

The Bar Council of Bihar Rules, 1962

BIHAR

India

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The Bar Council of Bihar Rules, 1962[Rules under the Advocates Act, 1961 framed by the Bar Council of Bihar]

Chapter I Definition

1.

"Act" means the "Advocates' Act, 1961".

2.

"An Advocate" shall include an Attorney enrolled as an advocate.

3.

"Articled Clerk" means a person who is registered as such by the Bar Council and is undergoing a course of training under rules prescribed hereinafter.

4.

"Bar Council" means the Bar Council for the State of Bihar constituted under Section 3 of the Act.

5.

"A candidate" shall mean a graduate-in-law or a Barrister, as the case may be, otherwise eligible for admission under Section 24(1) of the Act.

6.

"Master" means the Advocate under whom an Articled Clerk is receiving training or an Advocate under whom an authorised clerk is serving.

7.

"Receiving training" shall include reading in chambers of an advocate as hereinafter provided.

8.

"Secretary" means the Secretary of the Bar Council and includes any person appointed by the Bar Council to perform any of the duties of the Secretary.

9.

"State Roll" means the roll of advocates prepared and maintained by the Bar Council under section 17 of the Act.

Chapter II

Articled Clerks

[Rules under Section 28(2)(c) read with Section 24(1) of the Act][Rules are deleted]

Chapter III

Enrolment

[Rules under Section 28(2)(c) read with Section 15(1) & 26 of the Act]

1.

An application for admission as an Advocate on the roll of the Bar Council of Bihar shall be made in Form prescribed being Form No. VII in the Appendix to these rules.

2.

The application shall be scrutinized by the Scrutiny Committee and if the application is found to be incomplete or defective, the Secretary shall call upon the applicant to rectify the defects or to file another application and/or to submit documents required to be submitted and which have not been submitted.

3.

The Scrutiny Committee may make such inquiries as it may consider necessary for the purpose of the verification of the statements made in the application.

4.

The Scrutiny Committee after examining the application and the appended documents and making inquiries, if any, made a report in regard to the application.

5.

(i) On the application being reported by the Scrutiny Committee to be in order, the Secretary shall cause a notice to be posted on the notice board of the Bar Council and at such places as the Bar Council may direct notifying the name and address of the applicant and such other facts relating to the applicant if any, as may be prescribed from time to time by the Bar Council. (ii) The notice shall remain on the Notice Board of the Bar Council and at other places, if any, for continuous period of fourteen days. (iii) Any person may within the period of fourteen days prescribed in sub-rule (ii) prefer in writing to the Bar Council any objection against the enrolment of the applicant. If any objection is received, the Secretary shall send a copy of the objection to the applicant and call upon him to submit an explanation within fourteen days of the receipt of the Secretary's letter.

6.

The Secretary shall submit the application together with all documents and papers and reports and objection, if any, relating thereto to the Enrolment Committee. The Enrolment Committee shall proceed to dispose of every application after: (i) considering the materials before it, and (ii) making such inquiry, if any, as it may consider necessary: accordance with the provisions of the Act and the Rules made thereunder and the Resolution passed and/or direction given and/or the principles laid down from time to time by the Bar Council and shall either; (i) allow the application and direct the enrolment of the applicant, or (ii) propose to refuse the application : Provided that the Enrolment Committee shall before recording its proposal to refuse the application fix a date for hearing the applicant and give notice of the date by registered post to the applicant and on the applicant being present on the date fixed or on any adjourned date shall hear him in support of his application.

7.

The proposal to refuse any application shall be referred under the provisions of Section 26(2) of the Act to the Bar Council of India ordinarily before the expiry of the fourteen days of the date of such proposal by the Enrolment Committee.

8.

(i)The reference to the Bar Council of India under the provisions of Section 26(2) of the Act shall be accompanied by-(a)Statements of the grounds in support of the refusal of the application;(b)True copy of the application and the appended documents relating thereto;(c)Objections, if any;(d)Report, if any; and(e)Such other documents and papers as may be considered necessary.(ii)On receipt of the opinion of the Bar Council of India, the Enrolment Committee shall ordinarily dispose of the application in conformity therewith before the expiry of fourteen days from the date of the receipt of the opinion.

9.

(i)On the order of the Enrolment Committee directing enrolment of the applicant as an advocate on the State Roll the Secretary shall notify the fact and call upon the applicant to present himself to sign the Register of Advocates maintained for the purpose at the office of the Bar Council or at such other place and at such hour and date as the Chairman may direct.(ii)The applicant shall duly present himself in the complete robe of an advocate on the date and hour and place fixed under rule (i) and sign the Register of Advocates maintained for the purpose by the Bar Council in presence of the Chairman or any other member nominated for the purpose by the Chairman.(iii)The Chairman or the member, as the case may be, present at the signing of the Advocates Register shall thereafter put his signature in the column provided in the Advocates Register.(iv)On the required signatures being made in the Register of Advocates, the Secretary shall forthwith-(a)issue a Certificate of Enrolment in Form VIII in the appendix to these rules under the seal of the Bar Council duly signed by the Chairman or Vice-Chairman or any other member authorised in his behalf by the Bar Council to the Advocate enrolled; and(b)cause the name and address of the enrolled advocate to be entered in the State Roll of Advocates.

10.

In the event of the Enrolment Committee feeling any doubt or difficulty as to the eligibility of the person seeking admission or as to the interpretation of any of the provision of the Act, the rules, resolutions, directions or principles, it shall refer the application to the Bar Council for clarification of such doubt, difficulty or such question and shall finally dispose of the application in the light of the ruling and/or directions given by the Bar Council in this behalf.

Chapter IV

Advocates under the Indian Bar Council Act, 1926 and their entry on the Bar Council Roll of Advocates

[Rules under Section 28(2)(a) read with Section 17(1) (a) of the Act]

1.

(i) A person entered as an advocate on the Roll of any High Court in India under the Indian Bar Council Act, 1926 proposing to practice within the jurisdiction of the Bihar State Bar Council and desirous of having his name and address entered on the Roll of Advocates of the Bihar State Bar Council may apply to the Bar Council. (ii) The application for such entry shall be made. - (a) in the form prescribed being Form No. IX in the appendix to these rules; (b) not later than 31st March, 1963 or such extended time as the Bar Council may hereafter notify. (iii) The application shall be filled in correctly and with all the required details by the applicant wherein the place chosen for his practice within the jurisdiction of the Bar Council shall be stated.

2.

The application shall be referred to the Scrutiny Committee for consideration and report.

3.

On the report of the Scrutiny Committee that the application is in order and that the applicant is entitled to have his name and address entered on the Roll of Advocates of the Bar Council and on being satisfied, the Bar Council shall direct that the name and address of the applicant be so entered in the Roll of Advocates.

Chapter V

Conditions subject to which a person may be admitted on the State Roll

[Rules framed under Section 28(2)(d) read with Section 17(1) and Section 24(1)(c) of the Act]

1.

A person who is otherwise qualified to be admitted as an Advocate but is either in full or part-time service or employee shall not be admitted as an advocate: Provided, however that this rule shall not apply to - (i) Any person who is a Law Officer of the Central Government or the Government of a State or of any Public Corporation or body constituted by statute. For the purpose of this clause a "Law Officer" shall mean 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 employer. (ii) Any person who is an Articled Clerk of an Attorney. (iii) Any person who is in part-time service as a Professor, Lecturer or Teacher in law. (iv) Any person who by virtue of being a member of a Hindu Joint Family has an interest in a joint Hindu family business, provided he does not take part in the management thereof; and (v) Any other person or class of persons as the Bar Council may from time to time exempt after the approval of the Bar Council of India.

2.

Every person applying to be admitted as an Advocate shall in his application made a declaration that he is not in full or part-time service or employment and that he is not engaged in any trade, business or profession. But in case he is in such full or part-time service or employment or is engaged in any trade, business or profession he shall in the declaration disclose full particulars of his service, employment or engagement. He shall also undertake that if, after his admission as an advocate, he accepts full or part-time service or employment or is engaged in any trade, business or profession disqualifying him from admission, he shall forthwith inform the Bar Council of such service or employment or engagement and shall cease to practise as an Advocate.

3.

No Advocate shall accept any employment which, in the opinion of the Bar Council, is derogatory to the status of an Advocates. And if he does so, he shall be liable to be proceeded against for professional misconduct.

4.

A breach of the abovementioned rules or any undertaking given in pursuance thereof shall amount to professional misconduct.

4A. [[Rules 4A and 5(bb) adopted by Resolution No. 5(B) of State Bar Council Meeting dated 24.1.1971 and approved by BCI through Letter No. 632171 dated 14.3.71.]

A candidate seeking enrolment as an Advocate and coming from Universities or Law Colleges which have switched over to Hindi or regional language shall have to pass a preliminary examination in English conducted by the Bar Council.]

1. There shall be two papers each carrying 100 marks and have 3 hours duration. The first paper will be English literature and the second paper will be English composition, Essay, etc. The standard will be as at the B.A. Part II. The Examination Committee may from time to time prescribe the courses of studies, etc.

5.

The application shall be accompanied by the following:(a)A diploma or certificate showing that the applicant has taken degree in law of a University in India.(b)Certificate granted by the Bar Council declaring the candidate to have passed the examination held after his training as an Articled Clerk.(bb)[Certificate granted by the Bar Council declaring the candidates to have passed the

preliminary examination in English held by the Bar Council:] [Rules 4A and 5(bb) adopted by Resolution No. 5(B) of State Bar Council Meeting dated 24.1.1971 and approved by BCI through Letter No. 632171 dated 14.3.71.] Provided that a candidate who has taken in law degree with English as an optional subject shall not be required to pass such preliminary test examination in English of the Bar Council as prescribed in Rule 4A.(c) Certificate, in the form prescribed, as to his moral character and of his fitness to be an Advocate on the Roll of Advocates of the Bar Council of Bihar from at least two persons of respectability and position (not being the relations) preferably Advocate on the Roll of the Bar Council of Bihar. Proviso: Provided that clauses (a), (b) and (c) shall not ordinarily apply in case of practising Pleaders, Vakils, Advocates and Attorneys whether law graduates or not.(d) A declaration in writing by the applicant that he will faithfully observe and abide by all rules made by the Bar Council and the Bar Council of India as amended from time to time for regulating the conduct of Advocates on the State Roll and the Common Roll of India.(e) A declaration as to whether the applicant has made any previous application for admission as an advocate to any High Court and the result thereof.(f) A declaration that he is a citizen of India or a national of a country where citizens of India, duly qualified are permitted to practice in law.(g) A receipt from the Secretary of the Bar Council that the applicant has paid the fee prescribed for enrolment under section 24(1)(f).(h) A declaration that the applicant has completed 21 years of his age on or before the day of the application.(i) A declaration that the applicant is not in full or part-time employment or service and is not engaged in any trade, business or profession except as follows:(i) Any person who is Law Officer of the Central Government or the Government of State;(ii) Any person who is in part-time service as a Professor, Lecturer or Teacher in Law, or as Secretary or Deputy Secretary of the Bar Council;(iii) Any person who by virtue of being a member of a joint Hindu family has an interest in a joint Hindu family business provided he does not take part in the management thereof; and(iv) Any other person or class of persons as the Bar Council may from time to time exempt.(j) Two undertakings shall be given in the following terms:(a) I do hereby undertake that if after my admission as an advocate I accept full or part-time service or I am engaged in any trade, business or profession (other than such as is exempted by the State Bar Council from the operation of this undertaking), I shall forthwith inform the Council of such employment or engagement and shall cease to practise as an Advocate.(b) I do hereby undertake that I shall not accept any employment which, in the opinion of the Bar Council, is derogatory to the status of an Advocate : Provided that where an application is filed for admission as Advocate under the provisions of Section 17(1) of the Advocates Act, 1961 by an Advocate on the Roll of any High Court under the Bar Council Act, 1926 it shall not be necessary to submit the Diploma, Certificate, Declaration or receipt required under clauses (a), (b), (c), (d), (e), (f), (g) and (h), as the case may be.

Chapter VI

[Role of the Advocate]

[Deleted]

Chapter VII

[Rules regarding Advocates' Clerk]

[Deleted]

Chapter VIII

Meetings

[Rules under Section 15(2)(b) of the Act]

1.

Meeting of the Bar Council shall be convened by the Secretary on the date and time as directed by the Chairman and in his absence from Patna, by the Vice-Chairman.

2.

All meetings shall ordinarily be held in the meeting Room of the Bar Council.

3.

Seven days' notice of the meeting shall be given to the members except in cases of emergent meetings at the instance of the Chairman to decide urgent matter.

4.

Meetings may be adjourned to the day following or to any other date by way of continuation of the meeting to dispose of items on the agenda and in such event rule 3 shall apply.

5.

At all meetings seven members shall form a quorum except in an adjourned meeting where no quorum will be necessary.

6.

All decisions shall be made by resolutions.

7.

The Chairman and in his absence the Vice-Chairman and in the absence of both of them any member so elected at the meeting shall preside in the meeting of the Bar Council.

8.

The Chairman or the Vice-Chairman on his arrival in the meeting hall even after the commencement of the meeting shall preside at the meeting, and the Vice-Chairman or any member as the case may be, shall thenceforth cease to preside at the meeting. A meeting may be continued either under the Vice-Chairman or an elected President for the meeting in the event of the Chairman, Vice-Chairman, or any elected President for the meeting leaving the hall during the progress of the meeting without declaring the meeting closed.

9.

The decision of the majority of the members present at the meeting shall prevail and shall be deemed to be by the decision of the Bar Council provided that a dissenting member's note, if any, shall be appended to proceeding where it is handed to the Chairman before the termination of the meeting.

10.

In case of difference of opinion on any issue before the Bar Council, the Chairman of the meeting shall take votes of the members by show of their hand except in cases where any member calls for a vote by a secret ballot. Each member present at the meeting shall have one vote except Chairman of the meeting who shall have a casting vote as vote in addition to his first vote in the event of votes being equally divided.

11.

No matter determined by a resolution of the Bar Council shall be reopened or reconsidered within six months of the date of such resolution except on a motion of two-thirds of the members present and voting. If a question arises whether a particular motion involves a reopening or reconsideration of any resolution passed within last six months, the Chairman shall decide the point and his decision shall be final.

Chapter VIII

A Rules relating to the powers and duties of the Chairman and the Vice-Chairman of the State Bar Councils.

[Rules framed under Section 15(2) of (g) of the Act]Chairman

1.

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

2.

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

3.

He shall cause the meetings of the Council or the Committee of which he is a member to be convened at such time and place as he may fix. He shall also settle the agenda of the meetings of the Council.

4.

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

5.

He shall be the authority to sanction the disbursement of salaries of the staff and to order payment of any bills outstanding against the Council. Vice-Chairman

6.

The Vice-Chairman shall exercise all the powers and discharge all the functions of the Chairman in his absence and under his direction. In case of casual vacancy in the office of the Chairman, the Vice-Chairman shall perform all the functions of the Chairman until the election of the Chairman.

Chapter IX

Committees

[Rules under Section 15(2)(i) read with Sections 9(1), 10(1) and 10(3) of the Act]

1.

There shall be the following Standing and other Committees of the Bar Council for the purposes of carrying out the provisions of the Act: (a) Standing Committees, namely. - (i) an Executive Committee and (ii) an Enrolment Committee (b) Other Committees, namely. - (i) Disciplinary Committees, (ii) Finance Committee, (iii) Examination Committee, (iv) Registration Committee

and(v)Committees which may be formed hereafter.

2.

The Committees shall exercise, subject to the general control and supervision by the Bar Council, the powers, duties and functions conferred or imposed upon or assigned to each of them by the Act, and these rules and other rules made under the Act and by directions or resolutions of the Bar Council.

3.

(i)The Chairman of the Bar Council and in the event of his not being a member of a Committee the seniormost member of the Bar on the Committee shall be the Convenor of the Committee.(ii)The Secretary shall act as the ex-officio Secretary to all the Committees.

4.

(i)The Convenor shall if he is present preside at the meetings of the Committees and in his absence the seniormost member of the Committee and present at the meeting shall preside.(ii)The Member presiding at the meeting shall regulate the proceedings of the meeting and his decision on matters of procedure at the meeting shall be final and binding and the members present shall abide by such decision.

5.

(i)Three members shall form a quorum for a meeting of a Committee consisting of five or more members, and(ii)Two members shall form a quorum for a meeting of Committee consisting of less than five members.

6.

The meeting of the Committees shall ordinarily be held in the meeting hall or committee room of the Bar Council on such date and hour as the Convenor may fix.

7.

The Secretary shall duly notify the fixtures for the committee meetings on the Bar Council Notice Board and send due information of the proposed meetings to each member of the Committee.

8.

(i)The Bar Council shall constitute the Committee by electing members to the Committees at one or more meetings of the Bar Council held for the purpose ordinarily in the month of January every year or at such time as may be considered necessary.(ii)Members of the Bar Council shall be duly

proposed and seconded at the meeting for election to each committee. Where the number of names duly proposed and seconded be equal to the seats in the committee the members so proposed and seconded shall be declared to be elected as members of the committee. In the event of there being more names proposed than seats to filled in any committee votes shall be taken at the meeting either by show of hands or by secret ballot as the members present at the meeting may decide. Members securing larger number of votes shall be declared elected. In the event of two or more members securing equal number of votes, lots shall be drawn by the President of the meeting and the person in whose favour the lot is drawn shall be declared elected.

9.

The term of office of the Members of Committee shall be one year from the date of election :Provided that the term of office of a member of a committee shall extend even beyond one year till such time as the elections are held for the next term for the membership of the Committee.

10.

Ordinarily the business of the Committee shall be disposed of at the meetings held for the purpose but in cases of urgency it may be done by circulating the papers to each of the members of the Committee for opinion or order.

11.

The opinion or order of the majority of the members of the Committee shall be deemed to be the decision of the Committee. The dissenting members will have the option to append their note of dissent with regard to any decision, provided that the note is made over to Convenor at the meeting.

12.

The Bar Council may from time to time appoint other committees as it may deem necessary for any particular or general purpose with such powers and duties as it may prescribe. The procedure laid down herein in respect of the committees shall apply mutatis mutandis to such committees unless otherwise expressly directed by the Bar Council.

13.

The proceeding of the committees shall be placed before the Bar Council.

13A.

Nothing in Rules 1 to 13 excepting in so far as they relate to the constitution and functions of the Disciplinary Committee shall apply to the said committee. (See Resolution No. 436/1963) The Executive Committee

14.

The Executive Committee shall be the Chief Executive body of the Bar Council and its powers and duties shall be-(i)to hold, control and administer the property and funds of the Bar Council;(ii)To determine the form, provide for the custody and regulate the use of the common seal of the Bar Council;(iii)To determine and regulate all matters concerning the Bar Council;(iv)To administer the funds placed at the disposal of the Bar Council for any specific purpose;(v)To appoint officers and staff of the Bar Council, define their duties and powers and determine all matters concerning their employment provided that the Chairman may take temporary appointments for a period up to one month;(vi)To arrange for supervision the training and examination of Articled Clerks;(vii)To determine after considering the recommendations of the Finance Committee, rates of emoluments of persons employed for instructing Articled Clerks by practical course lecturers or otherwise and of examiners or class of such examiners.(viii)To have powers to accept transfers of any moveable or immovable property for the purpose of the Bar Council, and(ix)To exercise such other powers and perform such other duties as may be conferred or imposed on it by the Bar Council in consonance with the Advocates Act, 1961.

15. The powers and duties of the Enrolment Committee shall be.

- (i) to consider and dispose of all applications for enrolment of Advocates;(ii)to maintain or cause to be maintained the Register and Roll of Advocates in such details and forms as may prescribed by the Bar Council;(iii)to scrutinize the Register and Rolls of Advocates from time to time with a view to ensure its correctness up-to-date; and(iv)to discharge other functions prescribed by the Bar Council for the said purpose.

16.

(i)The Examination Committee shall consist of five members.(ii)The powers and duties of the Examination Committee shall be-(a)To consider and decide applications from Articled Clerks for permission to appear at the examination,(b)To refer applications to the Bar Council in cases of proposed refusal and to act in conformity with the decision of the Bar Council in that regard,(c)To conduct the examination and for that purpose to,-(i)appoint paper-setters, Examiners, Invigilators;(ii)hold examination;(iii)cause the examinations of papers to be completed within specified time.(iv)Secure declarations of the results by the Bar Council.(v)Publish the result; and(vi)Do such other acts as may be necessary for the said purpose.(d)Perform such other functions as may from time to time be assigned to it by the Bar Council.

Chapter X

Proceedings before Disciplinary Committee

[Rules under Section 49(f) of the Act]

1.

Disciplinary Committee of the Council-(i)Candidates for election to the Committee shall be proposed and seconded and in case of contest, the election shall be decided by a show of hands and in the case of equality of votes the Chairman shall exercise his casting vote.(ii)Any casual vacancy shall be filled in by the Council by election from amongst its members or non-members as the case may be.(iii)The Attorney-General shall not be eligible for membership of the Committee.(iv)If the Vice-Chairman is member of the Committee he shall be the President of the Committee and if he is not, the seniormost advocate amongst the members of the Council on the Committee shall be the President.

2.

The following procedures shall be followed in enquiries before the Disciplinary Committee-(1)In any case falling under Section 36(1), when the Council has reason to refer a case of misconduct to the Committee, it shall cause the complaint, if any, and all affidavits, documents or records in its possession to be sent to the Committee.(2)If the Disciplinary Committee does not summarily reject the complaint, and in all cases referred to it by the Council suo motu, a date shall be fixed for the hearing of the case as provided for in these rules.(3)At the hearing, the complainant or the person, if any, who is aggrieved by the misconduct of the advocate, shall be entitled to appear in person or by counsel in support of the complaint. Where the complainant or the aggrieved party does not appear in person or by counsel, the Council may proceed with the matter and in a fit case may appoint a counsel for assisting the Council on payment of fees if necessary.(4)Notices issued under these Rules shall be served by Registered Post (Acknowledgement Due) or in such other manner as the Committee may direct.(5)The President of the Committee shall fix a date, hour and place of the enquiry which shall not ordinarily be later than sixty days from the receipt of the reference. The Secretary shall give notice of such date, hour and place to the complainant or other person aggrieved, the advocate concerned, and the Attorney-General and shall also serve on them copies of the complaint and such other documents as the President of the Committee may direct at least 15 days before the date fixed for enquiry.(6)The advocate concerned shall submit his statement of defence together with any documents or affidavits in support of his defence within a time which shall be intimated to him in or at the same time as the notice referred to above. The complainant or the person aggrieved shall be entitled to file a reply together with such documents on which he proposes to rely in support thereof within such time as may be allowed by the President of the Committee.(7)In any such enquiry, the advocate may appear either in person or by Counsel.(8)The Committee shall hear the Attorney-General or his Counsel and the parties or their Counsel, and determine the matter on documents and affidavits unless the Committee is of the opinion that it would be in the interest of justice to permit cross-examination of the deponents or to take oral evidence, in which case, the procedure followed in the trial of a Civil Suit shall, as far as may be followed.(9)The advocate concerned shall be a competent witness on his own behalf.(10)The finding of the majority of the members of the Committee shall be the finding of the Committee. The reason 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 dissenting member shall be entitled to record his dissent giving his own reasons. It shall be competent for the Committee to award such costs as it thinks fit. The Committee

may make any of the orders which it is entitled to make under Section 36(4) of the Act. The order shall be communicated to the complainant or the aggrieved party and the advocate concerned as soon as may be by the Secretary.(11)The parties shall be entitled to obtain copies of documents, affidavits and oral evidence, if any, on payments of such fees as may be prescribed by the Council.(12)Any person aggrieved by the order of the Committee under Section 36 or 37 of the Act, may within sixty days of the date on which the order is communicated to him prefer an appeal to the Supreme Court.(13)Any order awarding costs shall be executed in the manner provided in the Act.Procedure to be Followed by the Disciplinary Committee of the State Bar Councils under Section 49(F) of The Act

1. The procedure hereinbefore prescribed in these Rules excepting Rule 12 shall be followed 'mutatis mutandis' by the Disciplinary Committee of the State Bar Councils save and except that-

(a)A reference to the Attorney-General in the said Rules shall mean. -(i)In the case of a Disciplinary Committee of the Bar Council of Delhi, a reference to the Additional Solicitor-General of India;(ii)In the case of a Disciplinary Committee of any other State Council, reference to the Advocate-General; and(b)Any reference to Section 36 (1) shall mean a reference to Section 35(1) for the purpose of these Rules.

2. Any person aggrieved by an order of the Disciplinary Committee of a State Council may within 60 days from the date on which the order is communicated to him, prefer an appeal to the Council by a memorandum in writing which shall be accompanied by a certified copy of the order appealed against and the Council shall pass such order thereon as it may deem fit.

3. The provisions of Sections 5 and 12 of the Indian Limitation Act shall apply to any such appeal.

4. In any such appeal, the parties shall be entitled to be represented by counsel at the time of hearing.

5. The President of the Committee of the Council shall fix the hour, date and place of the enquiry which shall ordinarily be not earlier than 10 days from the filing of the memorandum of appeal. The Secretary shall give notice of such hour, date and place to the parties, to the State Council and to the Advocate-General of State concerned or to the Additional Solicitor-General of India as the case may be.

6. At the hearing of any such appeal, the parties may appear in person or by counsel.

7. Any order for costs made in the appeal shall be executed in the manner provided in the Act.

8. On an appeal being preferred as aforesaid, the State Council concerned shall on receipt of the notice of the filing of the same forward to the Council the entire record of the proceedings in the matter.

These Rules shall come into force from such date as may be notified.

Chapter XI

Secretary and other employees of the Bar Council: Their qualifications and condition of service

[Rule under Section 15(k) with Section 11 of the Act]

1.

In addition to the Secretary, there shall be an Accountant and the Bar Council may appoint employees categorized hereunder, as and when necessary. (I) The qualification of the employees shall be under. - (1) Secretary shall (a) possess a degree in Law; and (b) be an Advocate who has put in at least ten years practice at the Bar; and (c) be above the age of 35 years. (2) Deputy Secretary shall (a) possess a degree in Law; and (b) be an Advocate who has put in at least seven years practice at the Bar; and (c) be above the age of 30 years. (3) Under Secretary shall (a) possess a degree in Law; and (b) be an Advocate who has put in at least three years practice at the Bar; and (c) be above the age of 30 years. (4) Office Superintendent shall (a) possess a Bachelor's degree either in Arts, Science or Commerce; and (b) have at least ten years experience of office work; and (c) be above the age of 40 years. (5) Accountant shall (a) possess a degree in Commerce of any equivalent qualification; and (b) have qualified in Accountancy; and (c) have at least ten years experience of accounts work in any office; and (d) be above the age of 30 years. (6) Office Assistant shall (a) possess a Bachelor's degree either in Arts, Science or Commerce; and (b) be below the age of 30 years and above the age of 25 years. (7) Stenographer shall (a) have passed either the Higher Secondary School Examination or any equivalent examination; and (b) be qualified shorthand-writer and typist; and (c) be above the age of 25 years and below the age of 40 years. (8) Office Peons shall (a) possess knowledge of English and Hindi to be able to read fluently and to write efficiently; and (b) be competent cyclist; and (c) be above the age of 21 years. (9) Sweeper shall (a) be a competent sweeper. (b) be above the age of 21 years. (II) Notwithstanding anything hereinbefore contained any person who had been working in the office of the Bar Council on the date on which the Advocate's Act, 1961 came into force shall be deemed to possess the qualifications for the post held by him. (III) Notwithstanding anything

hereinbefore contained any person who has held the post of Office-Superintendent, Accountant, Office Assistant or Stenographer, as the case may be, in any Government office continuously for a period of ten years shall be deemed to possess the qualifications for the equivalent post.(IV)The age and other qualification may be relaxed.-(a)in the case of employment of retired Government servants; or(b)where no suitable candidate is available in spite of advertisement being made.(V)The conditions of service of the employees of the Bar Council shall be as under. -(1)The Secretary, and Deputy Secretary may be employed either as whole-time or part-time officers.

2.

The Under Secretary, Office Superintendent, Accountant, Office-Assistants, Stenographers and peons shall when appointed be whole time servants.

3.

All employees shall retire from service of the Bar Council on attaining the age of sixty years :Provided that the Bar Council may extend the period of employment of any employee of the Bar Council up to the age of sixty five years in suitable case.

4.

All employees of the Bar Council shall attend the office of the Bar Council regularly and punctually on all days in the year except Sundays and Holidays during the office hours and shall perform their duties diligently and faithfully.

5.

The persons employed to a permanent post on permanent basis shall be on probation ordinarily for a period of two years which may be extended by one more year.

6.

The services of any employee may be terminated on one month's notice or in lieu thereof one month's salary if his work is found to be unsatisfactory while he is still on probation.

7.

On completion of the term of probation, the records of the work of the employee concerned shall be considered and he will be confirmed in the post he is holding if his work is found to be satisfactory. In the event of the work of the employee concerned being found unsatisfactory, his services shall be terminated by either one month's notice or in lieu thereof one month's salary.

8.

The service of any employee who has been employed temporarily either to a permanent post or to a temporary post shall be terminated either-(a)on the expiry of the period for which he had been so employed, or(b)at any earlier time on one month's notice or in lieu thereof payment of one month's salary.

9.

The employee who has been confirmed in a permanent post shall not be terminated except under the following circumstances-(i)by resignation of the employee concerned on the expiry of a period of one month or on refund of one month's salary by the officer or servant concerned in lieu thereof if he is not permitted to do;(ii)by abolition of the post;(iii)on being removed as a result of recommendation made by a committee of the Bar Council and accepted by the Bar Council that the officer or the servant concerned, as the case may be, has been(a)either guilty of insubordination, or misdemeanour, or gross negligence, or misconduct, or inefficiency, or(b)found physically or mentally incapacitated to perform his duties.In all such cases the employee shall be called upon to explain in writing the charges levelled against him and shall be heard in respect thereof by the Committee and the Committee may examine witnesses, if any, and consider all other relevant records, documents and matter pertinent to the charges. The Bar Council may suspend the employee against whom charge has been levelled under sub-clause (a) to sub rule (iii) to Rule 9 of this Chapter till such time as the proceeding against him is concluded.

10.

In the event of abolition of post, the employee concerned, shall be paid one month's salary in lieu of one month's notice.

11.

In the event of an employee being removed under sub-rule (iii) of Rule 9 of this Chapter, his services shall be terminated forthwith and in such case he shall be paid the salary and allowances, if any, which may be due for the period during which he had been suspended by the Bar Council on account of the proceedings against him.Salary

12.

The scale of pay of the employee of the Bar Council shall be as hereinafter provided.

-(i)Secretary:(a)Employed whole-time will receive initial salary of Rupees six hundred and shall be given increments of Rupees fifty after every two years rising up to Rupees one thousand.Thus the scale shall be Rs. 600-50/2-100.(b)Employed part-time will receive a fixed salary of Rupees five hundred.(ii)Deputy Secretary:(a)Employed whole-time shall be paid initial salary of Rupees three hundred and fifty and on confirmation increment of Rupees thirty shall be given and an increment

of Rupees thirty every two years rising up to Rupees five hundred and thereafter he shall be given increments of Rupees twenty five every raising up to a maximum salary of Rupees seven hundred and fifty. Thus the scale shall be Rs. 350 confirmation 30/2-500-25/1-750.(b)Employed part time will receive a fixed salary of Rs. 300/-. (iii)Under secretary:Employed whole time shall be paid an initial salary of Rupees two hundred and fifty and on confirmation will receive an increment of Rupees twenty every two years rising up to Rupees three hundred and fifty and thereafter an increment of Rupees twenty every year up to a maximum salary of Rupees five hundred and fifty. Thus the scale of pay shall be Rs. 250 confirmation-20/2-350-20/1-550.(iv)Office Superintendent and Accountant:Shall be paid an initial salary of Rupees One Hundred and fifty and on confirmation will receive an increment of Rupees Fifteen and thereafter will receive increment of Rupees Fifteen every two years rising up to Rupees three hundred and then there shall be an efficiency bar. On being allowed to cross the efficiency bar shall be allowed annual increments of Rupees five rising up to maximum salary of Rupees Two hundred and fifty. Thus the scale shall be Rs. 110 confirmation-120-10/2-150 E.B. - 250.(v)Office Assistants :-Shall be paid an initial salary of Rupees one hundred and ten and on confirmation be allowed an increment of rupees Ten and thereafter shall be allowed an increment of Rupees Ten every two years rising upto Rupees One hundred and fifty and then there shall be an efficiency bar. On being allowed to cross the efficiency bar shall be allowed annual increments of rupees Five rising upto a maximum salary of Rupees Two hundred and fifty. Thus the scale shall be Rs. 110 confirmation 120-10/2-150 F.B. 5/1-250.(vi)Stenographers:Shall be paid the salary in the same scale as an office assistant and in addition he will receive an allowance of Rupees fifty every month.(vii)Office Peons:Shall be paid an initial salary of Rupees Sixty and on confirmation be allowed an increment of Rupees Rive and thereafter annual increments of Rupees Two shall be allowed rising up to Rupees Seventy-five and then shall be an efficiency bar. On being allowed to cross the efficiency bar increments of Rupees Five biannually shall be given rising up to a maximum salary of Rupees one hundred. Thus the scale shall be Rs. 60 confirmation 65-2/-75 E.B. 5/2-00.(viii)"Shall be paid initially not exceeding Rs. 45 and on confirmation be eligible to an increment of Rs. 4/- and thereafter annual increment of Rs. 2/- rising up to Rs. 75/-. (N.B. - See New scales introduced replacing present one). Allowance

13.

The employees shall be paid such allowances and for such time as may be sanctioned by the Bar Council after considering the recommendation of the Executive Committee and the Finance Committee, either from time to time or for any particular occasion such as over-time work, special deputation or the like.

14.

Travelling allowance shall be paid to the-(a)Secretary, Deputy Secretary and Under Secretary as may be admissible for Class-I Officers of the Government of Bihar at the time; and(b)Other employees as may be admissible for ministerial staff drawing similar salary in the employ of the Government of Bihar at the time. Leave

15. Employees may be allowed:

(a) Ten days casual leave in any one calendar year. (b) Thirty days privilege leave on full average pay on the basis of completed one year's service, subject to an accrual of four months. (c) Thirty days leave on account of continued illness on half average pay in any one calendar year. (d) Leave without pay either on grounds of illness or other important contingencies.

16.

Leave shall not be claimed as of right by the employees. Leave shall not be granted unless the authority sanctioning the leave is satisfied that the leave is being asked for on genuine and reasonable grounds and that the absence of the employee will not unduly disturb the working of the office. Provident Fund

17.

A fund called the "Provident Fund" shall be created by an initial sum of Rupees one thousand donated by the Bar Council.

18.

The fund shall be administered by the Executive Committee of the Bar Council.

19.

Every employee of the Bar Council except those employed temporarily, after confirmation to his post shall be a subscriber to the fund.

20.

The amount of subscription shall not be less than ten percent of the salary of the subscriber. The amount of subscription shall be calculated on complete rupees of the salary and the contribution shall be in whole rupees nearest to the calculated amount.

21.

The Bar Council shall make a monthly contribution of a sum as nearly as ten percent, of the salary of the employee.

22.

An account of each subscriber shall be maintained separately which shall be named as "The Provident Fund Account" of the subscriber concerned in which shall be credited from month to

month. -(i)The subscriber's subscription;(ii)The contribution made by the Bar Council under Rule 21 of this Chapter.(iii)Interest earned on the total sum of (I) and (II) above.

23.

(a)Every subscriber shall subscribe monthly to the Fund when on duty;(b)A subscriber while on earned leave, shall continue to contribute to the fund. A subscriber on any other leave with pay may, at his option, contribute to the Fund while he is on leave. A subscriber on leave without pay shall not be permitted to contribute to the Fund while he is on leave;(c)No contribution shall be made out of the Bar Council Funds for any period during which a subscriber does not, or is not permitted to subscribe to the Fund;(d)Subscription by a subscriber shall be deducted every month from the salary payable to the subscriber and the amount so deducted shall be deposited in the Provident Fund Account.

24.

When a subscriber leaves the service of the Bar Council either by retirement, resignation; or removal the amount standing to his credit in his Provident Fund Account subject to any deduction prescribed in these rules or any enactment in that regard, shall be paid to him in one lump.

25.

Every subscriber shall nominate one or more persons in order of preference to whom his Provident Fund money shall be paid in the event of the subscriber's death before he leaves the service of the Bar Council.

26.

In the event of the death of the subscriber before leaving the service of the Bar Council, the money standing to his credit in his Provident Fund Account shall be paid to his nominee or nominees placed first in order of preference in the list submitted by him in accordance with Rule 25 of this Chapter. On the first preferred nominees having predeceased the subscriber, the sum shall be paid to next in the list in order of preference who may be alive at the time. Provided that in the event of all the nominees having predeceased the subscriber and the subscriber having omitted to submit further name of nominee or nominees, the Bar Council shall decide who amongst the claimants should be paid the amount and payment shall be made accordingly. The decision of the Bar Council shall be final and binding on all concerned.

27.

If the person to whom the Provident Fund money is to be paid is either a lunatic or a minor the sum shall be paid to the Estate Manager appointed in this behalf under Indian Lunacy Act, 1912 or to the guardian of the minor as the case may be.

28.

Any person including the subscriber claiming payment of the money in the Provident Fund Account shall present an application in writing to the Secretary, Bar Council. The Secretary shall place the application for the consideration and the decision of the Executive Committee of the Bar Council.

29.

A subscriber may, at the discretion of the Executive Committee of the Bar Council, be allowed a loan on his application in writing on the security of the money to his credit in his Provident Fund Account, on such terms as it may consider proper for either.-(i)Building or purchasing a house for his residence or for repairing a house owned by him; or(ii)Marriage of his daughter; or(iii)Expenditure over his own long continued illness; or(iv)Any other reason considered sufficient by the Executive Committee. An account of the sum advanced as loan shall be maintained.

30.

The subscriber shall repay the amount according to the terms settled. In the event of his failure to do so, part of his salary not exceeding fifty percent shall be liable to be deducted every month till such time as the sum loaned is fully covered by such collection. Gratuity

31.

(a)The Bar Council may in its discretion sanction the payment of gratuity for reasons of good and meritorious service of any employee either when the employee has retired from the Bar Council service, or has died while in the service of the Bar Council.(b)The amount of gratuity shall in no case exceed twelve months' salary last earned by him as employee of the Bar Council.(c)The sum paid as gratuity (i) on retirement shall be paid to the employee and (ii) on the death of the employee to such person or persons as the Bar Council may determine to be entitled to receive the sum and the decision of the Bar Council shall be final.

32.

The powers and duties of the Secretary and the other employees shall be under-I. The Secretary:(a)Shall be Chief Administrative Officer of the Bar Council and all the other employees of the Bar Council shall work under him and shall be subordinate to him;(b)Shall.-(i)Attend the general meetings and the meeting of the committees;(ii)Keep Minutes of proceedings;(iii)Cause to be maintained complete and accurate accounts together with all receipts, vouchers and documents;(iv)Conduct all correspondence, excepting that with the High Court and the Government in matters other than formal, which shall be approved and signed by the Chairman, and supply information to the members;(v)Prepare the Annual Reports and Balance Sheets;(vi)Assign duties to the Ministerial Staff of the Bar Council and supervise their work;(vii)Receive and grant receipt for moneys on behalf of Bar Council;(viii)Be responsible for the proper custody and maintenance of the

property of the Bar Council;(ix)Deposit the moneys received on behalf of the Bar Council into the Bank;(x)Call all ordinary general meetings and issue notice of all meetings and general meetings when necessary;(xi)Grant copies of documents on the records of cases and certify them to be true copies;(xii)Allow inspection of records in cases of inquiry; and(xiii)Act as the Polling Officer during the election to the Council and take such preliminary steps with regard thereto as he is and may be required to do under the Act and these rules.(c)Shall in all matters act in the discharge of his duties under the direction and control of the Chairman, the Executive Committee and the Bar Council.II. The Deputy Secretary and the Under Secretary:Shall perform such duties and have such powers of the Secretary as may from time to time be assigned or delegated to them as the case may be, by the Secretary or the Executive Committee of the Bar Council.III. Office Superintendent:Shall keep the ministerial staff under proper discipline and control by enforcing regularity and punctuality and proper working.IV. Accountant:Shall maintain the accounts and deal with all matters of accounts relating to the Bar Council and assist the Secretary in the framing of the budget and on matters relating to the functions of the Finance Committee.V. Office Assistant:Shall dispose of work of clerical nature entrusted to them generally or from time to time under the direct control of the Office Superintendent.VI. Stenographers:Shall attend to dictations and to typewriting in addition to any work entrusted to them as may be done by an Office Assistant.VII. Office Peons:Shall attend to duties such as Darwans, Daftri, Messenger etc. as may be assigned by the Secretary under the direct control of the Office Superintendent.

33.

The Bar Council may in suitable cases appoint a person to a post initially on a higher salary than the initial salary provided for the post.Explanation. - Higher start in initial salary will not affect the pay-scale.

34.

Notwithstanding anything hereinbefore contained, the Bar Council may in suitable cases promote any of its employees to a higher post.

Chapter XII

Appendices

Form I Application for registration as an Articled Clerk.Form II Certificate of Registration to Articled Clerk.Form III Statement relating to Articled Clerk to be submitted by Advocate under whom he is employed.Form IV Application for permission to appear on the qualifying examination after training of an Articled Clerk.Form V Certificate of the Advocate under whom the Articled Clerk has received training.Form VI Certificate to be granted to the Articled Clerk on his passing the examination.Form VII Application for Admission as an advocate.Form VIII Certificate of enrolment as an advocate.Form IX Application under Section 17(1)(a) of the Advocates Act, 1961 by Advocates enrolled under the Bar Councils Act, 1926 for admission on the roll of the Bihar State Bar Council.[Format of statutory forms keep changing as per general resolutions. Hence, not printed

here.]