

# The Indian Bar Councils (U.P. Amendment) Act, 1950

UTTAR PRADESH

India

## The Indian Bar Councils (U.P. Amendment) Act, 1950

### Act 24 of 1950

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The Indian Bar Councils (U.P. Amendment) Act, 1950 (U.P. Act No. 24 of 1950) Received the assent of the President on July 20, 1950 and was Published in the U.P. Gazette, Part VII-A, dated July 29, 1950. An Act to amend the Indian Bar Councils Act, 1926 (XXXVIII of 1926), in its application to U.P., for certain purposes. Whereas it is expedient to amend the Indian Bar Councils Act, 1926 (XXXVIII of 1926), in its application to Uttar Pradesh for certain purposes; It is hereby enacted as follows:

## Chapter I

### 1. Short title, extent and commencement.

(1) This Act may be called the Indian Bar Councils (U.P. Amendment) Act, 1950. (2) It extends to the whole of U.P. (3) Chapter I shall be deemed to have come into force from the sixteenth day of March, 1950 and Chapter II shall come into force at once.

### 2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context—(a) "Appointed day" and "New High Court" shall have the meaning assigned to them in the U.P. High Court (Amalgamation) Order, 1948; (b) "Allahabad Council" and "Avadh Council" shall mean the Bar Councils established before the appointed day for the High Court of Judicature at Allahabad and the Chief Court of Avadh, respectively referred to as the existing High Court in the aforesaid Order; (c) "Chief Justice" means the Chief Justice of the New High Court; (d) "The Ordinance" means the Indian Bar Councils (U.P. Amendment and Validation of Proceedings) Ordinance, 1949 promulgated on the nineteenth day of October, 1949.

### **3. Dissolution of the existing Bar Councils.**

- Notwithstanding anything contained in the Indian Bar Councils Act, 1926 (Act XXXVIII of 1926) (hereinafter called the principal Act), or the U.P. High Courts (Amalgamation) Order, 1948-(a)the "Allahabad Council" and the "Avadh Council" shall stand dissolved with effect from the date of commencement of the Ordinance;(b)all elections to the Bar Council for the New High Court notified under notification No. 256, dated November 17, 1949, shall be and are hereby declared to be invalid in law and no Bar Council shall be deemed to have been constituted thereby; and(c)a Bar Council shall, as soon as may be, established for the New High Court, in accordance with the provision of the principal Act, as amended by this Act

### **4. Expiry of U.P. Ordinance No. VIII of 1949.**

- The provisions of Sections 6 and 24 of the U.P. General Clauses Act, 1904 (U.P. Act 1 of 1904) shall, in so far as they are not repugnant to the provisions of this Act, apply to the expiry of the Indian Bar Councils (U.P. Amendment and Validation of Proceedings) Ordinance, 1949 as if it had been an Act repealed by an United Provinces Act.

## **Chapter II**

### **5. Ad Hoc Bar Councils.**

- Until a Bar Council has been established for the New High Court in accordance with the provisions of the principal Act as amended by this Act, the Chief Justice may establish an ad hoc Bar Council which shall exercise such powers and perform such duties and functions conferred upon a Bar Council as the Chief Justice may, from time to time, declare.(2)The ad hoc Bar Council shall consist of the Advocate-General and ten other members to be nominated by the Chief Justice from amongst the Advocates of the New High Court.(3)The Advocate-General shall be ex-officio Chairman of the ad hoc Bar Council.(4)The quorum to constitute a meeting of the ad hoc Bar Council shall be four members.(5)For purposes of sections 12 and 13, the ad hoc Bar Council shall be deemed to be the Bar Council established under the principal Act as amended by this Act.(6)The ad hoc Bar Council shall cease to exist and stand dissolved on the date a Bar Council has been established in accordance with the provisions of the principal Act as amended by this Act.

### **6. Amendment of section 1 of Act XXXVIII of 1926.**

- In sub-section (2) of section 1 of the principal Act-(a)the word "Allahabad" shall be deleted; and(b)after the word "Patna" the words "and the High Court of Judicature at Allahabad constituted by the UP. High Court (Amalgamation) Order, 1948" shall be inserted.

## **7. Amendment of section 4 of Act XXXVIII of 1926.**

- For section 4 of the principal Act, the following shall be substituted: "4. Composition of the Bar Council for the High Court, Allahabad. - (1) The Bar Council for the High Court of Judicature at Allahabad shall consist of-(a)the Advocate-General who shall be ex officio Chairman of the Bar Council;(b)Court Advocates not being persons holding a judicial office nominated by the Chief Justice;(c)seven persons elected from amongst them by the Advocates of the High Court, who are resident in or have their permanent place of business in Allahabad or Lucknow;(d)nine persons elected from amongst them by the Advocates other than those referred to in clause (c).(2)There shall be a Vice-Chairman of the Bar Council elected by the Council in such manner as may be prescribed.(3)The term of office of the nominated and elected members of the Bar Council shall be six years.(4)A member elected or nominated to fill a casual vacancy shall be elected or nominated to serve for the remainder of his predecessor's term of office.(5)The quorum for a meeting of the Bar Council shall be six members:Provided that the validity of any proceedings in the Bar Council shall not be called in question on account of any vacancy in the Bar Council."

## **8. Amendment of section 5 of Act XXXVIII of 1926.**

- For section 5 of the principal Act the following shall be substituted: "5. Election of members. - (1) The members to be elected under clause (d) of sub-section (1) of section 4 shall be chosen in such territorial constituencies as may be prescribed:Provided that not more than one member shall be returned from each such constituency.(2)There shall, for purposes of elections under clauses (c) and (d) of sub-section (1) of section 4 be prepared in the manner prescribed-(a)an electoral list of advocates entitled to vote under clause (c) aforesaid;(b)separately in respect of each territorial constituency referred to in sub-section (1), a territorial electoral list of advocates entitled to vote in such constituencies:Provided that the first electoral lists shall be prepared by the High Court.(3)The list prepared under sub-section (2) may, from time to time, be revised in the manner prescribed.(4)No advocate shall be entitled to have his name included in more than one electoral list.(5)Where an advocate is otherwise qualified to have his name included in more than one electoral list, he shall be entitled at his option to exercise in the manner prescribed, to have his name entered in any one of the aforesaid electoral lists.(6)An option exercised under sub-section (5) shall be final and cannot be revised during the continuance of the electoral list except in the manner and for reasons to be prescribed.(7)A person ceasing to be a member by reasons of the expiry of his term of office shall, if otherwise qualified be eligible for re-election or renomination."

## **9. Insertion of a new section 5-A in Act XXXVIII of 1926.**

- After section 5 of the principal Act, the following shall be added as a new section 5-A: "5A. Retirement of members. - (1) The Bar Council for the High Court of Judicature at Allahabad shall be a permanent body not subject to dissolution, but as nearly as may be one-half of the members nominated or elected under clauses (b) to (d) of sub-section (1) of section 4 shall retire in accordance with the provisions of sub-section (2).(2)The High Court shall, by order, make such provision as it thinks fit, by curtailing the term of office of some of the members; for securing that, as nearly as may be, one-half of the members nominated or elected under clauses (b) to (d) of

sub-section (1) of section 4 shall retire in every third year thereafter."

## **10. Amendment of section 6 of Act XXXVIII of 1926.**

- In section 6 of the principal Act-(1)in sub-section (1)-(a)in clause (a) the words "the method of determining in accordance with the provisions of sub-sections (2) and (3) of section 4, the candidates who shall be declared to have been elected" shall be deleted;(b)clause (b) shall be deleted;(c)in sub-clause (d) the words "and the quorum necessary for the transaction of business thereat" shall be deleted ,(d)in sub-clause (c) for the words "the respective terms of office of the Chairman in cases where the Chairman is to be elected and" the words "the term of office" shall be substituted.(2)sub-section (4) shall be deleted.

## **11. Validation of proceedings, etc.**

- All orders made, actions or proceedings taken, directions issued or jurisdictions exercised by the Allahabad Council or the Avadh Council in the purported exercise of their powers under or in accordance with the provisions of the principal Act or any rules framed thereunder, during the period from the appointed day till their dissolution under Section 3 shall be deemed to be as good and valid in law as if such orders, actions, proceedings, directions and jurisdictions had been made, taken, issued or exercised by the Bar Council duly established for the New High Court under the principal Act.

## **12. Pending acts or proceedings by or against the Allahabad Council and the Avadh Council.**

- Any action or proceedings commenced by, before, or against the Allahabad Council or the Avadh Council before the date of the commencement of the Ordinance and pending on the said date may be continued by, before, or against the Bar Council for the New High Court, as if it had been an action or proceeding commenced by, before or against the Bar Council for the New High Court.

## **13. Assets and liabilities of the Allahabad Council and Avadh Council.**

- All property, funds and assets belonging to and vested in, and all liabilities and obligations incurred by or enforceable against the Allahabad Council or the Avadh Council on the date of the commencement of the Ordinance shall, with effect from the said date, be deemed to be transferred to, vested in or enforceable against the Bar Council for the New High Court.