every year. The University shall, however, be at liberty to hold examinations at the end of every 6 months. Suitable allocation of Subjects for the period of one year or six months as the case may be shall be made by the University and the same be intimated to the Bar Council of India.

15. 15 :-

Full-time teachers of law including the Principal of the college shall be holders of a master's degree in law and where the holders of Master's degree in law are not available, persons with teaching experience for a minimum period of 5 years in law may be considered. Part-time teachers other than one with LL.M Degree shall have a minimum practice of 5 years at the Bar.

16. 16 :-

University shall establish or recognise only those colleges which have whole time classes in law and have the requisite facilities and library as required by these rules.

17. 17 :-

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.

18. 18 :-

The salaries paid to the principal, full-time and part-time teachers shall be according to the scales recommended by the U.G.C. from time to time. Other benefits like D.A., C.L.A. (Compensatory local allowance). House Rent Allowance, Provident Fund, etc. shall be according to the norms prescribed by the University concerned from time to time.

19. 19 :-

A law college affiliated to a University shall by June 1, 1987, be an Independent Law College and shall cease to be a department attached to a College. Explanation.-Independent law college means a full-time college with a regular qualified full-time Principal and requisite staff and facilities as provided by these rules.

20. 20 :-

(1) No college started after the coming into force of these rules shall impart instruction in a course of study in law for enrolment as an advocate unless its affiliation has been approved by the Bar Council of India.

(2) An existing law college 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 by the Bar Council of India.

21. 21 :-

The Bar Council of India shall cause a law college affiliated or sought to be affiliated to a University to be inspected by a Committee to be appointed by it for the purpose, when-

(a) An application for approval of affiliation of a new college is received by it; or it suo moto decides in order to ensure that the standards of legal education laid down by it are being complied with;

(b) the application for approval of affiliation of new College shall be addressed to the Secretary, Bar Council of India, and shall be sent only through the Registrar of the University concerned with his recommendation;

(c) the College and/or the University concerned shall furnish all the information to the committee of inspection and the Bar Council of India as and when required, and shall co-operate with them in every possible manner in the conduct of inspection;

(d) the committee of inspection shall submit a detailed report to the Bar Council with a clear recommendation as to whether the affiliation of new college be approved/disapproved or that of an existing college be withdrawn/continued or that certain directions be given for improvements to be carried out within the period to be specified. The report shall incorporate the reasons for the recommendations;

(e) if an unfavourable report is received, the Secretary of the Bar Council of India shall cause a copy of the same to be sent to the Registrar of the University concerned for his 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;

(f) the Secretary of the Bar Council of India shall cause the Report and the comments/explanation of Registrar of the University concerned to be placed before the next meeting of the Legal Education Committee of the Bar Council of India;

(g) if the Legal Education Committee is satisfied that the standards of legal education and/or the rules

for affiliation or continuance of affiliation provided for in these rules by the Bar Council of India are not complied with and/or that the courses of study, teaching and/or examination are not such as to secure to persons undergoing legal education, the knowledge and training requisite for the competent practice of law, the legal education committee shall recommend to the Bar Council of India the approval/dis-approval of affiliation or continuance of affiliation as the case may be. The Legal Education Committee may also recommend that certain directions be given for improvements to be carried out within the period to be specified;

(h) this recommendation of the Legal Education Committee along with the accompanying papers shall be placed before the Bar Council of India for its decision. In case the Bar Council of India disagreed with or modifies the recommendation of the Legal Education Committee for its consideration before arriving at a final decision in the matter;

(i) if the Council is of the opinion that affiliation of a college be disapproved it shall give notice of the proposed action to the Principal of the College and Registrar of the University to show cause within 30 days of the receipt of the notice and the Council shall take into consideration the reply received before making final orders;

(j) the decision of the Bar Council of India shall be communicated to the Registrar of the University. It shall be effective from the commencement of the next academic year following the date on which it is received by the Registrar of the University.

22. 22 :-

(1) The Council shall publish by notification in the Gazette of India and in prominent newspapers in India, the names of Universities whose degrees in Law are recognised under these rules with a list of Law Colleges under the Universities which are eligible to impart professional Legal Education as provided for under these rules and send a copy of the notification above referred to, to all the Universities imparting Legal Education and State Bar Councils: Provided that for the purpose of sub-rule (i) above the existing University Law Departments and Law Colleges affiliated to universities shall be deemed to be professional law colleges under these rules unless otherwise decided by the Council.

(2) Information about the non-recognition or de-recognition of the degree in law of an University shall also be sent to all Universities in India imparting Legal Education and to all State Bar Councils.

23. 23 :-

(1) Those Universities and Colleges which are approved by the Bar Council of India as professional institutions under the new rules will commence professional legal education according to these rules from the academic year 1982-83. However, Universities wanting more time for changing over to the new Scheme may be allowed permission by the Council to run the existing three-year LL.B Course for a period not more than four academic years. If such permission is granted they may continue to admit graduates for the existing LL.B Course till and inclusive of the academic year 1986-87.

(2) Such Universities seeking time for the change-over must declare their intention to switch over to new Five Years Law Course under these rules latest by the academic year 1986-87 and send a report within a year from June 1, 1985 to the Bar Council of India on the steps adopted for the purpose.

24. 24 :-

(1) Students who have joined the First year of the graduate course (B.A. B.Sc., B.Com. etc.) in 1983-84 or earlier will be eligible to pursue legal education under the old rules. The LL.B. course under the old rules may admit such students till the beginning of the academic year 1986-87.

(2) Admission to the LL.B. Course under the old rules will, however, be totally discontinued in such institutions imparting professional legal education after the academic year 1987-88: Provided that such Universities may conduct examinations in 1st, 2nd or 3rd year LL.B. Courses to clear off the incumbents admitted to the old course before 1987-88, till such time the Universities may deem fit.

25. 25 :-

(1) If Universities located in States where the 10+2 school system is not yet in vogue propose to start the LL.B Course under the new rules they will be free to do so.

(2) Universities in such States will also be allowed to continue with the existing LL.B. Course under the old rules until and inclusive of the academic year 1986-87.

26. 26 :-

The Bar Council of India may issue directives from time to time, for maintenance of the standard of Legal Education. The College/University is expected to follow them as compulsory.

PART 5

STATE ROLL AND SENIORITY

CHAPTER 1

Preparation and maintenance of the State Roll

1. 1 :-

(1) The Council may, from time to time, give directions as to the manner in which the State Councils 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 Forms '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. 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 26A of the Act, punishments imposed by an order under Chapter V, particulars as to the result of appeals under and relevant decisions of the courts, and such other matters which the Council may specifically direct, shall be noted in the said Rolls.

3. 3 :-

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

4. 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. 5 :-

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

CHAPTER 2

Prevention of entry in more than one roll

1. 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. 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 3

Transfer of name from one State Roll to another State Roll

1. 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 considered that the application shall be refused, the matter should be referred to the Council for orders.

2. 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-I 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.

(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 Councils concerned.

CHAPTER 4

Seniority in the State Rolls

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(1A) shall :

(a) in the case of persons whose names were entered in the rolls under Sec. 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 58A .- 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 58A .

(c) in the case of persons admitted as advocates under Section 58AA 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 Bar Councils Act, 1926 . Proviso to (a), (b), (c) and (d).- 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 shall be taken as the date for entry for purpose of seniority in the rolls under Section 17(1A) of the Advocates Act, 1961.

(2) In the case of the persons referred to in Section 58AE of the Act, be the date when they were first entitled to practise the profession of law as provided for in Section 58AE .

(3) In the case of the persons referred to in Section 58AF of the Act, the date on which they are deemed to be advocates.

3. 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 date as may be determined by the Council.

4. 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 5

1. 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. 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) The Secretary, The Bar Council of India, AB/21, Lal Bahadur Shastri Marg, (Facing Supreme Court Bldg), New Delhi-110001. 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. 1st December, 1961. 2A. I was enrolled on..... as an Advocate of the Supreme Court of India 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(1A) 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 My Roll Number as Senior Advocate is. I have not expressed to any State Bar Council my intention to practise under Section 17(1A) 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 practice 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 the facts set out in this form are correct. (Signature) Date..... Place..... Address.

PART 6

RULES GOVERNING ADVOCATES

CHAPTER 1

Restrictions on Senior Advocates

1. 1 :-

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 along with 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 concessions 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 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 2

Standards of Professional Conduct and Etiquette

1. Duty to the Court :-

Section -

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 served 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 judgement 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, appear, 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, grand-father, 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.

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 person 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 in a matter affecting the affairs of a Bar Council, Incorporated Law Society, or a Bar Association.

9. An Advocate should not act or plead in any matter in which he is himself pecuniarily interested.

Illustration ; 1. 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 a 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.

2. 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 professes 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 judgement 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 in 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 Evidence Act, 1872 .

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 or 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.

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 any thing 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 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 proceedings, 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 converted 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 of a breach of this rule, if, in the course of 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 proceedings.

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.

3. 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.

4. Duty to colleagues :-

36. An Advocate shall not solicit work or advertise, either directly or indirectly, whether by circulars, advertisements, touts, personal communications, interview not warranted by personal relations, furnishing or inspiring newspaper comments or producing his photograph to be published in connection with cases in which he has been engaged or concerned. His sign-board or name-plate should be of a reasonable size. The sign-board or name-plate or stationery should not indicate that he is or has been President or Member of a Bar Council or of any Association or that he has been associated with any person 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. Scope of the rule explained.- In order to be amenable to disciplinary jurisdiction, the Advocates must have (1) solicited work (2) from a particular person (3) with respect to a case. Unless all the three elements are satisfied, it cannot be said that an Advocate has acted beyond the standard of professional conduct and etiquette. It has been stated that the conduct of the Advocate concerned did not conform to the highest standards of the legal profession. It is not that everybody must conform to the highest standards of the legal profession. It is enough if an Advocate conforms to the standards of professional conduct and etiquette as referred to in the rules.¹

37. An Advocate shall not permit his professional services or his name to be used in aid of or to make possible, the unauthorised practise of law by any law agency.

38. All 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 or appearance Filed by an Advocate engaged for a party except with his consent; in case such consent is not produced he shall apply to the Court stating reasons why the said consent could not be produced and he shall appear only after obtaining the permission of the Court.

1. Bar Council of Maharashtra v. M.V. Dabholkar (1976) 2 S.C.R. 48 at p. 56

4A. 4A :-

40. Every advocate borne on the rolls of the State Bar Council shall pay to the State Bar Council a sum of Rs. 30/- every third year commencing from 1st April, 1984 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 1st April, 1984 or such extended time as notified by the Bar Council of India: Provided, however, that an advocate shall be at liberty to pay the said amount in equal yearly instalments of RS.10/-, the first instalment to be payable on or before 1st April, 1984. Provided further that the amount already received for this purpose from an advocate shall be adjusted against the amount due from him as on 1st April, 1984.

41. All sums so collected by the State Bar Council in accordance with Rule 40 shall be remitted to the Bar Council of India by the end of every month which shall be credited by the Bar Council of India in a separate fund to be known as "Advocates Welfare Fund" to be utilised for the welfare of the Advocates.

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 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 along with 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 24A of the Advocates Act 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 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. "The Revised Rules come into force with effect from 1st April 1984 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 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. FORM UNDER Rule 40
The Bar Council..... Dear Sirs, (1) I am enclosing herewith a Postal Order/Bank Draft/Cash for Rs.30/- 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..... any Bar Association. (5) My present address is..... Bar Association/not a member of Dated: Place: Signature Name in block letters Enrolment No..... Received a sum of Rs. 30/- 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

5. 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.

6. 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.

7. Restriction 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 provide 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, govern- ment, firm, corporation or concern, so long as he continues to practise and shall, on taking up any such 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. Nothing in this rule shall apply to a Law Officer of the Central Government or the Government of a State or of any Public Corporation or body constituted by statute who is entitled to be enrolled under the rules of his State Bar Council made under Section 28(2D) read with Section 24(1E) of the Act despite his being a full time salaried employee. Law Officer for the purpose of this Rule means a person who is so designated by the terms of his appointment and who, by the said terms, is required to act and/or plead in Courts on behalf of his employee.

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 examinations, 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. Scope of the rule explained.- Rule 51 of the Bar Council of India Rules enacts a prohibition. It is a principle of professional ethics now embodied in a statutory rule. The violation of the rule makes the legal practitioner guilty of professional misconduct. This is all. But it does not prohibit a dismissed Government servant who has obtained so labouriously a declaration in his favour from claiming his just dues of salary and arrears of pay. Professions have a code of ethics. The members must conform to the ethical standards of the profession. Rule 51 requires conformity. Law is a monopolistic profession. ¹

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. The rule shall be subject to such directives if any as may be issued by the Bar Council in India from time to time.

1. Union of India v. Sh. Kewal Krishna Mittal (1984), 25 D.L.T. 24 at pp.31,32,33

CHAPTER 3

(Conditions for right to practice)

1. 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 practises.

2. 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. 3 :-

Every Advocate shall keep informed the Bar Council on the roll of which his name stands, of every change of his address.

4. 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. 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 24A , 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. 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 practise the profession of law either before the Courts 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.

7. 7 :-

An Officer shall not, for a period of two years after retirement or otherwise ceasing to be in service practice in the area to which his jurisdiction extended at the time of his retirement or otherwise ceased to be in service: Provided that nothing in these Rules shall prevent any such person from practising in any Court or tribunal or authority of superior jurisdiction to one in which he held office. Explanation : 'Officer' shall include, a Judicial Officer, Additional Judge of the High Court and Presiding Officer or Member of the Tribunal or authority or such other Officer or authority as referred to in Section 30 of the Act. 'area' shall mean area in which the person concerned was exercising jurisdiction.

8. 8 :-

No Advocate shall be entitled to practise if in the opinion of the Council he is suffering from such contagious disease as makes his practice of law a hazard to the health of others. This disqualification shall as far as such period as the Council directs from time to time.

CHAPTER 4

Form of Dresses or Robes to be worn by Advocates

1. Advocates other than lady Advocates :-

- (a) a black buttoned up coat, chapkan, achkan, black sherwam and white bands with Advocates' Gowns, or
- (b) a black open breast coat, white shirt, white collar, stiff or soft, and white bands with Advocates' Gowns.

In either case long trousers (white, black striped or grey) or Dhoti.

2. Lady Advocates :-

- (a) Black and full or half sleeve jacket or blouse, white collar, stiff or soft, with white bands with Advocates' Gowns ;
- (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): Provided that the wearing of Advocates' gown shall be optional except when appearing in the Supreme Court or in a High Court. Provided further that in Courts other than the Supreme Court, High Court District Court, Sessions Court or City Civil Court a black tie may be worn instead of bands.

PART 7

DISCIPLINARY PROCEEDINGS AND REVIEW

CHAPTER 1

Complaints against Advocates and Procedure to be followed by Disciplinary Committees of the State Bar Council and the Bar

1. 1 :-

(1) Complaint against an Advocate shall be in the form of a petition duly signed and verified as required under the Code of Civil Procedure. If the complaint is not in English, a translation thereof in English shall be filed along with the same. Every complaint shall be accompanied by the fees as prescribed in the rule 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 moto 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. 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 time to be fixed by it, further and better particulars and may also call for the comments from the Advocates complained against.

3. 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. 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 complaint 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. 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 OR.5 of the Limitation Act, 1963 of the Civil Procedure Code,.

(3) Notices 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. 6 :-

(1) The parties can appear in person or by an Advocate who should file a vakalat- nama 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. 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. 8 :-

(1) The Disciplinary Committee shall hear the Attorney General or the Solicitor General of India or the Advocate General, as the case may be or their Advocate, and parties or their Advocate, 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 :

(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. 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. 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 for hearing and despatch and service of the notices on the parties or the Advocates or the Attorney General, or the 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. 11 :-

(1) If in an 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. 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. 13 :-

The Council may from time to time issue instructions on any of the matter provided for in these rules.

14. 14 :-

(1) The finding of the majority of the members of the Disciplinary Committee shall be the finding of the Committee. The reasons given in support of the Finding may be given in the form of a judgement, 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 judgement 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 of 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. 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 prescribed fee.

16. 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. 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 36B 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 36B 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.

18. 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 along with 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.

19. 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. 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) Any appeal may be admitted after the period of limitation if the appellant satisfies the Disciplinary Committee that he had sufficient cause for not preferring the appeal within such period. Any such application for condonation of delay shall be supported by an affidavit.

21. 21 :-

(1) The memorandum of appeal referred to in rule 19 (1) of this Chapter shall contain necessary particulars as in the Form No. G. The memorandum of appeal shall state when the order was communicated to the appellant, and how it is in time.

(2) Along with 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. 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. 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. 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. 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 along with the notice of the appeal.

26. 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. 27 :-

In regard to appearance of a party in appeal, Rule 6 of this Chapter will apply.

28. 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 such other directions as may be issued.

29. 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(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 5 copies of the application, and the affidavit and as many additional copies thereof as there are respondents. Where the application is not in English 5 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. 30 :-

After allotment of a case under rule 22 in this Chapter to a Disciplinary Committee, the Registrar may obtain its orders on any matter of an emergent nature arising therein, by circulation.

30A. 30A :-

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. 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.

32. 32 :-

The Rules in this Chapter so far as may be, shall apply to all proceedings of the Disciplinary Committee of State Bar Councils or of the Bar Council of India.

Proceedings to be in camera

33. 33 :-

All the proceedings before the Disciplinary Committee shall be held in camera.

Inspection of Records and Copies

34. 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 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 judgement 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. 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 or the Council as the case may be.

(3) The Decretal Order aforesaid shall be furnished to any party to the proceeding on application made therefor, and on payment of the charges prescribed under the rules.

Copies of Final Orders

36. 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 the proceedings, a certified copy of the final order made under Section 35 , Section 36 , Section 36B or Section 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 to be payable for all additional copies of the said order applied for. Rule 5 in Chapter I, Part VII) Notice of hearing of Complaint under Section 35 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.....19..... Complainant/s (With Address) Vs. Respondent/s (With Address) WHEREAS a complaint dated..... 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 of the Advocates Act, 1961 and the Disciplinary Committee has fixed.....(time) on.....(date) for the hearing 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 above-named 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 witness may be permitted before the Disciplinary Committee. If, on any date adopting any party is absent, the hearing will proceed ex parte against him.is required copies ofto the Registrar, Disciplinary Committee Bar co.,.....on or before.....Dated this the.....day of the month.....19..... By Order Registrar, Disciplinary Committee, Bar Council of-..... Rule 5 in Chapter I, Part VII of the Rules of the Bar Council of India) (Subject to necessary modifications) DCL/D/ 19) Dated..... In the Matter of No. / on the file of the Disciplinary Committee of the Bar Council of (B.C.I. Tr. Case No. /19)Complainant (s) Vs.Respondent (s) Notice under Section 36 -Bread with Section 35 and Section 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 36B 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 in the said Section 36B read with Section 36A and the other provisions of the Act and the Rules of the Bar Council of India in his 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 above-named 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 36B of the Advocates Act, 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. Rule 4 in Chapter I, Part VII) (Subject to necessary modifications) From: The Secretary, Bar Council of..... To The Attorney General/Advocate General/ Additional Solicitor General of India. Notice under Section 35(2) of the Advocates Act, 1961. Sir, Please find enclosed copy of a notice dated..... issued under Section 35(2) 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: rule 21 in Chapter I, Part VII of the Rules of the Bar Council of India) (Subject to necessary modification) BEFORE THE DISCIPLINARY COMMITTEE OF THE BAR COUNCIL OF INDIA Under Section 37 of the Advocates Act, 1961 D.C. APPEAL NO..../19...

..... Appellant Vesu
..... 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)
Respondents) (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 no 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. 6 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
appellant on..... The appeal is 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. 50/- fee for the appeal on.....in cash is paying Rs. 50/-..... The appellant files this
appeal for the following amongst other grounds:- 1. 2. 3. etc. Appellant/Advocate
for Appellant Place Date 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. rule 25 in Chapter I, Part VII)
(SUBJECT TO NECESSARY MODIFICATIONS) BEFORE THE DISCIPLINARY COMMITTEE (.....) OF THE BAR
COUNCIL OF INDIA D.C. Appeal..... /19 against Order of the Disciplinary Committee of Bar Council
ofDated.....in Case/Complaint No.....In the matter of Shri.....Advocate.....
..... Appellant(s) Versus Respondent(s) Notice of Appeal filed
under Section 37 of the Advocates Act, 1961 and intimation of the date of hearing WHEREAS an
appeal has been Filed by the appellant above named 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. rule 20, Chapter I, Part VII) (Subject to necessary modifications) DISCIPLINARY COMMITTEE (.....) OF THE BAR COUNCIL OF INDIA.....(Chairman) Miscellaneous Petition No.....(Slay) IN D.C. Appeal No.. Appellant(s) Vs. Respondent(s) Dated the..... Petition for stay and suspension of the operation of Order of the Disciplinary Committee of the Bar Council ofin 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 Rule 35(2) in 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.....19..... (On a complaint made by Shri.....(address) Complaints(s) (Name and address) Vs. Respondents(s) (Name and address) 19 (Date) Present- Shri.....,,"....(Chairman) Shri.....(Member) Shri.....(Member) For the Complainant: Shri.....Advocate in (person) For the Respondent: Shri.....Advocate (in person) The Case above mentioned being called on for hearing before the. Disciplinary Committee of the Bar Council of-.....on the.....day of.....19..... 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.....withinmonth 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 ofat.....this the day of19..... Registrar, Disciplinary Committee of the Bar Council of..... Rule 35(2) in Chapter I, Part VII] THE DISCIPLINARY COMMITTEE OF THE BAR COUNCIL OF INDIA D.C. Appeal.....of 19..... (On appeal from the Order dated theday of 19..... of the Bar Council ofin Case No.....of 19.....) Appellant(s) (Name and address) Vs. Respondent(s) (Name and address) 19 (date) Present: Shri.....(Chairman) Shri.....(Member) Shri.....(Member) For the Appellant: Shri..... advocate/(in person) For the Respondent: Shri..... advocate (in person) The appeal above mentioned being called on for hearing before the Disciplinary Committee of the Bar Council of India on the.....day of.....19..... 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 of the Bar Council of India doth order. That the original order dated.....is hereby confirmed/set aside/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 ofwithin.....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 of19 Registrar Disciplinary Committee of the Bar Council of India

CHAPTER 2

Review under Sec. 44 of the Act

1. 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 the prescribed fee and filed within 15 days from the date of the Order sought to be reviewed.

2. 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. 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. 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 moto, 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. 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 along with 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. 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. 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 Advocate who shall File a vakalatnama signed by the party. 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...../19.....
.....Petitioners/sRespondent/s WHEREAS on the application of..... /suo
moto of 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.....19.....on The
Respondent is informed that the said application will be heard by the Disciplinary Committee of the
Bar Council of.....on 19..... 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.
Dated this.....day of,19..... Office of the Bar Council of..... Registrar,
Disciplinary Committee of the Bar Council of India.

PART 8

FEES LEVIABLE UNDER THE ACT

1. 1 :-

A State Council may levy fees, not exceeding the limits prescribed hereunder in any of the following matters: Section 35 of the Act..... Rs. 15/- Provided that no fee shall be payable on a complaint made by any court or tribunal or other statutory body or where in a proper case the Bar Council Grants exemption therefor. (b-I) 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. 5/- (d) Certificates required to be produced with the transfer application under Section 18 of the Act..... Rs. 10/- (e) Inspection by the complainant or the concerned advocates, of documents relating to the Disciplinary matters..... Rs. 1/- (f) Inspection of the roll of the advocates or the voters list..... Rs. 2/- (g) Any application made in any proceedings before a State Council or its Committee other than the Disciplinary Committee..... Rs. 3/-

2. 2 :-

A fee as specified hereunder shall be paid in the following matters:- Section 36 of the Act..... Rs. 25/- 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-I) 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 therefor. (b) An appeal filed under Section 37 of the Act..... Rs.50/ (c) An application for stay made to the Council under the Act..... RS. 10/ (d) (i) An application for inspection..... Rs. 2/ (ii) Inspection in cases Finally decided when permitted..... Rs. 5/ (e) An application for withdrawal under Section 36 of the Act..... Rs. 25/ (f) An application for Review under the Act..... Rs. 25, (g) An application for the exercise of its power under Section 48A of the Act..... Rs. 10 (h) Any application made in any proceedings before the Council or a Committee other than the Disciplinary Committee..... Rs. 3

3. 3 :-

(a) Every application for an authenticated copy of any certificate, order of other proceeding, entry or any roll, or any document or deposition in any proceeding, before a State Council or the Council or a Committee thereof shall be accompanied by a fee of Re. 1/- and the copying charges as follows:- Every exemplification of the order or other documents in addition to the folio and other charges.....Rs. 2/- Copying charges for a folio.....Re. 1/- 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 witnesses shall only be issued on payment of the requisite batta and/or charge 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 an obtaining stay of proceedings of a Disciplinary Committee, shall be accompanied by a fee of Rs. 2/- in the case of the Disciplinary Committee of a State Council, and a fee of Rs. 5/- in the case of the Disciplinary Committee of the Council.

(d) An application by a party to the proceedings for unattested copies of depositions of witnesses may be supplied at the rate of 50 paise for each page of the deposition.

PART 9

GENERAL PRINCIPLES TO BE FOLLOWED BY STATE BAR COUNCILS AND THE BAR COUNCIL OF INDIA ~~REBBS~~
SUPERVISION AND CONTROL BY THE BAR COUNCIL OF INDIA

1. 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 practice at the seat of the High Court or the seat of any 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. 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. 3 :-

The notice of election of members of the State Councils and the results of the elections shall be published in the State Government Gazette or Gazettes as the case may be.

4. 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 of the quota fixed for the election.

5. 5 :-

All election disputes shall be decided by tribunals constituted by the State Councils.

6. 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. 7 :-

The funds shall be invested in government or other securities specified in Sec. 20 of the Indian Trusts Act.

8. 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. 9 :-

The State Councils may accept donations in cash or kind for any of the purposes of the Act.

10. 10 :-

The accounts of every Council shall be audited by a Chartered Accountant once a year.

11. 11 :-

The State Bar Councils and the Bar Council of India shall maintain the following books:-

- (a) Minutes book;
- (b) Attendance Register for the staff;
- (c) Leave Register for the staff;
- (d) Acquittance Register;
- (e) Day Book and Ledger;
- (f) Receipt Book;
- (g) Financial Assistance Register;
- (h) Provident Fund Account; and
- (i) Property Register.

THE BAR COUNCIL OF.....COPY APPLICATION REGISTER

12. 12 :-

Every State Bar Council shall maintain:- (c) Disciplinary Committee Register containing the following columns:-

13. 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 mailers required with reference to register of the State Bar Councils. 3. The Disciplinary Committee Register-A, containing similar entries with necessary modifications as is necessary for State Bar Councils. 4. The Disciplinary Committee Appeal Registers containing the following columns.

14. 14 :-

(i) The Chairman, (ii) The Vice-Chairman, (iii) any member of the Council of 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.

15. 15 :-

(1) In addition to the enrolment fee laid down in Section 24 of the Advocates Act, 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 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.'

16. 16 :-

(1) Every State Council shall hold its elections well in time before the expiry of the terms 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.

17. 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. 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 means of the ex officio member 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 a statement as to the number of Disciplinary matters taken on File, number of cases disposed of and number of cases pending.

19. 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. 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.

21. 21 :-

Every State Council shall pay to the Council the sum payable to it within the time provided for under Section 46 of the Act. Such payment shall be made by-

- (a) sending a draft for the amount payable; or
- (b) giving suitable directions to its bankers to transfer the amount payable to the credit of the Council.

22. 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. 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 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 that 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.

24. 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 shall 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.

SCHEDULE 1

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(Directives issued under rule 26) 1. The teaching of the core programme in Part I of the law course may be done with the help of teachers in the disciplines concerned from the respective University/ College departments. 2. The maximum strength of students in any class (LL.B. I, II, III, IV or V) shall not exceed 320 in any given College or University Department of Law and the number of students in any section of each of such class shall not exceed 80. In other words no College or University Department of Law shall have on its rolls a total student strength of over 1600 students in all its 1st, 2nd, 3rd, 4th and 5th years put together. 3. Law College and University Law Departments shall ensure that- (a) multiple copies of prescribed and recommended readings are available in the library; (b) seating arrangements is provided for at least 15 per cent of the students at a time in the reading hall; (c) the teacher student ratio is at least 1:40. 4. Building.- (1) (a) The building of a college shall be available for its exclusive use, during the working hours of the college; (b) the accommodation provided for classes, hostel, if any, and the residential quarters for the Principal and the teacher to be in-charge of the hostel, if any, will be separate. (2) The college buildings shall consist of the following- (a) class rooms; (b) a common room for men students; (c) a common room for women students; (d) a library hall with book shelves and reading tables; (e) office rooms for the Principal and his office staff; (f) a teachers common room. (3) (a) all buildings shall be well lighted and ventilated and shall have adequate sanitary arrangements and water supply; (b) all buildings shall be duly furnished. (4) (a) If the college has no building of its own and it is proposed to be housed temporarily in hired building, the college authorities shall create the building fund which shall be set apart and deposited in a Scheduled Bank or a District Central Co- operative Bank; (b) deposits so made in the name of the college shall not be withdrawn except when required for meeting the cost of the portion of the building already constructed; (c) the building shall be completed within a period of 5 years from the date of the approval of affiliation is communicated to the Registrar of the University concerned. 5. Library.- (a) The Library shall be adequately equipped with law reports, books, periodicals and reference books to meet the requirements of the courses of instruction taught in the College; (b) the library shall be in the charge of a qualified and trained librarian; (c) the minimum initial and recurring annual expenditure on the library shall be as below: Initial ... Rs. 50,000.00 First Year ... Rs. 15,000.00 Second Year ... Rs. 15,000.00 Third Year ... Rs. 15,000.00 Subsequent Years ... Rs. 10,000.00 per year. 6. The building fund, as provided in Directive 4(4) shall be created at least for Rs.5 lakhs through instalments as under: Initial ... Rs. 1,00,000/- First Year ... Rs. 1,00,000/- Second Year ... Rs. 1,00,000/- Third Year ... Rs. 1,00,000/- Fourth Year ... Rs. 1,00,000/- 7. The accommodation provided for classes, hostel, if any, and the residential quarters for the Principal and the teacher to be in-charge of the hostel, if any, will be separate. 8. Quarters for the Principals: Quarters for the teacher-in-charge of the hostel, if any, located near the hostel; quarters for other permanent teachers as and if required by the University. 9. Provision shall also be made for a play-ground and adequate facilities for games and sports shall be made available in the vicinity of the college buildings. 10. Every University shall endeavour to supplement the lecture method with the case method, tutorials and other modern techniques of imparting legal education.]