

# **BAR COUNCIL OF INDIA RULES**

## **CHAPTER – II/**

### **Standards of Professional Conduct and Etiquette**

*(Rules under Section 49 (1) (c) of the Act read with the Proviso thereto)*

#### **Preamble**

An advocate shall, at all times, comport himself in a manner befitting his status as an officer of the Court, a privileged member of the community, and a gentleman, bearing in mind that what may be

lawful and moral for a person who is not a member of the Bar, or for

a member of the Bar in his non-professional capacity may still be improper for an advocate. Without prejudice to the generality of the foregoing obligation, an advocate shall fearlessly uphold the interests

of his client and in his conduct conform to the rules hereinafter mentioned both in letter and in spirit. The rules hereinafter mentioned contain canons of conduct and etiquette adopted as general guides; yet the specific mention thereof shall not be construed as a denial of the existence of others equally imperative though not specifically mentioned.

#### **Section I - Duty to the Court**

1. An advocate shall, during the presentation of his case and while otherwise acting before a court, conduct himself with dignity and self-respect. He shall not be servile and whenever there is proper ground for serious complaint against a judicial officer, it shall be his

right and duty to submit his grievance to proper authorities.

2. An advocate shall maintain towards the courts a respectful attitude, bearing in mind that the dignity of the judicial office is essential for the survival of a free community.

3. An advocate shall not influence the decision of a court by any illegal or improper means. Private communications with a judge relating to a pending case are forbidden.

4. An advocate shall use his best efforts to restrain and prevent his client from resorting to sharp or unfair practices or from doing anything in relation to the court, opposing counsel or parties which

the advocates 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 appearance, act, plead or practise in any way before a court, Tribunal or Authority mentioned in Section 30 of the Act, if the sole or any member thereof is related to the advocate as father, grandfather, son, grand-son, uncle, brother, nephew, first cousin, husband, wife, mother, daughter, sister, aunt, niece, father-in-law, mother-in-law, son-in-law, brother-in-law daughter-in-law or sister-in-law.

\*For the purposes of this rule, Court shall mean a Court, Bench or Tribunal in which above mentioned relation of the Advocate is a Judge, Member or the Presiding Officer.

7. An advocate shall not wear bands or gown in public places other than in courts except on such ceremonial occasions and at such places as the Bar Council of India or the court may prescribe.

8. An advocate shall not appear in or before any court or tribunal or any other authority for or against an organisation or an institution, society or corporation, if he is a member of the Executive Committee of such organisation or institution or society or corporation.

“Executive Committee”, by whatever name it may be called, shall include any

Committee or body of persons which, for the time being, is vested with the general management of the affairs of the organisation or institution, society or corporation.

Provided that this rule shall not apply to such a member appearing as “amicus curiae” or without a fee on behalf of a Bar Council, Incorporated Law Society or a Bar Association.

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

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.

**Illustration :**

I. He should not act in a bankruptcy petition when he himself is also a creditor of the bankrupt.

II. He should not accept a brief from a company of which he is a Director.

**Section II Duty to the Client**

11. An advocate is bound to accept any brief in the Courts or Tribunals or before any other authorities in or before which he proposes to practise at a fee consistent with his standing at the Bar and the nature of the case. Special circumstances may justify his refusal to accept a particular brief.

12. An advocate shall not ordinarily withdraw from engagements, once accepted, without sufficient cause and unless reasonable and sufficient notices 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 disclosure 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 of a criminal trial shall so conduct the prosecution that it does not lead to conviction of the innocent. The suppression of material capable of establishing the innocence of the accused shall be scrupulously avoided.

17. An advocate shall not, directly or indirectly, commit a breach of the obligations imposed by Section 126 of the Indian Evidence Act.

18. An advocate shall not, at any time, be a party to fomenting of litigation.

19. An advocate shall not act on the instructions of any person other than his client or his authorized agent.

20. An advocate shall not stipulate for a fee contingent on the results of litigation or agree to share the proceeds thereof.

21. An advocate shall not buy or traffic in or stipulate for or agree to receive any share or interest in any actionable claim. Nothing in this rule shall apply to stock, shares and debentures of government securities, or to any instruments which are, for the time being, by law or custom, negotiable or to any mercantile document of title to goods.

22. An advocate shall not, directly or indirectly, bid for or purchase, either in his own name or in any other name, for his own benefit or for the benefit of any other person, any property sold in the execution of a decree or order in any suit, appeal or other proceeding

in which he was in any way professionally engaged. This prohibition, however, does not prevent an advocate from bidding for or purchasing for his client any property which his client may himself legally bid for or purchase, provided the Advocate is expressly authorised in writing in this behalf.

22A. An advocate shall not directly or indirectly bid in court auction or acquire by way of sale, gift, exchange or any other mode of transfer either in his own name or in any other name for his own benefit or for the benefit of any other person any property which is subject matter of any suit appeal or other proceedings in which he is

in any way professionally engaged\* .

23. An advocate shall not adjust fee payable to him by his client against his own personal liability to the client, which liability does not arise in the course of his employment as an advocate.

24. An advocate shall not do anything whereby he abuses or takes advantage of the confidence reposed in him by his client.

25. An advocate should keep accounts of the client's money entrusted to him, and the accounts should show the amounts received from the client or on his behalf, the expenses incurred for him and the debits made on account of fees with respective dates and all other necessary particulars.

26. Where moneys are received from or on account of a client, the entries in the accounts should contain a reference as to whether the amounts have been received for fees or expenses and during the course of the proceeding, no advocates 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 for 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 proceeding.

33. An advocate who has, at any time, advised in connection with the institution of a suit, appeal or other matter or has drawn pleadings, or acted for a party, shall not act, appear or plead for the opposite party.

### **Section III - Duty to Opponent**

34. An advocate shall not in any way communicate or negotiate upon the subject matter of controversy with any party represented by an advocate except through that advocate.

35. An advocate shall do his best to carry out all legitimate promises made to the opposite party even though not reduced to writing or enforceable under the rules of the Court.

### **Section IV - Duty to Colleagues**

36. An advocate shall not solicit work or advertise, either directly or indirectly, whether by circulars, advertisements, touts, personal communications, interviews not warranted by personal relations, furnishing or inspiring newspaper comments or producing his photographs to be published in connection with cases in which he has been engaged or concerned. His sign-board or name-plate should be 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 worker

or that he has been a Judge or an Advocate General.

That this Rule will not stand in the way of advocates furnishing

website information as prescribed in the Schedule under intimation to

and as approved by the Bar Council of India. Any additional other input in the particulars than approved by the Bar Council of India will be deemed to be violation of Rule 36 and such advocates are liable to be proceeded with misconduct under Section 35 of the Advocates Act, 1961.

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

38. An advocate shall not accept a fee less than the fee taxable under

rules when the client is able to pay the same.

39. An advocate shall not enter appearance in any case in which there is already a vakalat or memo of appearance filed by an advocate engaged for a party except with his consent; 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.

#### **Section IV-A**

40. Every Advocate borne on the rolls of the State Bar Council shall pay to the State Bar Council a sum of Rs. 300/- every third year commencing from 1st August, 2001 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 August, 2001 or such extended time as notified by the Bar Council of India or the concerned State Bar Council.

Provided further however that an advocate shall be at liberty to pay in lieu of the payment of Rs. 600/- every three years a consolidated amount of Rs. 1,000/- . This will be a life time payment

to be kept in the fixed deposit by the concerned State Bar Council. Out of life time payment, 80% of the amount will be retained by the State Bar Council in a fixed deposit and remaining 20% has to be

transferred to the Bar Council of India. The Bar Council of India and

State Bar Council have to keep the same in a fixed deposit and the interest on the said deposits shall alone be utilized for the Welfare of

the Advocates”.

**Explanation 1 :** Statement of particulars as required by rule 40 in the form set out shall require to be submitted only once in three years.

**Explanation 2.** The Advocates who are in actual practise and are not drawing salary or not in full time service and not drawing salary from their respective employers are only required to pay the amount referred to in this rule.

**Explanation 3.** This rule will be effective from 1-10-2006 and for period prior to this, advocates will continue to be covered by old rule.

41. (1) All the sums so collected by the State Bar Council in accordance with Rule 40 shall be credited in a separate fund known as “Bar Council of India Advocates Welfare Fund” and shall be deposited in the bank as provided hereunder.

(2) The Bar Council of India Advocates Welfare Fund Committee for the State shall remit 20% of the total amount collected and credited to its account, to the Bar Council of India by the end of every month which shall be credited by the Bar Council of India and Bar Council of India shall deposit the said amount in separate fund to

be known as “BAR COUNCIL OF INDIA ADVOCATES WELFARE FUND.” This fund shall be managed by the Welfare Committee of the Bar Council of India in the manner prescribed from time to time by the Bar Council of India for the Welfare of Advocates.

(3) The rest 80% of the total sum so collected by the Bar Council of India Advocates Welfare Fund Committee for the State under Rule

41 (1) shall be utilised for the welfare of advocates in respect of Welfare Schemes sponsored by the respective State Bar Councils and



this fund shall be administered by the Advocates Welfare Committee for the State which shall submit its report annually to the Bar Council of India.

(4) In case of transfer of an advocate from one State Bar Council to other State Bar Council, 80% of the total sum collected so far in respect of that advocate by the Bar Council of India Advocates Welfare Committee for the State under Rule 41 (1) where the said Advocate was originally enrolled, would get transferred to the Advocates Welfare Fund Committee of the Bar Council of India for the State to which the said Advocate has got himself transferred\* .

42. If any advocate fails to pay the aforesaid sum within the prescribed time as provided under rule 40, the Secretary of the State

Bar Council shall issue to him a notice to show cause within a month

why his right to practice be not suspended. In case the advocate pays

the amount together with 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.

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.

44A. (1) There shall be a Bar Council of India Advocates Welfare Committee, consisting of five members elected from amongst the members of the Council. The term of the members of the committee shall be co-extensive with their term in Bar Council of India.\*

(2) (i) Every State Council shall have an Advocates Welfare Committee known as Bar Council of India Advocates Welfare Committee for the State.

(ii) The Committee shall consist of member Bar Council of India from the State concerned who shall be the Ex-Officio Chairman of the Committee and two members elected from amongst the members.

(iii) The Secretary of the State Bar Council concerned will act as Ex-Officio Secretary of the Committee.

(iv) The term of the member, Bar Council of India in the Committee shall be co-extensive with his term in the Bar Council of India.

(v) The term of the members elected from the State Bar Council shall be two years.

(vi) Two members of the Committee will form a quorum of any meeting of the Committee.

(3) Every State Bar Council shall open an account in the name of the Bar Council of India Welfare Committee for the State, in any nationalised Bank,

(4) No amount shall be withdrawn from the Bank unless that cheque is signed by the Chairman of the Welfare Committee and its Secretary.

(5) The State Bar Council shall implement Welfare Schemes approved by the Bar Council of India through Advocates Welfare Committee as constituted under sub-clause (2) (i). The State Bar Councils may suggest suitable modifications in the Welfare Schemes

or suggest more schemes, but such modifications or such suggested schemes shall have effect only after approval by the Bar Council of India.

(6) The State Bar Council shall maintain separate account in respect of the Advocate Welfare Fund which shall be audited annually along with other accounts of the State Bar Council and send

the same along with Auditors Report to the Bar Council of India.

Provided that the Bar Council of India Advocates Welfare Fund Committee for the State shall be competent to appoint its own staff in

addition to the staff of the Bar Council of the State entrusted with duty to maintain the account of the Fund if their funds are adequate

to make such appointment. The salary and other conditions of the said staff be determined by the Bar Council of India Advocates Welfare Fund Committee for the State.\*

Provided further that Chairman of the Bar Council of India Advocates Welfare Fund Committee for the State shall be competent to make temporary appointment for a period not exceeding six months in one transaction if the situation so requires subject to availability of fund in the said Committee for making such appointment.\*

44B. The Bar Council of India shall utilise the funds received under Rule 41(2) in accordance with the schemes which may be framed from time to time.

## FORM UNDER RULE 40

The Bar Council .....  
.....

Dear Sirs,

(1) I am enclosing herewith a Postal Order/Bank Draft/Cash for  
..... being the payment under Rule 40. Chapter II,  
Part  
VI of the Rules of the Bar Council of India.

(2) I am enrolled as an Advocate on the Rolls of your State Bar  
Council.

(3) I am ordinarily practising at .....  
in the territory/ State of .....

(4) I am a member of the ..... Bar  
Association/not a member of any Bar Association.

(5) My present address is  
.....

DATED SIGNATURE  
PLACE NAME IN BLOCK LETTERS  
ENROLMENT NO .....

Received a sum of Rs. .... from .....  
towards payment under Rule 40, Chapter II, Part VI of the Rules of  
the Bar Council of India by way of Postal Order/Bank Draft/Cash  
on

.....  
DATED: SECRETARY  
PLACE : BAR COUNCIL OF .....

**SCHEME FOR FINANCIAL ASSISTANCE TO STATE BAR COUNCILS AND INDIVIDUALS UNDER RULE 44B OF THE BAR COUNCIL OF INDIA RULES\***

1. These rules shall be known as the Scheme for Financial Assistance to the State Bar Councils under Rule 44B of the Bar Council of India Rules.
2. The Scheme shall come into force immediately.
3. These schemes shall be applicable to only such State Bar Councils which have remitted the sum in accordance with the Rule 41 (2) of the Bar Council of India.
4. That on receiving information from the Chairman of the State Bar Council or Member, Bar Council of India from that State, the Chairman, Bar Council of India on being satisfied by such report may immediately sanction a reasonable amount not exceeding Rs. 20,000/-\*\* in an individual case and Rs. 50,000/-\*\* in case of some calamity involving more than one advocate and shall report to the Advocates Welfare Committee of the Bar Council of India. The financial assistance to the State Bar Councils will be available in any of the following cases : —
  - (a) The advocate or advocates have suffered seriously on account of some natural calamity or ;
  - (b) the advocate or advocates have died an unnatural death, due to an accident or natural calamity or any other cause of like nature, or;
  - (c) the advocate or advocates have suffered or is suffering from such serious disease or illness which is likely to cause death if no proper treatment is given and the advocate requires financial assistance without which he would not be able to get proper treatment and has no personal assets except a residential house to meet such expenditures, or;
  - (d) the advocate or advocates become physically disabled or incapacitated to continue his profession on account of natural calamity or accident or any other cause of like nature.
5. That the amount sanctioned under Rule 4 shall be placed at the disposal of the Advocates Welfare Committee of the Bar Council of

India for the State and the said State Committee shall maintain separate account and send the same to the Bar Council of India within three months from the date of the receipt thereof.

6. That the Advocates Welfare Committee of the Bar Council of India on receiving such applications duly recommended by the State

Bar Councils, may sanction a sum provided in the different schemes

prepared by the Bar Council of India.

### **Section V-Duty in imparting training**

45. It is improper for an advocate to demand or accept fees or any premium from any person as a consideration for imparting training in

law under the rules prescribed by State Bar Council to enable such person to qualify for enrolment under the Advocates Act, 1961.

### **Section VI-Duty to Render Legal Aid**

46. Every advocate shall in the practice of the profession of law bear in mind that any one genuinely in need of a lawyer is entitled to legal

assistance even though he cannot pay for it fully or adequately and that within the limits of an Advocate's economic condition, free legal assistance to the indigent and oppressed is one of the highest obligations an advocate owes to society.

### **Section VII-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 provided that in the opinion of the appropriate State Bar Council, the nature of the business is not inconsistent with the dignity of the profession.

48. An advocate may be Director or Chairman of the Board of Directors of a Company with or without any ordinarily sitting fee,

provided none of his duties are of an executive character. An advocate shall not be a Managing Director or a Secretary of any Company.

49. An advocate shall not be a full-time salaried employee of any person, government, firm, corporation or concern, so long as he continues to practise, and shall, on taking up any 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.

\*“That as Supreme Court has struck down the appearance by Law Officers in Court even on behalf of their employers the Judgement will operate in the case of all Law Officers. Even if they were allowed to appear on behalf of their employers all such Law Officers who are till now appearing on behalf of their employers shall not be allowed to appear as advocates. The State Bar Council should also ensure that those Law Officers who have been allowed to

practice on behalf of their employers will cease to practice. It is made

clear that those Law Officers who after joining services obtained enrolment by reason of the enabling provision cannot practice even on behalf their employers.”

\* “That the Bar Council of India is of the view that if the said officer is a whole time employee drawing regular salary, he will not be entitled to be enrolled as an advocate. If the terms of employment

show that he is not in full time employment he can be enrolled.”

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 decended to him by survivorship or

inheritance or by will, provided he does not personally participate in the management thereof.

51. An advocate may review Parliamentary Bills for a remuneration, edit legal text books at a salary, do press-vetting for newspapers,

coach pupils for legal examination, set and examine question papers;

and subject to the rules against advertising and full-time employment, engage in broadcasting, journalism, lecturing and teaching subjects, both legal and non-legal.

52. Nothing in these rules shall prevent an advocate from accepting after obtaining the consent of the State Bar Council, part-time employment provided that in the opinion of the State Bar Council, the nature of the employment does not conflict with his professional work and is not inconsistent with the dignity of the profession. This rule shall be subject to such directives if any as may be issued by the

Bar Council India from time to time.



## **CHAPTER - III**

### **(Conditions for right to practice)**

*(Rules under Section 49 (1) (ah) of the Act)*

1. Every advocate shall be under an obligation to see that his name appears on the roll of the State Council within whose jurisdiction he ordinarily practices.

**PROVIDED** that if an advocate does not apply for transfer of his name to the roll of the State Bar Council within whose jurisdiction he is ordinarily practising within six months of the start of such practice, it shall be deemed that he is guilty of professional misconduct within the meaning of Section 35 of the Advocates Act.

2. An advocate shall not enter into a partnership or any other arrangement for sharing remuneration with any person or legal practitioner who is not an advocate.

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

4. The Council or a State Council can call upon an advocate to furnish the name of the State Council on the roll of which his name is entered, and call for other particulars.

5. (1) An advocate who voluntarily suspends his practice for any reason whatsoever, shall intimate by registered post to the State Bar Council on the rolls of which his name is entered, of such suspensions 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, along with 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. (1) An advocate whose name has been removed by order of the Supreme Court or a High Court or the Bar Council as the case may

be, shall not be entitled to practice the profession of law either before the Court and authorities mentioned under Section 30 of the Act, or in chambers or otherwise.

(2) An advocate who is under suspension, shall be under same disability during the period of such suspension as an advocate whose name has been removed from the roll.

**Modified Rule\***

Rule 7. "An officer after his retirement or otherwise ceasing to be in service for any reasons, if enrolled as an Advocate shall not practice in any of the Judicial, administrative Courts/ Tribunals/ authorities which are presided over by an officer equivalent or lower to the post which such officer last held."

Explanation: "An officer shall include Judicial Officer, Officer from State or central services and Presiding Officers or Members of the Tribunals or Authorities or such officers as referred under section 30 (ii) of the Advocates Act, 1961."<sup>1</sup>

"7A. Any person applying for enrolment as an Advocate shall not be enrolled, if he is dismissed, retrenched, compulsorily retired, removed or otherwise relieved from

Government service or from the service under the control of the Hon'ble High Courts or

the Hon'ble Supreme Court on the charges or corruption or dishonesty unbecoming of

an employee and a person having such disqualification is permanently debarred from

enrolling himself as an advocate".<sup>2</sup>

8. No advocate shall be entitled to practice if in the opinion of the Council he is suffering

from such contagious disease as makes the practice of law a hazard to the health of

others. This disqualification shall last for such period as the Council directs from time to time.

## **BAR COUNCIL EXAMINATION**

[To be inserted as Rules 9 to 11 in Part VI, Chapter III of the Bar Council of India Rules –

Conditions for Right To Practice – under Section 49(1)(ah) of the Advocates Act, 1961]

RESOLVED that as the Bar Council of India is vested with the power of laying down conditions subject to which an advocate shall have the right to practice, these Rules, therefore, lay down such condition of an All India Bar Examination, the passing of which would entitle the advocate to a Certificate of Practice which would permit him/her to practice under Chapter IV of the Advocates Act, 1961.

9. No advocate enrolled under section 24 of the Advocates Act, 1961 shall be entitled to practice under Chapter IV of the Advocates Act, 1961, unless such advocate successfully passes the All India Bar Examination conducted by the Bar Council of India.

It is clarified that the Bar Examination shall be mandatory for all law students graduating from academic year 2009-2010 onwards and enrolled as advocates under Section 24 of the Advocates Act, 1961.

The All India Bar Examination

10. (1) The All India Bar Examination shall be conducted by the Bar Council of India.

(a) The Bar Examination shall be held at least twice each year in such month and such places that the Bar Council of India may determine from time to time.

(b) The Bar Examination shall test advocates in such substantive and procedural law

1 Rule 7A came into force Gazette 26-2-2000

2 Held invalid by Andhra Pradesh High Court by its order dt. 21-9-2001. In writ petition No. 3162/2001.

areas as the Bar Council of India may determine from time to time.

- (c) Such substantive/procedural law areas and syllabi shall be published by the Bar Council of India at least three months prior to the scheduled date of examination.
- (d) The percentage of marks required to pass the Bar Examination shall be determined by the Bar Council of India.
- (e) An unsuccessful advocate may appear again for the Bar Examination, without any limit on the number of appearances.
- (f) The Bar Council of India, through a committee of experts, shall determine the syllabi, recommended readings, appointment of paper setters, moderators, evaluators, model answers, examination hall rules and other related matters.
- (g) The Bar Council of India shall determine the manner and format of application for the examination.
- (h) Upon successfully passing the Bar Examination, the advocate shall be entitled to a Certificate of Practice.

#### Application for Certificate of Practice

11. (1) The Certificate of Practice shall be issued by the Bar Council of India to the address of the successful advocate within 30 days of the date of declaration of results.
- (2) The Certificate of Practice shall be issued by the Bar Council of India under the signature of the Chairman, Bar Council of India.

### **CHAPTER-III A3**

#### **To address the Court**

Consistent with the obligation of the Bar to show a respectful attitude towards the Court and bearing in mind the dignity of Judicial Office, the form of address to be adopted whether in the Supreme Court, High Courts or Subordinate Courts should be as follows:  
 “Your Honour” or “Hon’ble Court” in Supreme Court & High Courts and in the

Subordinate Courts and Tribunals it is open to the Lawyers to address the Court as “Sir” or the equivalent word in respective regional languages.

**EXPLANATION:** As the words “My Lord” and “Your Lordship” are relics of Colonial post, it is proposed to incorporate the above rule showing respectful attitude to the Court.

## **FORM OF DRESSES OR ROBES TO BE WORN BY ADVOCATES\***

*(Rules under Section 49 (I) (gg) of the Act)*

Advocates appearing in the Supreme Court, High Courts, Subordinate Courts, Tribunals or Authorities shall wear the following

as part of their dress, which shall be sober and dignified.\*

### **1. ADVOCATES**

(a) A black buttoned up coat, chapkan, achkan, black sherwani and white bands with Advocates’ Gowns.

(b) A black open breast coat. white shirt, white collar, stiff or soft, and white bands with Advocates’ Gowns.

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

Provided further that in courts other than the Supreme Court, High Courts, District Courts, Sessions Courts or City Civil Courts, a black tie may be worn instead of bands.

### **II. LADY ADVOCATES**

(a) Black full sleeve jacket or blouse, white collar stiff or soft, with white bands and Advocates’ Gowns.

White blouse, with or without collar, with white bands and with a black open breast coat.

Or

(b) Sarees or long skirts (white or black or any mellow or subdued colour without any print or design) or flare (white, black or black striped or grey) or Punjabi dress Churidar Kurta or Salwar-Kurta with or without dupatta (white or black) or traditional dress with black coat and bands.

III. Wearing of Advocates' gown shall be optional except when appearing in the Supreme Court or in High Courts.

IV. Except in Supreme Court and High Courts during summer

wearing of black coat is not mandatory.

\* Amendment recommended by the Rules Committee at its meeting dt. 24.08.2001

was approved by the Bar Council of India at its meeting held on 25th and 26th August,

2001 (Resolution No. 121/2001). The Chief Justice of India approved the Rules vide letter

dt. 12.11.2001 subject to modification of Rule IV. The amendment suggested by the

Hon'ble Chief Justice of India was incorporated in Rule IV vide Resolution No. 155/2001

dt. 22nd and 25th December, 2001.

In the change brought about in the Dress Rules, there appears to be some confusion in so far as the Sub Courts are concerned. For removal of any doubt it is clarified that so far as the courts other than

Supreme Court and High Court are concerned during summer while wearing black coat is not mandatory, the advocates may appear in white shirt with black, white striped or gray pant with black tie or band and collar.\*

**RULES MADE BY THE CENTRAL GOVERNMENT UNDER  
SECTION 49-A OF THE ADVOCATES ACT, 1961 RE : RIGHT OF  
PRACTISING ADVOCATES TO TAKE UP LAW TEACHING\***

**Government of India Ministry of Law, Justice & Company  
Affairs, Department of Legal Affairs.**

**NOTIFICATION**

G.S.R in exercise of the powers conferred by Section 49A of the Advocates Act, 1961 (25 of 1961), the Central Government hereby make the following rules, namely:-

**1. Short title and commencement :**

- (1) These rules may be called the Advocates (Right to take up Law teaching) rules, 1979.
- (2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions**

In these rules “Act’ means the Advocates Act, 1961 (25 of 1961).

**3. Right of practicing advocates to take up law teaching.**

- (1) Notwithstanding anything to the contrary contained in any rule made under the Act, an advocate may, while practicing, take up teaching of law in any educational institution which is affiliated to a University within the meaning of the University Grants Commission Act, 1956 (3 of 1956), so long as the hours during which he is so engaged in the teaching of law do not exceed three hours in a day.
- (2) When any advocate is employed in any such educational institution for the teaching of law, such employment shall, if the hours during which he is so engaged in the teaching of law do not exceed three hours, be deemed, for the purposes of the Act and the rules made thereunder, to be a part-time employment irrespective of the manner in which such employment is described or the remuneration receivable (whether by way of a fixed amount or on the basis of any time scale of pay or in any other manner) by the advocate for such employment.

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. The Disciplinary Committee of the Bar Council of India shall exercise all the powers exercised by the Civil Court or Court of Appeal under C.P.C.\*

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.