

## ADVOCATES ACT, 1961

*An Act to amend and consolidate the law relating to legal practitioners and to provide for the constitution of the Bar Councils and an All-India Bar.*

*Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows:-*

### CHAPTER I

#### PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Advocates Act, 1961.

<sup>1</sup>[(2) It extends <sup>2</sup>to the whole of India.]

(3) It <sup>3</sup>[shall, in relation to the territories other than those referred to in sub-section (4), come into force] on such date<sup>4</sup> as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

<sup>4</sup>[(4) This Act shall, in relation to the State of Jammu and Kashmir and the Union territory of Goa, Daman and Diu, come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, and different dates may be appointed for different provisions of this Act.]

2. **Definitions.**—<sup>5</sup>[(1)] In this Act, unless the context otherwise

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requires,—

(a) “advocate” means an advocate entered in any roll under the provisions of this Act;

(b) “appointed day”, in relation to any provision of this Act, means the day on which that provision comes into force;

<sup>1</sup>[\*\*\*]

(d) “Bar Council” means a Bar Council constituted under this Act;

(e) “Bar Council of India” means the Bar Council constituted under section 4 for the territories to which this Act extends;

<sup>2</sup>[\*\*\*]

(g) “High Court” , except in sub-section (1) <sup>3</sup>[and sub-section (1A)] of section 34 and in sections 42 and 43, does not include a court of the Judicial Commissioner, and, in relation to a State Bar Council, means,—

(i) in the case of a Bar Council constituted for a State or for a State and one or more Union territories, the High Court for the State;

(ii) in the case of the Bar Council constituted for Delhi,  
<sup>4</sup>[the High Court of Delhi];

(h) “law graduate” means a person who has obtained a bachelor’s degree in law from any University established by law in India;

(i) “Legal practitioner” means an advocate <sup>5</sup>[or vakil] or any High Court, a pleader, mukhtar or revenue agent;

(j) “prescribed” means prescribed by rules made under this Act;

(k) “roll” means a roll of advocates prepared and maintained under this Act;

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(l) “State” does not include a Union territory;

(m) “State Bar Council” means a Bar Council constituted under section 3;

(n) “State roll” means a roll of advocates prepared and maintained by a State Bar Council under section 17.

<sup>1</sup>[(2) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir or in the Union territory of Goa\*, Daman and Diu, shall, in relation to that State or that territory, be construed as a reference to the corresponding law, if any, in force in that State or that territory, as the case may be.]

## CHAPTER II

### BAR COUNCILS

#### 3. **State Bar Councils.**—(1) There shall be a Bar Council—

(a) for each of States of Andhra Pradesh, Bihar, Gujarat,  
<sup>1</sup>[Jammu and Kashmir], <sup>2</sup>[Jharkhand] <sup>3</sup>[Madhya Pradesh,  
Chhattisgarh], <sup>4</sup>[\*\*\*], <sup>5</sup>[\*\*\*], <sup>6</sup>[Karnataka], Orissa, Rajasthan  
<sup>7</sup>[Uttar Pradesh and Uttaranchal], to be known as the Bar  
Council of that State;

<sup>8</sup>[(b) for the States of Arunachal Pradesh, Assam, Manipur,  
Meghalaya, Mizoram, Nagaland and Tripura to be known as the  
Bar Council of Assam, Nagaland, Meghalaya, Manipur, Tripura,  
Mizoram and Arunachal Pradesh;]

(c) for the State of Kerala and <sup>9</sup>[the Union territory of  
Lakshadweep], to be known as the Bar Council of Kerala;

<sup>10</sup>[(cc) for the <sup>11</sup>[State of Tamil Nadu] and the Union territory of  
Pondicherry to be known as the Bar Council of Madras\*];]

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<sup>12</sup>[(ccc) for the States of Maharashtra and Goa, and the Union  
territories of Dadra and Nagar Haveli and Daman and Diu, to be  
known as the Bar Council of Maharashtra and Goa;]

<sup>1</sup>[(d) for the States of Punjab and Haryana, and the Union territory of Chandigarh, to be known as the Bar Council of Punjab and Haryana;

(dd) for the State of Himachal Pradesh, to be known as the Bar Council of Himachal Pradesh;]

(e) for the State of West Bengal and the <sup>2</sup>[Union territory of Andaman and Nicobar Islands], to be known as the Bar Council of West Bengal; and

(f) for the Union territory of Delhi, to be known as the Bar Council of Delhi.

(2) A State Bar Council shall consist of the following members, namely:—

(a) in the case of the State Bar Council of Delhi, the Additional Solicitor General of India *ex officio* <sup>3</sup>[in the case of the State Bar Council of Assam, Nagaland, Meghalaya, Manipur and Tripura, the Advocate General of each of the State of Assam, Manipur, Meghalaya, Nagaland and Tripura, *ex officio*; in the case of the State Bar Council of Punjab and Haryana, the Advocate-General of each of the State of Punjab and Haryana, *ex officio*;] and in the case of any other State Bar Council, the Advocate-General of the State, *ex officio*;

<sup>4</sup>[(b) in the case of a State Bar Council with an electorate not exceeding five thousand, fifteen members, in the case of a State Bar Council with an electorate exceeding five thousand but not exceeding ten thousand, twenty members, and in the case of the State Bar Council with an electorate exceeding ten thousand, twenty-five members, elected in accordance with the system of proportional representation by means of the single transferable vote from amongst advocates on the electoral roll of the State Bar Council:]

<sup>5</sup>[Provided that as nearly as possible one-half of such elected members shall subject to any rules that may be made in this behalf by the Bar Council of India, be persons who have for at

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least ten years been advocates on a State roll, and in computing the said period of ten years in relation to any such person, there shall be included any period during which the person has been an advocate enrolled under the Indian Bar Councils Act, 1926 (38 of 1926).]

<sup>1</sup>[(3) There shall be a Chairman and a Vice-Chairman of each State Bar Council elected by the Council in such manner as may be prescribed.

(3A) Every person holding office as Chairman or as Vice-Chairman of any State Bar Council immediately before the commencement of the Advocates (Amendment) Act, 1977 (38 of 1977) shall, on such commencement, cease to hold office as Chairman or Vice-Chairman, as the case may be:

Provided that every such person shall continue to carry on the duties of his office until the Chairman or the Vice-Chairman, as the case may be, of each State Bar Council, elected after the commencement of the Advocates (Amendment) Act, 1977 (38 of 1977), assumes charge of the office.]

<sup>2</sup>[(4) An Advocate shall be disqualified from voting at an election under sub-section (2) or for being chosen as, and for being, a member of State Bar Council, unless he possesses such qualifications or satisfies such conditions as may be prescribed in this behalf by the Bar Council of India, and subject to any such rules that may be made, an electoral roll shall be prepared and revised from time to time by each State Bar Council.

(5) Nothing in the proviso to sub-section (2) shall affect the term of office of any member elected before the commencement of the Advocates (Amendment) Act, 1964 (21 of 1964), but every election after such commencement shall be held in accordance with the provisions of the rules made by the Bar Council of India to give effect to the said proviso.]

<sup>3</sup>[(6) Nothing in clause (b) of sub-section (2) shall affect the representation of elected members in any State Bar Council as constituted immediately before the commencement of the Advocates (Amendment) Act, 1973 (60 of 1973), until that State Bar Council is reconstituted in accordance with the provision of

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this Act.]

4. **Bar Council of India.**—(1) There shall be a Bar Council for the territories to which this Act extends to be known as the Bar Council of India which shall consist of the following members, namely:—

(a) the Attorney-General of India, *ex officio*;

(b) the Solicitor-General of India, *ex officio*;

<sup>1</sup>[\*\*\*]

(c) one member elected by each State Bar Council from amongst its members.

<sup>2</sup>[(1A) No person shall be eligible for being elected as a member of the Bar Council of India unless he possesses the qualifications specified in the proviso to sub-section (2) of section 3.]

<sup>3</sup>[(2) There shall be a Chairman and a Vice-Chairman of the Bar Council of India elected by the Council in such manner as may be prescribed.

(2A) A person holding office as Chairman or as Vice-Chairman of the Bar Council of India immediately before the commencement of the Advocates (Amendment) Act, 1977 (38 of 1977), shall, on such commencement, cease to hold office as Chairman or Vice-Chairman, as the case may be:

Provided that such person shall continue to carry on the duties of his office until the Chairman or the Vice-Chairman, as the case may be, of the Council, elected after the commencement of the Advocates (Amendments) Act, 1977 (38 of 1977), assumes charge of the office.]

<sup>4</sup>[(3) The term of office of a member of the Bar Council of India elected by the State Bar Council shall—

(i) in the case of a member of a State Bar Council who holds office *ex-officio*, be two years from the date of his election 2[or till he ceases to be a member of the State Bar Council, whichever is earlier]; and

(ii) in any other case, be for the period for which he holds office as a member of the State Bar Council:

Provided that every such member shall continue to hold office as a member of the Bar Council of India until his successor is elected.]

5. **Bar Council to be body corporate.** —Every Bar Council shall

be a body corporate having perpetual succession and a common seal, with power to acquire and hold property, both moveable and immovable, and to contract, and may by the name by which it is known sue and be sued.

**6. Functions of State Bar Councils.** — (1) The functions of a State Bar Council shall be—

- (a) to admit persons as advocates on its roll;
  - (b) to prepare and maintain such roll;
  - (c) to entertain and determine cases of misconduct against advocates on its roll;
  - (d) to safeguard the rights, privileges and interests of advocates on its roll;
  - <sup>1</sup>[(dd) to promote the growth of Bar Associations for the purposes of effective implementation of the welfare schemes referred to in clause (a) of sub-section (2) of this section clause (a) of sub-section (2) of section 7;]
  - (e) to promote and support law reform;
  - <sup>2</sup>[(ee) to conduct seminars and organise talks on legal topics by eminent jurists and publish journals and paper of legal interest;
  - (eee) to organise legal aid to the poor in the prescribed manner;]
  - (f) to manage and invest the funds of the Bar Council;
  - (g) to provide for the election of its members;
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<sup>1</sup>[(gg) to visit and inspect Universities in accordance with the directions given under clause (i) of sub-section (1) of section 7;]

(h) to perform all other functions conferred on it by or under this Act;

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

<sup>2</sup>[(2) A State Bar Council may constitute one or more funds in the prescribed manner for the purpose of—

(a) giving financial assistance to organise welfare schemes for the indigent, disabled or other advocates;

(b) giving legal aid or advice in accordance with the rules made in this behalf;]

<sup>3</sup>[(c) establishing law libraries.]]

<sup>4</sup>[(3) A State Bar Council may receive any grants, donations, gifts or benefactions for all or any of the purposes specified in sub-section (2) which shall be credited to the appropriate fund or funds constituted under that sub-section.]

**7. Functions of Bar Council of India.**—<sup>5</sup>[(1)] The functions of the Bar Council of India shall be—

<sup>6</sup>[\*\*\*]

(b) to lay down standards of professional conduct and etiquette for advocates;

(c) to lay down the procedure to be followed by its disciplinary committee and the disciplinary committee of each State Bar Council;

(d) to safeguard the rights, privileges and interests of advocates;

(e) to promote and support law reform;

(f) to deal with and dispose of any matter arising under this Act, which may be referred to it by a State Bar Council;

(g) to exercise general supervision and control over State Bar Councils;

(h) to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils;

(i) to recognise Universities whose degree in law shall be a qualification for enrolment as an advocate and for that purpose to visit and inspect Universities<sup>3</sup>[or cause the State Bar Councils to visit and inspect Universities in accordance with such directions as it may give in this behalf];

<sup>1</sup>[(ia) to conduct seminars and organize talks on legal topics by eminent jurists and publish journals and papers of legal interest;

(ib) to organise legal aid to the poor in the prescribed manner;

(ic) to recognise on a reciprocal basis foreign qualifications in law obtained outside India for the purpose of admission as an advocate under this Act;]

(j) to manage and invest the funds of the Bar Council;

(k) to provide for the election of its members;

(l) to perform all other functions conferred on it by or under this Act.

(m) to do all other things necessary for discharging the aforesaid functions;

<sup>2</sup>[(2) The Bar Council of India may constitute one or more funds in the prescribed manner for the purpose of—

(a) giving financial assistance to organise welfare schemes for indigent, disabled or other advocates;

(b) giving legal aid or advice in accordance with the rules made in this behalf;]

<sup>1</sup>[(c) establishing law libraries.]

<sup>2</sup>[(3) The Bar Council of India may receive any grants, donations, gifts or benefactions for all or any of the purposes specified in sub-section (2) which shall be credited to the appropriate fund or funds constituted under that sub-section.]

<sup>3</sup>**[7A. Membership in international bodies.]**—The Bar Council of India may become a member of international legal bodies such as the International Bar Association or the International Legal Aid Association, contribute such sums as it thinks fit to such bodies by way of subscription or otherwise and authorise expenditure on the participation of its representatives in any international legal conference or seminar.]

<sup>4</sup>**[8. Term of office of Members of State Bar Council.]**—The term of office of an elected member of a State Bar Council (other than an elected member thereof referred to in section 54) shall be five years from the date of publication of the result of his election:

Provided that where a State Bar Council fails to provide for the election of its member before the expiry of the said term, the Bar Council of India may, by order for reasons to be recorded in writing, extend the said term, the Bar Council of India may, by order, extend the said term for a period not exceeding six months.]

<sup>5</sup>**[8A. Constitution of Special Committee in the absence of election.]**—(1) Where a State Bar Council fails to provide for the election of its members before the expiry of the term of five years or the extended term, as the case may be, referred to in section 8, the Bar Council of India shall, on and from the date immediately following the day of such expiry, constitute a Special Committee consisting of—

(i) the *ex officio* member of the State Bar Council referred to in clause (a) of sub-section (2) of section 3 to be the Chairman:

Provided that where there are more than one *ex officio* members, the senior-most amongst them shall be the Chairman;

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and

(ii) two members to be nominated by the Bar Council of India from amongst advocates on the electoral roll of the State Bar Council,

to discharge the functions of the State Bar Council until the Bar Council is constituted under this Act.

(2) On the constitution of the Special Committee and until the State Bar Council is constituted—

(a) all properties and assets vesting in the State Bar Council shall vest in the Special Committee;

(b) all rights, liabilities and obligations of the State Bar Council, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations of the Special Committee;

(c) all proceedings pending before the State Bar Council in respect of any disciplinary matter or otherwise, shall stand transferred to the Special Committee.

(3) The Special Committee constituted under sub-section (1) shall, in accordance with such directions as the Bar Council of India may give to it in this behalf, hold election to the State Bar Council within a period of six months from the date of its constitution under sub-section (1), and where, for any reason the Special Committee is not in a position to conduct election within the said period of six months, the Bar Council of India may, for reasons to be recorded by it in writing, extend the said period.]

**9. Disciplinary Committees.**—(1) A Bar Council shall constitute one or more disciplinary committees, each of which shall consist of three persons of whom two shall be persons elected by the Council from amongst its members and the other shall be a person co-opted by the Council from amongst advocates who possess the qualifications specified in the proviso to sub-section (2) of section 3 and who are not members of the Council, and the senior-most advocate amongst the members of a disciplinary committee shall be the Chairman thereof.

(2) Notwithstanding anything contained in sub-section (1), any disciplinary committee constituted prior to the commencement of the Advocates (Amendment) Act, 1964, (21 of 1964) may dispose of the proceedings pending before it as if this section had not been amended by the said Act.

**<sup>1</sup>[9A. Constitution of legal aid Committees.—**(1) A Bar Council may constitute one or more legal aid committees each of which shall consist of such number of members, not exceeding nine but not less than five, as may be prescribed.

(2) The qualifications, the method of selection and the term of office of the members of legal aid committee shall be such as may be prescribed.]

**10. Constitution of committees other than disciplinary committees.—**(1) A State Bar Council shall constitute the following standing committees, namely:—

(a) an executive committee consisting of five members elected by the Council from amongst its members;

(b) an enrolment committee consisting of three members elected by the Council from amongst its members.

(2) The Bar Council of India shall constitute the following standing committees, namely:—

(a) an executive committee consisting of nine members elected by the Council from amongst its members;

(b) a legal education committee consisting of ten members, of whom five shall be persons elected by the Council from amongst its members and five shall be persons co-opted by the Council who are not members thereof.

(3) A State Bar Council and the Bar Council of India may constitute from amongst its members such other committees as it may deem necessary for the purpose of carrying out the provisions of this Act.

**<sup>2</sup>[10A. Transaction of business by Bar Councils and committees thereof:-** <sup>3</sup>(1) The Bar Council of India shall meet at New Delhi or at such other place as it may, for reasons to be recorded in writing, determine.

(2) A State Bar Council shall meet at its headquarters or at such other place as it may, for reasons to be recorded in writing, determine.]

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(3) The committees other than disciplinary committees continued by the Bar Councils shall meet at the headquarters of the respective Bar Councils.

(4) Every Bar Council and every committee thereof except the disciplinary committees shall observe such rules of procedure in regard to the transaction of business at their meetings as may be prescribed.

(5) The disciplinary committees constituted under section 9 shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at their meetings as may be prescribed.]

<sup>1</sup>**[10B]. Disqualification of members of Bar Council.** —An elected member of a Bar Council shall be deemed to have vacated his office if he is declared by the Bar Council of which he is a member to have been absent without sufficient excuse from three consecutive meetings of such Council, or if his name is, for any cause, removed from the roll of advocates or if he is otherwise disqualified under any rule made by the Bar Council of India.

## **RIGHT TO PRACTICE**

**23. Advocates to be the only recognised class of persons entitled to practise law.**—Subject to the provisions of this Act and any rules made thereunder, there shall, as from the appointed day, be only one class of persons entitled to practise the profession of law, namely, advocates.

**24. Right of advocates to practise.**—Subject to provisions of this Act, every advocate whose name is entered in the <sup>1</sup>[State roll] shall be entitled as of right to practise throughout the territories to which this Act extends,—

- (i) in all courts including the Supreme Court;
- (ii) before any tribunal or person legally authorised to take evidence; and
- (iii) before any other authority or person before whom such advocate is by or under any law for the time being in force entitled to practise.

25. **Special provision for attorneys.**—*[Omitted by the Advocates (Amendment) Act, 1976 (107 of 1976) w.e.f. 01.01.1977.]*

26. **Power of Court to permit appearances in particular cases.**—Not withstanding anything contained in this Chapter, any court, authority, or person may permit any person, not enrolled as an advocate under this Act, to appear before it or him in any particular case.

27. **Advocates alone entitled to practice.**—Except as otherwise provided in this Act or in any other law for the time being in force, no person shall, on or after the appointed day, be entitled to practice in any court or before any authority or person unless he is enrolled as an advocate under this Act.

28. **Power of High Courts to make rules.**—(1) The High Court may make rules laying down the conditions subject to which an advocate shall be permitted to practice in the High Court and the courts subordinate thereto.

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<sup>1</sup>[(1A) The High Court shall make rules for fixing and regulating by taxation or otherwise the fees payable as costs by any party in respect of the fees of his adversary's advocate upon all proceedings in the High Court or in any Court subordinate thereto.]

<sup>2</sup>[(2) Without prejudice to the provisions contained in sub-section (1), the High Court at Calcutta may make rules providing for the holding of the Intermediate and the Final examinations for articled clerks to be passed by the persons referred to in section 58AG for the purpose of being admitted as advocates on the State roll and any other matter connected therewith.]

<sup>3</sup>[\*\*\*]

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## **CONDUCT OF ADVOCATES**

29. **Punishment of advocates for misconduct.**—(1) Where on receipt of a complaint or otherwise a State Bar Council has reason to believe that any advocate on its roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee.

<sup>1</sup>[(1A) The State Bar Council may, either of its own motion or on application made to it by any person interested, withdraw a proceeding pending before its disciplinary committee and direct the inquiry to be made by any other disciplinary committee of that State Bar Council.]

(2) The disciplinary committee of a State Bar Council <sup>2</sup>[\*\*\*] shall fix a date for the hearing of the case and shall cause a notice thereof to be given to the advocate concerned and to the Advocate-General of the State.

(3) The disciplinary committee of a State Bar Council after giving the advocate concerned and the Advocate-General an opportunity of being heard, may make any of the following orders, namely:—

(a) dismiss the complaint or, where the proceedings were initiated at the instance of the State Bar Council, direct that the proceedings be filed;

(b) reprimand the advocate;

(c) suspend the advocate from practice for such period as it may deem fit;

(d) remove the name of the advocate from the State roll of advocates.

(4) Where an advocate is suspended from practice under clause (c) of sub-section (3), he shall, during the period of suspension, be debarred from practicing in any court or before any authority or person in India.

(5) Where any notice is issued to the Advocate-General under sub-section (2), the Advocate-General may appear before the

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Disciplinary committee of the State Bar Council either in person or through any advocate appearing on his behalf.

<sup>1</sup>[*Explanation*.—In this section, <sup>2</sup>[section 37 and section 38], the expressions “Advocate-General” and Advocate-General of the State” shall, in relation to the Union territory of Delhi, mean the Additional Solicitor General of India.]

**30. Disciplinary powers of Bar Council of India.**—(1) Where on receipt of a complaint or otherwise the Bar Council of India has reason to believe that any advocate <sup>3</sup>[\*\*\*] whose name is not entered on any State roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee.

(2) Notwithstanding anything contained in this Chapter, the disciplinary committee of the Bar Council of India may, <sup>4</sup>[either of its own motion or on a report by a State Bar Council or on an application made to it by any person interested], withdraw for inquiry before itself any proceedings for disciplinary action against any advocate pending before the disciplinary committee of any State Bar Council and dispose of the same.

(3) The disciplinary committee of the Bar Council of India, in disposing of any case under this section, shall observe, so far as may be, the procedure laid down in section 35, the references to the Advocate-General in that section being construed as references to the Attorney-General of India.

(4) In disposing of any proceedings under this section the disciplinary committee of the Bar Council of India may make any order which the disciplinary committee of a State Bar Council can make under sub-section (3) of section 35, and where any proceedings have been withdrawn for inquiry <sup>5</sup>[before the disciplinary committee of the Bar Council of India] the State Bar Council concerned shall give effect to any such order.

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**<sup>1</sup>[36A. Changes in constitution of disciplinary committees.—** Whenever in respect of any proceedings under section 35 or section 36, a disciplinary committee of the State Bar Council or a disciplinary committee of the Bar Council of India ceases to exercise jurisdiction and is succeeded by another committee which has and exercises jurisdiction, the disciplinary committee of the State Bar Council or the disciplinary committee of the Bar Council of India, as the case may be, so succeeding may continue the proceeding from the stage at which the proceedings were so left by its predecessor committee.]

**<sup>2</sup>[36B. Disposal of disciplinary proceedings.—(1)** The disciplinary committee of a State Bar Council shall dispose of the complaint received by it under section 35 expeditiously and in each case the proceedings shall be concluded within a period of one year from the date of the receipt of the complaint or the date of initiation of the proceedings at the instance of the State Bar Council, as the case may be, failing which such proceedings shall stand transferred to the Bar Council of India which may dispose of the same as if it were a proceeding withdrawn for inquiry under sub-section (2) of section 36.

(2) Notwithstanding anything contained in sub-section (1), where on the commencement of the Advocates (Amendment) Act, 1973 (60 of 1973), any proceedings in the respect of any disciplinary matter against an advocate is pending before the disciplinary committee of a State Bar Council, that disciplinary committee of the State Bar Council shall dispose of the same within a period of six months from the date of such commencement or within a period of one year from the date of the receipt of the complaint or, as the case may be the date of initiation of the proceedings at the instance of the State Bar Council, whichever is later, failing which such other proceedings shall stand transferred to the Bar Council of India for disposal under sub-section (1).]

**31. Appeal to the Bar Council of India.—(1)** Any person aggrieved by an order of the disciplinary committee of a State Bar Council made <sup>3</sup>[under section 35] <sup>4</sup>[or the Advocate General of the

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State] may, within sixty days of the date of the communication of the order to him, prefer an appeal to the Bar Council of India.

(2) Every such appeal shall be heard by the disciplinary committee of the Bar Council of India which may pass such order <sup>1</sup>[(including an order varying the punishment awarded by the disciplinary committee of the State Bar Council)] thereon as it deems fit:

<sup>1</sup>[Provided that no order of the disciplinary committee of the State Bar Council shall be varied by the disciplinary committee of the Bar Council of India so as to prejudicially affect the person aggrieved without giving him reasonable opportunity of being heard.]

**32. Appeal to the Supreme Court.**—Any person aggrieved by an order made by the disciplinary committee of the Bar Council of India under section 36 or section 37 <sup>2</sup>[or the Attorney-General of India or the Advocate-General of the State concerned, as the case may be,] may within sixty days of the date on which the order is communicated to him, prefer an appeal to the Supreme Court and the Supreme Court may pass such order <sup>1</sup>[(including an order varying the punishment awarded by the disciplinary committee of the Bar Council of India)] thereon as it deems fit:

<sup>1</sup>[Provided that no order of the disciplinary committee of the Bar Council of India shall be varied by the Supreme Court so as to prejudicially affect the person aggrieved without giving him a reasonable opportunity of being heard.]

<sup>3</sup>**[39. Application of sections 5 and 12 of Limitation Act, 1963.**—The provisions of sections 5 and 12 of the Limitation Act, 1963 (36 of 1963), shall, so far as may be, apply to appeals under section 37 and section 38.]

**40. Stay of order.**— <sup>2</sup>[(1)] An appeal, made under section 37 or

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section 38, shall not operate as a stay of the order appealed against, but the disciplinary committee of the Bar Council of India, or the Supreme Court, as the case may be, may, from sufficient cause, direct the stay of such order on such terms and conditions as it may deem fit.

<sup>1</sup>[(2) Where an application is made for the stay of the order before the expiration of the times allowed for appealing therefrom under section 37 or section 38, the disciplinary committee of the State Bar Council, or the disciplinary committee of the Bar Council of India, as the case may be, may, for sufficient cause, direct the stay of such order on such terms and conditions as it may deem fit.]

**41. Alteration in roll of Advocates.**—(1) Where an order is made under this Chapter reprimanding or suspending an advocate, a record of the punishment shall be entered against his name—

(a) in the case of an advocate whose name is entered in a State roll, in that roll;

<sup>2</sup>[\*\*\*]

any where any order is made removing an advocate from practice, his name shall be struck of the State roll <sup>3</sup>[\*\*\*].

<sup>4</sup>[\*\*\*]

(3) Where any advocate is suspended or removed from practice, the certificate granted to him under section 22, in respect of his enrolment shall be recalled.

**42. Powers of disciplinary committee.**—(1) The disciplinary committee of a Bar Council shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person

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and examining him on oath;

(b) requiring discovery and production of any documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing commissions for the examination of witness or documents;

(f) any other matter which may be prescribed:

Provided that no such disciplinary committee shall have the right to require the attendance of—

(a) any presiding officer of a Court except with the previous sanction of the High Court to which such court is subordinate;

(b) any officer of a revenue court except with the previous sanction of the State Government.

(2) All proceedings before a disciplinary committee of a Bar Council shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code, 1860 (45 of 1860), and every such disciplinary committee shall be deemed to be a civil court for the purposes of sections 480, 482 and 485 of the Code of Criminal Procedure, 1898 (5 of 1898).

(3) For the purposes of exercising any of the powers conferred by sub-section (1), a disciplinary committee may send to any civil court in the territories to which this Act extends, any summons or other process, for the attendance of a witness or the production of a document required by the committee or any commission which it desires to issue, and the civil court shall cause such process to be served or such commission to be issued, as the case may be, and may enforce any such process as if it were a process for attendance or production before itself.

<sup>1</sup>[(4) Notwithstanding the absence of the Chairman or any member of a disciplinary committee on date fixed for the hearing of a case before it, the disciplinary committee may, if it so thinks fit, hold or continue the proceedings on the date so fixed and no such proceedings and no order made by the disciplinary committee in any such proceedings shall be invalid merely by

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reason of the absence of the Chairman or member thereof on any such date:

Provided that no final orders of the nature referred to in sub-section (3) of section 35 shall be made in any proceeding unless the Chairman and other members of the disciplinary committee are present.]

<sup>1</sup>[(5) Where no final order of the nature referred to in sub-section (3) of section 35 can be made in any proceedings in accordance with the opinion of the Chairman and the members of a disciplinary committee either for want of majority opinion amongst themselves or otherwise, the case, with their opinion thereon, shall be laid before the Chairman of the Bar Council concerned or if the Chairman of the Bar Council is acting as the Chairman or a member of the disciplinary committee, before the Vice-Chairman of the Bar Council, and the said Chairman or the Vice Chairman of the Bar Council, as the case may be, after such hearing as he thinks fit, shall deliver his opinion and the final order of the disciplinary committee shall follow such opinion.]

**<sup>1</sup>[42A. Powers of Bar Council of India and other committees.]**—The provisions of section 42 shall, so far as may be, apply in relation to the Bar Council of India, the enrolment committee, the election committee, the legal aid committee, or any other committee of a Bar Council as they, apply in relation to the disciplinary committee of a Bar Council.]

**43. Cost of proceedings before a disciplinary committee.**—The disciplinary committee of a Bar Council may make such order as to the cost of any proceedings before it as it may deem fit and any such order shall be executable as it were an order—

(a) in the case of an order of the disciplinary committee of the Bar Council of India, of the Supreme Court;

(b) in the case of an order of the disciplinary committee of a State Bar Council, of the High Court.

**44. Review of orders by disciplinary committee.**—The disciplinary committee of a Bar Council may of its own motion or otherwise review any order <sup>1</sup>[within sixty days of the date of that order] passed by it under this Chapter:

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Provided that no such order of review of the disciplinary committee of a State Bar Council shall have effect unless it has been approved by the Bar Council of India.

### **MISCELLANEOUS**

**45. Penalty for persons illegally practising in courts and before other authorities.**—Any person who practises in any court or before any authority or person, in or before whom he is not entitled to practise under the provisions of this Act, shall be punishable with imprisonment for a term which may extend to six months.





