

Bar Council of India

Rules, 1975

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BAR COUNCIL OF INDIA RULES, 1975

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

PART-I

DEFINITIONS

In these rules, unless the context otherwise requires: -

- (a) ‘Act’ means the Advocates Act, 1961, as amended from time to time;
- (b) ‘Advocate’ means an advocate entered in any roll under the provisions of the Act;
- (c) ‘Casual Vacancy’ means a vacancy caused otherwise than by the expiry of the term;
- (d) ‘Chairman’ means the Chairman of the Bar Council of India;
- (e) ‘Clear days’ means that time is to be reckoned exclusive of both the first and the last days;

Illustration: The election of members to a State council is fixed for the 15th January 1965. Under the rules of the State Council, ballot papers have to be despatched 10 clear days before the date of election. Consequently the last date for the despatch of ballot papers will be 4th January, 1965.

- (f) ‘Council’ means the Bar Council of India;
- (g) ‘Prescribed’ means prescribed by the rules;
- (h) ‘Rules’ means the Rules made by the Council;
- (i) ‘Secretary’ means the Secretary of the Bar Council of India and includes any persons howsoever designated and entrusted for the time being with the duties of the Secretary;
- (j) ‘State Council’ means a Bar Council constituted under Section 3 of the Act;

- (k) 'Vice-Chairman' means the Vice-Chairman of the Bar Council of India.

PART-II

MATTERS RELATING TO THE BAR COUNCIL OF INDIA

CHAPTER-I

(Rules under Section 15 (2), (c), (d), (f) and (g) read with Sections 4 and 10B of the Act.)

A. Election of members of the Council. -

1. Notice of every meeting of the Council and committees shall ordinarily be sent by the Secretary not less than 15 days before the date of meeting except when the Chairman requires a meeting to be called on short notice on grounds of urgency. If any five or more members of the Council require in writing a meeting to be called on short notice of not less than 10 days for consideration of specified matters, the Secretary shall convene the meeting on such date as requisitioned and the agenda for such meeting shall include matters specified by such members. No proceeding shall be invalidated merely on the ground that the rule relating to notice is not strictly complied with.
2. (1) The Notice and Agenda for the first meeting of the State Council held after the election of its members on the expiry of the term of its members elected at the previous election under Section 8 or the Act may include the election of a member of the State Council to the Council under Section 4 (1) (c) of the Act.

(2) Every such election shall be held not later than 30 days after the first meeting of the State Council after election under Section 8 of the Act.
3. The election of a member of the Council shall be conducted by the Secretary of the State Council who shall act as the Returning Officer.
4. A person elected as a member of the Council under Section 4 (1) (c) of the Act shall cease to be such member:
 - (a) From the date when he ceases to be a member of the State Council as mentioned in Section 4(3)(ii) of the Act.
 - (b) On the acceptance by the Council of his resignation.
5. (1) In the case of a vacancy in the office of the member of the Council arising for any reason mentioned in Rule 4(a) of this Chapter or on account of death, intimation of the vacancy shall be given by the Secretary of the State Council to the Secretary of the Council forthwith, and

- (2) The election to fill the vacancy under rule 4(a) or (b) shall be held within 30 days from the date of the vacancy.
6. (a) If the State Council does not take steps in time or the holding of the election as referred to in these Rules, and
- (b) In the case of a vacancy of the member of the Council arising under Section 10B of the Act,

The Secretary of the Council shall call upon the concerned State Council requiring it to elect its members to the Council within 30 days of such notice.

7. Every notice by the Secretary of the State Council fixing a date for an election of a member to the Council under these rules shall be sent not less than 15 clear days before the date fixed for the election. A copy of the said notice shall be sent simultaneously to the Secretary of the council.

8. (1) The name of each candidate for the election shall be proposed by one member and seconded by another member of the State Council at the meeting. No member shall propose or second more than one name.

(2) If only one candidate had been duly nominated, the Returning Officer shall declare him elected.

(3) Any nominated candidate can withdraw before the voting takes place.

(4) If the number of candidates duly nominated is more than one, there shall be an election by secret ballot. The Returning Officer shall provide voting papers with the names of the candidate's type. Each voting paper shall bear the signature of the Returning Officer.

(5) A voter in giving his vote shall place in his voting paper the mark 'X' against the name of the candidate of his choice.

The voting paper shall not be signed by the voter; and in the event of any erasures, obliterations or alterations in the voting papers, or of the voting paper purporting to have been signed by the voter, the voting paper shall be deemed to have been defaced and the vote purporting to have been given thereby shall not be taken into account for the purposes of the election. Subject to the provisions of Rule 10, the decision of the Returning Officer whether the voting paper has or has not been defaced shall be final.

A voting paper shall be invalid on which-

(a) The mark 'X' is not made, or

(b) The mark 'X' is set opposite the name of more than one candidate or is so placed as to render it doubtful to which candidate it is intended to apply, or

(c) The mark 'X' and any other mark or figures are set opposite the name of the candidate, or

- (d) There is any mark in writing by which the voter can be identified.
- (6) The Returning Officer shall count the valid votes immediately after the close of voting in the presence of the candidates or their nominees who may choose to be present.
- (7) The candidate securing the largest number of votes shall be declared elected by the Returning Officer.

In the case of two or more candidates securing an equal number of votes, the Returning Officer shall decide the election by drawing lots.

- (8) Immediately after the declaration of the result, the Returning Officer shall put the ballot papers used for voting in the election in a separate cover, have the cover closed and sealed with his signature and that of all the contesting candidates if they desire to do so.
- (9) The result of the election shall be communicated forthwith to the Secretary of the Council and sent to the State Gazette or Gazettes concerned for publication.

9. (1) In case of a dispute arising out of the election, any of the contesting candidates, or any other member of the State Council, may challenge the election by a petition which shall be filed with, or despatched by registered post to the Secretary of the Council within 10 clear days of declaration by the Returning Officer of the result of the election as mentioned in rule 8(7). The petitioner shall also send copies of the petition to all contesting candidates and to the secretary of the State Council.

(2) As soon as possible after the receipt of the copy of the petition under sub-rule (1), the Secretary of the State Council shall send the sealed cover containing the ballot papers referred to in Rule 8(8) above, and all other papers and records relating to the election to the Secretary of the Council.

10. (1) The council may reject any petition received under Rule 9 if, in its opinion, there is no prima facie case.

(2) If the council is of the opinion that there is a prima facie case, either the council or a Committee of the councils comprising not more than 3 members of the councils constituted therefor shall, after hearing all the parties concerned, determine the said dispute.

(3) The Council, or the Committee, as the case may be, shall have all or any of the following powers:

(a) To dismiss the petition,

(b) -----

(c) To declare any candidate as having been duly elected;

- (d) To order a fresh election; and
- (e) To make an order as to costs.
- (4) A copy of the Order of the council or the Committee may be sent to the State Councils.
- (5) The State council concerned shall cause such fresh election to be held as may be ordered under sub-rule (3) of this rule.
- (6) The parties shall be entitled to obtain copies of the Order or the decision of the council or of the Committee, as the case may be, on payment of the charges, if any, prescribed therefor under the rules of the Council. The Chairman of the council or the President of the Committee, as the case may be, may also permit copies of any other part of the record of the enquiry to be furnished on payment of such charges as may be prescribed during the pendency of the election petition.

B. Expiry of term of office of Chairman, Vice-Chairman and Members of Committees of the Council. -

11. A member of the Council elected as Chairman or Vice-Chairman or Member of any Committee of the Council, shall cease to hold office as such Chairman, Vice-Chairman or Member Of Committee, on the expiry of his term as a member of the Bar Council of India.

C. Election of Chairman and Vice-Chairman

- 12. (1) (a) The election of the Chairman and Vice-Chairman shall be held at the meeting of the Council.
- (b) At every such meeting for the election of the Chairman, the Vice-Chairman, if he is not a candidate, shall preside. In the absence of the Vice-Chairman, a member of the Council who is not a candidate, elected by the members present, shall preside.
- (c) In the case of the election of the Vice-Chairman, the Chairman, or in his absence the Vice-Chairman, if he is not a candidate shall preside.

In the absence of the Chairman and the Vice-Chairman, any member of the Council who is not a candidate, elected by the members present, shall preside.

- (d) (i) The name of the candidate for the election shall be proposed by one member and seconded by another member at the meeting.
- (ii) No member shall propose or second more than one name.
- (iii) If only one member had been duly nominated, he shall be declared elected.

- (iv) Any candidate nominated may withdraw before voting takes place.
- (e) If the number of candidates duly nominated is more than one, there shall be an election by secret ballot.
- (f) The Secretary shall provide voting papers with the names of the candidates. Each voting paper shall bear the signature of the Secretary.
- (g) A voter in giving his vote shall place on his voting paper a mark 'X' against the name of the candidate of his choice.

The voting paper shall not be signed by the voter and in the event of any erasures, obligations of alterations in the voting paper, or of the voting paper purporting to have been signed by the voters, the voting paper shall be deemed to have been defaced, and the vote purporting to have been given thereby shall not be taken into account for the purposes of the election. The decision of the Chairman of the meeting whether the voting paper has or has not been defaced shall be final.

A. Voting Paper shall be invalid on which

- (i) The mark 'X' is not made, or
- (ii) The mark 'X' is set opposite the name of more than one candidate or is so placed as to render it doubtful to which candidate it is intended to apply, or
- (iii) The mark 'X' and any other mark or figures are set opposite the name of the same candidate, or
- (iv) There is any mark in writing by which the voter can be identified.
- (v) The Secretary shall count the valid votes immediately after the close of the voting.

The member securing the largest number of votes shall be declared elected. In the case of two or more members securing an equal number of votes, the Chairman of the meeting shall decide the election by drawing lots.

- (2) The Chairman or the Vice-Chairman shall hold office for a period of two years, or until his term of office as Member of the Bar Council of India ceases whichever is earlier.
- (3) The Chairman or the Vice-Chairman may resign his office by letter addressed to the Secretary of the Council. Such resignation shall take effect from the date of the acceptance thereof by the council from such other date as the Council may fix:

PROVIDED in the eventuality of mid-term poll of the office of the Chairman or Vice-Chairman, the term shall be of the residuary term.

- 13. If the Chairman or the Vice-Chairman ceases to be a member of the Council for any reason, the vacancy shall be filled up by

election as far as possible at the next meeting of the Council.

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

D. Powers and duties of the Chairman and Vice-Chairman. -

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

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

17. Save as otherwise decided at a meeting of the Councils of the Committee, as the case may be, he shall cause the meetings of the Council or the Committee convened at such time as he may fix. He shall also settle the items for agenda for the meetings of the Council.

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

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

20. 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.

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

22. “On a motion of ‘No confidence’ being passed by Bar Council of India by a Resolution passed by majority of not less than 3/4th of the members present and voting and such majority passing ‘No confidence motion’ is more than 2/3rd of the total number of Members constituting the Bar Council for the time being, the Chairman or Vice-Chairman or any other office bearer against whom the motion is passed shall cease to hold office forthwith.

Notwithstanding anything contained in the Act or the rules made thereon, the Chairman or Vice-Chairman shall not preside over the meeting in which the motion of ‘No confidence’ is discussed against him and such meeting shall be convened on a notice of atleast one month. The Chairman or the Vice-Chairman shall have the right to vote, speak or take part in the proceeding of the meeting.

CHAPTER-II

MEETING OF COUNCIL AND ITS COMMITTEES OTHER THAN THOSE OF THE DISCIPLINARY COMMITTEE.

(Rules under Section 15(2) (h) and (j) of the Act)

1. Notice of every meeting of the Council and the Committees shall ordinarily be sent by the Secretary not less than 15 days before the date of the meeting, except when the Chairman or any two members require a meeting to be called on short notice on grounds of urgency. No proceedings shall be invalidated merely on the ground that the rule relating to notice is not strictly complied with.
2. Notice of the meeting shall specify the time and place of the meeting and shall contain the agenda fixed for the meeting.
3. No member shall be entitled to bring forward for the consideration of the meeting any matter of which he had not given ten days' notice to the Secretary, unless the Chairman, in his discretion, permits him to do so.
4. The minutes of the previous meeting shall ordinarily be read and recorded at the subsequent meeting.
5. The quorum for the meeting of the Council shall be seven and for all other Committees except the Executive Committee and the Legal Education Committee, the quorum shall be two. The quorum for the Executive Committee and the Legal Education Committee shall be four.
6. If urgent action by the Council or by any Committee of the Council other than a Disciplinary Committee becomes necessary, the Chairman of the Council or of such Committee, as the case may be, may permit the business to be transacted by circulation of papers to the members of the Council or the Committee as the case may be. The action proposed to be taken shall not be taken unless agreed to by a majority of the members of the Council or the Committee, as the case may be. The action so taken shall be forthwith intimated to all the members of the Council or the Committee concerned. The papers shall be placed before the next meeting of the Council or the Committee concerned for confirmation.
7. The Council or any Committee may adjourn from day to day or any particular day, without further notice.
8. A member shall address the chair when speaking at a meeting of the Council and he shall be entitled to speak only once on each subject, unless otherwise required or permitted by the Chairman to do so.
9. Save as otherwise provided in these rules, the decision on any matter shall be by majority, and in the case of equality of votes, the Chairman of the meeting shall have a second or casting vote.
10. No matter once decided shall be reconsidered for a period of three months unless the Council by a two-third majority of the members present so permits.
11. Any Committee may refer for advice any matter to the Council.

CHAPTER-III

CONSTITUTION, FUNCTIONS AND PROCEDURE OF COMMITTEES OF THE BAR COUNCIL OF INDIA

(Rules under Section 9, 9A, 10 and 15 (2)(i) and (j) of the Act)

1. The Council may appoint from amongst its members, one or more Committees as it may deem necessary, in addition to those specified in the Act and delegate such powers, duties, and functions to such Committees as it deems fit.
2. Any casual vacancy in the above Committees shall be filled up by the Council.
3. Save where the Chairman or the Vice-Chairman or a member of the Committee or sub-committee, the committee or the sub-committee shall chose its Chairman for the meeting, unless at the time of the constitution thereof the name of the Chairman has been specified.
4. Unless, otherwise determined at the time of election, the term of the members of the Committees of the Council shall be as follows: -

(a) Executive Committee	2 years
(b) Disciplinary Committee	3 years
(c) Legal Education Committee	4 years
(d) Legal Aid Committee	2 years
(e) Advocates Fund Committee	2 years
(f) Any other committee not falling under the above clauses	2 years

The Executive Committee-

5. (1) The procedure for the election of the Members of the Executive Committee shall be by secret ballot and in accordance with the rules in so far as they are applicable, laid down in Rule 12, Chapter I Part II
- (2) A casual vacancy in the committee shall be filled up by election by the Council.
- (3) The Committee shall elect its own Chairman and Vice-Chairman. The Chairman shall preside over the deliberations of the Committee and in his absence the Vice-Chairman shall preside.
- (4) The Committee shall be the executive authority of the Council and shall be responsible for giving effect to the resolutions of the Council. It shall have powers: -
 - (a) To manage the funds of the Council;
 - (b) To invest the funds of the Council in the manner directed by the Council from time to time;
 - (c) To grant leave to members of the staff, other than casual leave;

- (d) To prescribe books of account, registers and files of the proper management of the affairs of the Council,
- (e) To appoint and supervise the work of the members of the staff and prescribe their conditions of service;
- (f) To appoint auditors and fix their remuneration;
- (g) To consider the annual audit report and place it before the Council with its comments for its consideration;
- (h) To maintain a library and under the directions of the Council publish any journal, treatise or pamphlets on legal subjects;
- (i) To prepare and place before the Council the annual administration report and the statement of account;
- (j) To provide for proper annual inspection of the office and its registers;
- (k) To authorise the Secretary to incur expenditure within prescribed limits;
- (l) To fix travelling and other allowances to members of the committees of Council, and to members of the staff;
- (m) To delegate to the Chairman and / or the Vice-Chairman any of its aforementioned powers;
- (n) To do all other things necessary for discharging the aforesaid functions.

The Legal Education Committee

6. (1) The procedure for the election of the Members of the Legal Education Committee shall be by secret ballot, and in accordance with the rules in so far as they are applicable, laid down in Rule 12, Chapter I Part II.

(2) The names of the remaining five members of the Committee to be co-opted shall be proposed and seconded by the members of the Council. In case more than five persons are proposed they shall be chosen by a show of hands. If there is equality of votes, the Chairman of the meeting shall have a casting vote.

7. A casual vacancy in the Committee shall be filled in by the Council from amongst its members or non-members as the case may be, in the manner specified in Rule 6 above.

8. The Committee shall have the following powers and duties:

- (a) To make its recommendations to the Council for laying down the standards of legal education for the Universities;
- (b) To visit and inspect Universities and report the results to the Council;

9. In case of the absence of a Bar Council of India's Member during the sitting of the Disciplinary Committee of the Bar Council of India the remaining two Members of the said Committee may request any available Bar Council of India.

Member to fill the vacancy caused by such absence and in case of the absence of a co-opted member of a D.C. of the Bar Council of India, the other two members may make similar request to any other available co-opted member of a D.C. of the Bar Council of India and the Committee so constituted shall be deemed to be a Committee constituted under this rule for the purpose of that meeting and shall have all the powers of a D.C. of the Bar Council of India.

10. For the purpose of determining the senior most member of a Disciplinary Committee under Section 9 of the Advocates Act, 1961 the seniority-

- (i) Of a senior Advocate, and
- (ii) Of an Advocate of the Supreme Court enrolled before 1-12-1961, shall be determined in accordance with the date of his enrollment under the Bar Councils Act, 1926.

11. *Election of Representatives:* The procedure for electing its representative to the Press Council of India under the Press Council Act, 1965, or for electing any other representative or representatives by or from amongst its members to any other statutory body by virtue of any special power conferred under any other enactment or for any other election by the Council provided that any member so requires, shall be in accordance with the same procedure and shall in so far as it may be applicable, be as laid down in Rule 12, Chapter I, Part II.

CHAPTER-IV

QUALIFICATIONS AND CONDITIONS OF SERVICE OF THE SECRETARY, ACCOUNTANT AND OTHER MEMBERS OF THE STAFF.

(Rules under section 15 (2) (k) of the Act)

Secretary:

The Secretary shall-

- (a) Be a citizen of India,
- (b) Be a law graduate or barrister-at-law,
- (c) Have been either -
 - (i) Registrar of the Supreme Court or of a High Court in India, or
 - (ii) An Advocate with 10 years' practice at the Bar, or
 - (iii) Secretary of a Bar Council for at least 10 years, or
 - (iv) District Judge having five years' experience as District Judge, or
 - (v) Principal of a recognised Law College having experience as a Principal for five years' and seven years' standing at the Bar, or
 - (vi) Professor or Reader of Law in a University recognised by the Council with 10 years' standing and having seven years' experience at the Bar, and
- (d) Be ordinarily not less than 40 years and not more than 50 years of age at the time of appointment:

PROVIDED that if at any time the Council considers that a person having the necessary qualifications is not available, it may relax any of the qualifications mentioned in sub-rules (c) and (d) of this rule.

2. The Secretary shall draw a salary in the grade of Rs. 4500-150-5100-6300-200-6700. He shall be paid such allowances as the Council may determine from time to time.
3. The Secretary shall be the Chief Executive Officer of the Council and shall perform inter alia the following duties: -
- (i) Attend all meetings of the Council or of the Committees unless otherwise directed;
 - (ii) Keep records and minutes of the proceedings of the Council and of its Committees;
 - (iii) Keep in his custody the property of the Council including the seal of the Council;
 - (iv) Exercise general control and supervision over the employees of the Council;
 - (v) Arrange for the deposit of the monies received on behalf of the Council in Bank and see to the security of the cash in hand;
 - (vi) Acts as Secretary of all Committees, and convene meetings of the Council or its committees, unless otherwise decided by the Council;
 - (vii) Appoint such temporary staff as may be necessary with the permission of the Chairman to transact urgent work;
 - (viii) Issue requisite notifications as prescribed and circulars as may be required;
 - (ix) Attend to the correspondence of the Council and of the Committees;
 - (x) Act as Registrar of Disciplinary Committees, issue notice and subpoenas and be in charge of all work in proceedings under Chapter V of the Act including the grant of certified copies of documents and evidence or statements of witnesses;
 - (xi) Grant certified copies of documents or other proceedings referred to in the Act or in these rules;
 - (xii) Shall be the custodian of the records, registers, accounts, furniture, library and such other property as the Council might acquire from time to time.
 - (xiii) Perform such other duties as may be assigned to him by the Council or the Committees, or the Chairman.
4. The Secretary shall retire on attaining the age of 60 years provided that the Council may extend his terms by a period not exceeding 2 years at a time, but not exceeding 5 years in the aggregate.

Additional, joint, Assistant Secretaries

5. The Council may also appoint one or more Additional, joint or Assistant Secretaries on such scales of pay and allowances as may be fixed by it.
6. The Additional, Joint or Assistant Secretary shall, save as otherwise directed by the Council or the Executive Committee perform such work or discharge such functions as may be entrusted to them by the Secretary.
7. The Additional, Joint or Assistant Secretary shall retire on attaining the age of 60 years provided that the Council may extend the term by a period not exceeding two years if it thinks fit.

Accountant

8. The qualifications of the Accountant shall be: -

- (a) M.Com. of any University in India or its equivalent or a Chartered Accountant,
- (b) Experience as Accountant preferably in a limited company or reputed commercial concern for not less than 5 years.
- (c) Ordinarily not less than 30 years of age, at the time of appointment:

PROVIDED, however, that any of the above qualifications may be waived in the case of a person who had been already in the service of the Council as Deputy or Assistant Accountant or otherwise and is considered fit for such appointment as Accountant or if a suitable candidate possessing the above qualifications is not available, and the Council considers it fit to appoint him

PROVIDED FURTHER the 'Accountant' shall mean and include the Accounts Officer wherever it occurs.

- 9. The Accountant shall draw a salary in the grade of Rs. 650-30-740-35-880-40-1200 with effect from 1-4-1977.
- 10. The Accountant shall be responsible for the maintenance of all the accounts of the Council and he may also be required by the Council or Secretary to discharge such additional work of the Council as may be entrusted to him.
- 11. The Accountant shall retire on attaining the age of 60 years provided that the Council may extend his term by a period not exceeding two years if it thinks fit.
- 12. The Accountant and other permanent members of the staff shall be entitled to Dearness Allowance, House Rent Allowance and City Compensatory Allowance from 1-1-1973 at the rate as is paid to the staff of the Supreme Court of India.
- 13. All the permanent employees of the Council shall be entitled to the benefit of Provident Fund and Gratuity in accordance with such rules as may be framed in that behalf by the Executive Committee.
- 14. All the employees of the Council shall be subject to such conditions of service as to leave and such other matters as may be resolved in this behalf by the Executive Committee of the Council.

CHAPTER V

RULES RELATING TO FINANCE

(Rules under Section 15 (2) (l),(m) and (n) of the Act)

- 1. All monies received on behalf of the Council shall be acknowledged by a receipt signed by the Secretary or any other person authorised by the Executive Committee. Amounts received shall be credited into the account of the Council in the Bank on the next working day of the Bank.
- 2. The books of the account and registers shall be strongly bound and paged. On the 1st or title page, the number of pages of the book or the register shall be entered and the entry shall be signed by the Secretary. Corrections in the entry shall be made in red ink

and attested by Accountant. Erasures shall on no account be permitted.

3. Receipt forms shall be numbered consecutively and bound into books of 50 or 100 form each. On the front page of each book shall be entered the first and the last number of the receipts in that book be so certified by the Secretary. Receipts shall be in triplicate. The third part shall remain in the book and the second part shall be kept for the record. And the 1st part shall be given to the payee. All receipts shall be signed by the Secretary or by such persons as the Council may direct.
4. Payments of Rs.50/- and over shall ordinarily be by cheque.
5. Bills presented for payment shall be examined by the Accountant and on his being satisfied that the claim is admissible, and the payment is duly authorised by the Secretary, the Accountant shall pay the amount against a receipt. The entry in the account book shall show if the payment is made by cash or cheque. The bills and the relevant receipt shall be pasted together and shall be numbered consecutively in the year as payment voucher and shall be pasted in the bound book.
6. Salary bills shall be in such form as the Executive Committee may direct.
7. A bill presented for payment three months after the money becomes due shall not be paid without the sanction of the Executive Committee.
8. The Executive Committee may fix the amount of a permanent advance to be made to the Secretary and the Accountant as the case may be.
9. The Accountant shall maintain an acquittance register in the following form / or in such other form as the auditor may direct:

Name	Designation	Pay	Dearness Allowance etc.	Total Salary (add. Cols. 3 and 4)	Contribution towards provident fund	Net salary payable (Col. 5 minus 6)	Instalment amount towards provident fund loan taken	Amount of interest payable on the principal loan amount outstanding	Total	Signature with date
1	2	3	4	5	6	7	8	9	10	11

10. All monies received and spent shall be immediately brought into account in the cash book and ledger. The cash book shall be balanced at the close of every month and signed by the Secretary, and the Accountant.

10 A. The Bar Council of India shall have power to borrow money from any Bank or other financial institution or others for the purposes of acquiring or construction of any property or building on a specific authorisation of the Bar Council of India.

10 B. That for the purposes of borrowing, the Bar Council of India may authorise any Officer or office bearer to sign necessary

documents.

10 C. The Bar Council of India shall have power to mortgage property belonging to the Council for the purpose of taking loans from Banks and other Financial Institutions.

Note: Rules 10 A & 10 B came into force from 11th Feb., 1990 and Rule 10 C came into force from 22nd April, 1990.

(1) (1) The Chairman, (ii) the Vice-Chairman or (iii) any other person authorised by the Council, shall be entitled to incur expenditure sanctioned in the budget without any further authority.

(2) The Chairman and /or the Vice-Chairman or any other person authorised by the Council, shall have authority to spend or incur expenditure of an emergent nature not provided for in the budget not exceeding Rs. 2,000/- a month for the purpose of the Council.

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

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

14. The annual statement of income and expenditure of the year so audited shall be laid before the Executive Committee not later than the 31st July each year.

15. The funds of the Council may be invested as follows:

- (i) In the State Bank of India or such other nationalised bank as the Council may decide;
- (ii) In any of the securities specified in Section 20 of the Indian Trusts Act, 1882, as the Council may decide;
- (iii) In Fixed Deposits with Government Companies as defined in the Companies Act, 1956.

16. Budget estimates of Income and Expenditure for the coming year shall be made by the Executive Committee and laid before the Council for approval before the 31st March every year.

17. (1) All cheques other than those mentioned in sub-rule (2) shall be signed or endorsed and all bills, notes or other negotiable instruments shall be drawn, accepted or made on behalf of the Council by two persons, viz., (i) by the Chairman or the Vice-Chairman of the Council and in their absence by such other members as may be authorised by the Council in that behalf, and (ii) the Secretary, and in his absence the Joint or Assistant Secretary, if any, authorised by the Council.

(2) Notwithstanding anything contained in Rule 11, Chapter V Part II of the Council, the Council may by resolution open a separate Savings Bank Account in any Bank specified by it or in a Post Office to be operated by the Secretary of the Council.

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

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

CHAPTER VI

A. MISCELLANEOUS: PUBLICATION OF RULES AND OTHER INFORMATION AND DATE OF COMING INTO FORCE OF THE RULES (Rules under Sections 7(m) and 49(j) of the Act). -

1. Unless the Council otherwise directs, all rules of the Council shall come into force on the date of their publication in the Gazette of India.

2. Information, inter alia, on the following matters shall, unless the Council determines otherwise, be communicated to all the State Councils: -

(i) Election of Chairman, Vice-Chairman,

(ii) Order of the Council under proviso to Section 26(l) of the Act, removal of name under Section 26A of the Act and orders on matters dealt with under Sections 48A and 48B of the Act as are approved by the Council for communication.

(iii) Consent expressed under Section 27 of the Act to the enrolment of a person whose application on a former occasion had been refused by a State Council.

(iv) Decisions of the Council relating to recognition of degrees referred to in Section 24(l)(c)(iii), (iiia) or (iv) of the Act.

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

3. Subject to such directions, specific or general as may be given by the Council, the Secretary shall send to all the State Bar Councils copies of all final orders of the Disciplinary Committees of the Bar Council of India made under Sections 36, 36B and 37 of the Act.

4. Subject to such directions, specific or general, as may be given by the Council, the Secretary of the Council may furnish certified copies of the orders mentioned in Rule 3 on payment of the charge of Re. 1 after deleting the name of the advocate against whom the enquiry is made for publication in any legal journal or to any Bar Association as may apply therefor:

PROVIDED that copies of the orders mentioned in this Rule shall not be issued (a) where an appeal has been filed in the Supreme Court, before the disposal of the appeal, and (b) where no such appeal has been preferred to the Supreme Court, before the expiry of the period of limitation for filing the appeal.

5. Whenever any Disciplinary action is taken or confirmed by the Disciplinary Committee or the Council as the case may be, against an advocate, information thereof shall be communicated by reference to the name and number of the roll of the advocates and the date of the enrolment of the following: -

All the State Bar Councils through the State Bar Council where the advocate was practising, the High Court, the District Courts,

and such Bar Association as the said State Bar Council may deem fit.

B. INSPECTION OF RECORDS AND COPIES. -

6. (1) Save as otherwise directed by the Chairman or the Vice-Chairman of the Council or the Chairman of the Committee concerned as the case may be, inspection of any of the records in any proceedings of a judicial nature of the Council or of its committees other than those of a Disciplinary Committee may be permitted to the parties or their counsel, on any working day except during the summer or other vacations of the Supreme Court on presentation to the Secretary of an application duly signed by the applicant or his counsel.

(2) An application for inspection shall be accompanied by the fees prescribed therefor in cash. The Secretary may permit the inspection in his presence or in the presence of any member of the staff authorised by him. The person inspecting shall not be entitled to make copies of the records of which inspection is permitted. He shall however be permitted to make short notes in pencil.

(3) Save as otherwise directed by the Chairman or Vice-Chairman of the Council or the Chairman of the Committee concerned as the case may be, certified copies of the records of a proceeding of a judicial nature of the Council or of its Committees as the case may be, may be granted to the parties or to their counsel on an application made in that behalf and on payment in cash of the prescribed fees.

CHAPTER VII

PROCEEDINGS FOR REMOVAL OF NAME FROM ROLL UNDER PROVISIO TO SECTION 26(1) OF THE ACT. -

1. Whenever a State Council, or any Committee duly authorised by the State Council has credible information from any source whatever that an advocate on the roll of the State Council has obtained his enrolment under circumstances which, if established, will render his name liable to be removed by the Council under the proviso to Section 26(1) of the Act, it shall be the duty of the State Council or the said Committee to enquire into the matter and report its findings to the Council.

In holding such enquiry the Council or the Committee shall hear the advocate concerned and otherwise follow the principles of natural justice.

2. In disposing of any proceedings under the said proviso, whether instituted on a report under Rule 1 or otherwise, the Council may, if it considers it just and expedient, cause an enquiry into disputed questions of fact to be made by any State Council or Committee thereof or any other Committee consisting of one or more persons as it may deem fit. The State Council or the Committee, as the case may be, shall follow the procedure mentioned in Rule 1.

CHAPTER VIII

ADDITIONAL QUALIFICATION FOR ENROLMENT AS ADVOCATE. -Any person who has held office as a Judge of any High Court in India may on retirement be admitted as an advocate on the roll of any State Council where he is eligible to practise.

CHAPTER IX

REVISION UNDER SECTION 48A OF THE ACT. -

1. (1) An application for Revision shall be in the form of a petition duly signed setting out the necessary facts, and shall be accompanied by the copy of the order in respect of which the revision is filed, giving the address of the petitioner and the respondent or respondents. It shall be supported by an affidavit and shall be accompanied by the prescribed fee which is payable in cash or could be sent by M.O. The applicant shall file at least 5 more copies of the petition and affidavit, and if there is more than one respondent as many additional copies as are necessary to serve the other respondents.

He shall file translations in English of such of the papers as may be necessary for reference at the time of hearing.

(2) No application for Revision shall ordinarily be entertained after 90 days from the date of the Order complained of. -

(1) If the Revision Petition is in order, the papers shall be called for and the Council, or a Committee of the Council constituted or authorised in this behalf, may direct notice to the respondent. The papers shall not however be called for unless so directed by the Council for Revision Petition against an order of the Disciplinary Committee.

(2) If the Council or the Committee considers that there are no merits in the Revision Petition, opportunity shall be given to the petitioner to appear before the Council in support of the petition.

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

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

5. Unless the Council otherwise specially directs, the petitioner and the respondent may appear by advocates, who shall file a vakalatnama signed by the party.

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

FORM A

SUBJECT TO NECESSARY MODIFICATIONS

(Under Rule 3, Chapter IX, Part II of the Rules of the Bar Council of India).
For Revision under Section 48A

THE BAR COUNCIL OF INDIA

Notice under Section 48A of the Advocates Act, 1961, read with the rules in Chapter IX, Part II of the Rules of the Bar Council of India

BCI REVISION CASE NO..... /19.....

In the matter of

.....Petitioner

..... Respondent

WHEREAS on the application above referred to / suo motu / the Bar Council of India having come to the conclusion that in exercise of the powers conferred upon it under Section 48A of the Advocates Act, 1961, it should satisfy itself as to the legality or propriety of such disposal of the Bar Council or / of the committee of the Bar Council of / dated..... (set out the necessary gist of the Order).

The respondent is hereby informed that the said application will be heard by the Bar Council of India on..... at (time)..... at (place)..... and if the respondent does not appear in person or through his advocate on the said date or on such other date to which the hearing may be adjourned, the matter will be heard and disposed of in his absence.

Secretary

The Bar Council of India

Date.....

CHAPTER X

APPLICATION FOR REVIEW UNDER SECTION 48AA OF THE ACT. –

- (1) An application for Review made under Section 48 AA of the Act shall set out the necessary facts and the grounds for review and be accompanied by an affidavit and the fee prescribed under these rules.
- (2) A true copy of the order shall be filed along with the application.
- (3) If the application for review received is in order, the Council may direct the issue of notice to the petitioner and such other person as it may consider necessary.
- (4) A copy of the order on the review application shall be sent free of charge to the petitioner and the other party if any.
- (5) Save as otherwise directed, the parties to whom notice has been issued may appear in person or by advocate or through authorised agent and if any of the parties fail to appear pursuant to the notice issued on any date of hearing, the Council may

dispose of the application in such manner as it may think fit.

2. The procedure prescribed in the above rules in this Chapter shall apply to the extent to which they are applicable when the Council acts of its own motion.

CHAPTER XI

ORDERS OF THE BAR COUNCIL OF INDIA. -

1. Every decision of the Council under the proviso to Section 26(l) or under Section 48A or under any other provisions of the Act shall be signed by the Chairman of the meeting at which the said decision was taken or if so authorised by any other member or the Secretary on behalf of the Council.
2. The Secretary shall send to the party or parties concerned a copy of the order free of charges.

CERTAIN MATTERS RELATING TO STATE COUNCIL

CHAPTER I

ELECTORAL ROLL, DISQUALIFICATION OF MEMBERSHIP AND VACATION OF OFFICE (*Rules under Sections 3(4), 10 B, 15(2)(a) and 49 (1)(a) and (ab) of the Act*). -

1. Every advocate whose name is on the Electoral Roll of the State Council shall be entitled to vote at an election.
2. The name of an advocate appearing in the State Roll shall not be on the Electoral roll, if on information received or obtained by the State Bar Council concerned on the basis of which it is satisfied that-
 - (a) His name has at any time been removed;
 - (b) He has been suspended from practice, provided that his disqualification shall operate only for a period of five years from the date of the expiry of the period of suspension;
 - (c) He is an undischarged insolvent;
 - (d) He has been found guilty of an election offence in regard to an election to the State Council by an election tribunal, provided however, that such disqualification shall not operate beyond the election next following after such finding has been made;
 - (e) He is convicted by a competent court for an offence involving moral turpitude, provided that this disqualification shall cease to have effect after a period of two years has elapsed since his release;
 - (f) He is in full-time service or is in such part-time business or other vocation not permitted in the case of practising advocates by the rules either of the State Council concerned or the Council;
 - (g) He has intimated voluntary suspension of practice and has not given intimation of resumption of practice.
 - (h) If he has not paid the subscription under Rule 4 Chapter II, Part VI of the Rules and obtained receipt from the State Bar

Council;

- (i) He has incurred any disqualification mentioned in the Act or the rules made thereunder.

Explanation: If an advocate who has incurred any disqualification as referred to in Rule 2 and does not furnish details about it as required in the notice under Rule 4 of these rules within the time specified shall be deemed to have committed an act of other misconduct as referred to in Section 5(l) of the Act.

3. Subject to the provisions of Rule 2, the name of every advocate entered in the State Roll shall be entered in the electoral roll of the State Council.

4. (1) In preparing the Electoral Roll, unless the State Bar Council concerned is already maintaining a list of advocates who are entitled to be voters in terms of Rule 2 of these Rules, at least 150 days before the date of election, shall publish notice issued by the Secretary of the State Bar Council concerned in prescribed form in the official Gazette and in two or more local newspapers one in English and the other in a local language, as may be decided by the State Bar Council, asking each of the advocates on the Roll of the concerned State Bar Council to intimate the State Bar Council within the time to be specified in the said notice or within such extended time as may be given / allowed by the State Bar Council for reasons to be recorded, as to whether he has incurred any disqualification mentioned in Rule 2 of these rules and quote Rule 2 of these rules in the said Notice.

(2) A preliminary electoral roll containing the names of all advocates whose names are required to be included under these rules shall be put up on the notice board of the State Council within 120 clear days before the expiry of the term of the members of the said State Council necessitating the election (and relevant portion thereof shall be sent to such Bar Associations as the Secretary considers fit):

PROVIDED that the Bar Councils whose term of office already expired or shall expire within 120 days from the date of commencement of these rules shall, as far as possible, publish the electoral roll forthwith and fix the elections for a date after not less than 120 clear days from the date of publication of the electoral rolls.

(3) Before final publication of the Electoral Roll, a State Bar Council may, if satisfied, on an application made by any particular advocate giving sufficient reasons, allow his name to be included in the Electoral Roll in question, and on such inclusion the advocate concerned shall be entitled to take part in the election.

5. The final electoral roll shall be prepared after incorporating such changes as may be necessary including the addition of the names of Advocates enrolled after the preparation of the preliminary roll and put up on the notice board of the State Council not more than 75 clear days and not less than 60 clear days before the date of election. (Intimation of such publication shall be given within a week after the publication to the Bar Association aforesaid).

6. **REVISION OF ELECTORAL ROLL:** If for any reason the election to the State Council is postponed beyond the date of expiry of the term of its members the preliminary or the final electoral roll shall be revised so as to include therein the names of advocates enrolled up to 75 clear days before the date of the election.

PARTICULARS TO BE MAINTAINED IN THE ELECTORAL ROLL

7. The electoral roll of the State Council shall inter alia contain the following particulars:

- (i) Serial number,
- (ii) Number on the State Roll,
- (iii) Name of Advocates as on the roll and
- (iv) Address of the Advocate.

Disqualification for being a Candidate in the Election

8. The nomination of any person who at the date of scrutiny thereof is subject to any of the disqualifications referred to in Rule 2 shall be rejected.
9. *Application of the rules:* These rules shall govern the elections of all State Bar Council to be held after those rules are enforced, and all State Bar Councils holding the elections of their members shall prepare their Electoral Rolls in terms of these rules.
10. An elected member of the State Council shall be deemed to have vacated his office-
- (a) If he is suspended from practice, or his name is removed from the roll by an order of a competent authority, or for any reason whatsoever he ceases to be an advocate,
 - (b) If he is adjudicated as an insolvent, or
 - (c) If his name is transferred to the roll of another State Council.
11. No election shall be called in question for any non-compliance of the provisions of the Act or of any rules made thereunder unless the results of the election insofar as it concerns a returned candidate or candidates have been materially affected.

FORM OF NOTICE UNDER RULE 4

It is hereby notified that for the purpose of preparing Final Electoral Roll in accordance with rules 2 & 3 of Chapter I, Part III of the rules framed by the Bar Council of India under Sections 3(4), 10B, 15 (2), 49(1)(a) and (ab) of the Advocates Act, 1961, for the next election of Members of this Council, the particulars as to any of the disqualifications as referred to in Clauses (a) to (g) of Rule 2 shall be furnished by an Advocate who had incurred them to the State Council within the time specified in the notice issued under Rule 4. (Herein below to reproduce Rule 2 with Explanation).

Dated the

Secretary

Number of the State Roll:

1. Name of the advocate as on the Roll:

(In block letters)

2. (a) Address of the Advocate:

(as on the State Roll)

(b) Present Address:

3. Have you incurred any of the disqualifications mentioned in Rule 2 of Chapter I, Part III of the Rules of the Bar Council of India?

4. Are you a member of any Bar Association?

(If so give the name)

5. Where do you intend to cast your vote?

(If you are not a voter entitled to vote by Postal Ballot)

I hereby declare and affirm that the foregoing statements are true to my knowledge and I have not concealed anything thereto.

Date

.....Signature in full.....

Note: These rules have come into effect from 1st January, 1991.

CHAPTER II

RULES TO SECURE AT LEAST A MINIMUM NUMBER OF ADVOCATES OF 10 YEARS' STANDING (Rules under Section 3(2)(b) and proviso, Section 3(5) and 49(1)(ac) of the Act). -

1. (a) These rules shall apply to the election of members of all the State Councils in India.

(b) In the case of any repugnancy between the rules and any rule or rules of any of the State Councils, these rules shall prevail and the rules framed by the State Councils shall be void to the extent of such repugnancy.

2. The elections of members of the State Councils shall be in conformity with the proviso to Section 3 (2) of the Act and these rules.

3. There shall be no limit to the number of candidates on the State rolls for at least 10 years that could be declared elected under these rules.

4. In the case of an election by a State Council for electing all the members specified in Section 3(2)(b) of the Act, the following procedure shall be adopted in the counting of votes :

ELECTION OF CANDIDATES WITH QUOTA

(a) If, at the end of any count, or at the end of the transfer of any parcel or sub-parcel of an excluded candidate the value of the voting papers credited to a candidate is equal to or greater than the quota, then, he shall be declared elected:

PROVIDED that-

(i) No candidate whose name has not been on the State Roll or at least 10 years shall be elected under Section 3(2)(b) and the proviso thereto of the Act.

(a) If 7 candidates of less than 10 years' standing in the case of a State Council where 15 members are to be elected, have been declared elected; or

(b) If 10 candidates of less than 10 years' standing in the case of a State Council where 20 members are to be elected, have been declared, elected; or

(c) If 12 candidates of less than 10 years' standing in the case of a State Council where members are to be elected, have been declared elected.

(ii) If at the end of any count, there are two or more candidates, who have not been on the State Rolls for at least 10 years, getting more than the quota as aforesaid, but the number of candidates that can yet be elected from such category under the proviso to Section 3(2)(b) is less than that number, the candidate who has obtained the greater value of votes shall be declared elected in preference to the candidate whose value of votes is less.

(iii) In the case of two or more persons of the category referred to in proviso (ii) above, getting the same value of votes at the end of any count, the Secretary or other Returning Officer conducting the election shall decide by lot which of such persons shall be declared elected.

(iv) The other candidate or candidates not declared elected as aforesaid by reason of the proviso to Section 3(2)(b) of the Act and these rules shall be excluded from the poll as provided in Rule 4(b) of the rules.

EXCLUSION OF CANDIDATES LOWEST ON POLL OR WHO HAVE BEEN ON ROLLS FOR LESS THAN 10 YEARS

(b) (1) The Secretary or Returning Officer conducting the election shall exclude from the poll -

(i) When there are two or more candidates who have obtained more than the quota the candidate who cannot be declared elected under proviso (i) to rule 4(a) of these rules;

(ii) The candidates lowest in the poll in the following order, after all the surpluses have been transferred as provided in the rules of the State Council with regard to transfer of surplus and the number of candidates elected is less than the required number and

after the exclusion from the poll; if any, under sub-clause (i) of this sub-rule.

First such candidates whose names are on the State Roll for less than 10 years, if the number of such candidates declared elected as provided for in these rules: -

- (a) 7 in the case of a State Council where in all 15 members have to be elected; or
- (b) 10 in the case of a State Council where in all 20 members have to be elected; or
- (c) 12 in the case of a State Council where in all 25 members have to be elected;

NEXT THE OTHER CANDIDATES

Illustration No 1: At an election to a State Council where under the Act and these rules, the total number of elected members is 20, 300 is arrived at as the quota. At the end of a count, when there is no further surplus to be distributed, M and N are the contesting candidates.

M whose name had not been on the State Rolls for at least 10 years gets 150, and

N whose had been on the State Rolls for more than 10 years gets 100.

Only 9 candidates whose names have been on State Roll for at least 10 years have already been declared elected. Hence M has to be excluded and the voting papers of M will be thereafter transferred as provided for in these rules.

If in the same case, 10 candidates whose names have been on a State Roll for not less than 10 years had already been declared elected, N will be excluded. The voting papers of N will be transferred as provided in these rules.

Illustration No. 2: At an election to a State Council where under the Act and these rules, the total number of elected members is 15, 300 is arrived at as the quota. At the end of a count, when there is no further surplus to be distributed, M and N are the contesting candidates.

M whose name has not been on the State Rolls for at least 10 years gets 100.

N whose name has been on the State Rolls for more than 10 years gets 100.

Only 7 candidates whose names have been on a State roll for at least 10 years have already been declared elected. Hence M has to be excluded and the voting papers of M will be thereafter transferred as provided in these rules.

If in the same case, 8 candidates whose names have been on a State roll for not less than 10 years had already been declared elected, N will be excluded. The voting papers of N will be transferred as provided for in the rules.

Illustration No 3: At an election to a State Council where under the Act and these rules the total number of elected members is 25,

300 is arrived at as the quota. At the end of a count, when there is no further surplus to be distributed, M and N are the contesting candidates.

M whose name has not been on the State rolls for at least 10 years gets 150, and

N whose name has been on the State rolls for more than 10 years gets 100.

Only 12 candidates whose names have been on a State roll for at least 10 years have already been declared elected. Hence M had to be excluded and the voting papers of M will be thereafter transferred as provided for in these rules.

If in the same case, 13 candidates whose names have been on a State roll for not less than 10 years had already been declared elected, N will be excluded. The voting papers of N will be transferred as provided for in these rules.

(2) (i) The Secretary or other Returning Officer shall distribute the unexhausted papers of the candidates excluded under the rule among the continuing candidates according to the next preference recorded therein and all exhausted papers shall be set apart finally dealt with.'

(ii) The papers containing original votes of an excluded candidate shall first be transferred, the transfer value of each paper being one hundred.

(iii) The papers containing votes of an excluded candidate shall then be transferred in the order of the transfers in which and at the value at which he obtained them.

(iv) Each of such transfers shall be deemed to be a separate transfer, but not a separate count.

(v) If, as a result of the transfer of papers, the value of the votes obtained by a candidate is equal to or greater than the quota, the counting then proceeding shall be completed, but no further papers shall be transferred to him.

(vi) The process directed by this rule shall be repeated on the successive exclusion one after another of the candidates lowest on the poll until such seat is filled either by the election of a candidate with the quota or as otherwise provided in these rules.

(vii) If at any time it becomes necessary to exclude a candidate and two or more candidates have the same value of votes and are the lowest on the poll, regard shall be had to the original votes of each candidate and the candidate for whom fewest original votes are recorded, and if the values of their original votes are equal, the candidate with the smallest value at the earlier count at which the candidates had unequal votes shall be excluded.

(viii) If two or more candidates are lowest on the poll and each had the same value of votes at all counts, the Returning Officer shall decide by lot which candidate shall be excluded.

(ix) If during a count, any candidate getting the quota or more has to be excluded by reason of rule 4(a) above, the transfer of his votes shall be deferred and made immediately after the other candidate having got the above quota in that count are declared, and their votes transferred as provided for in the Rules.

Filling last vacancies

(c) (1) When at the end of any count the number of the continuing candidates is reduced to the number of seats remaining unfilled, the continuing candidate shall be declared elected subject to the following: -

If the total number of candidates so far declared elected from amongst the advocates whose names have been on the State roll for at least 10 years at the relevant date is less than-

- (i) 8 in the case of a State Council where 15 members are to be elected, or
- (ii) 10 in the case of a State Council where 20 members are to be elected, or
- (iii) 13 in the case of the State Council where 25 members are to be elected,

Then, the requisite number of candidates of such standing shall first be declared elected and only the balance from amongst other candidates shall be declared elected.

(2) When at the end of any count only one seat remains unfilled and the value of the papers of some one candidate exceeds the total value of the papers of all the other continuing candidates together with any surplus not transferred; that candidate shall be declared elected. Such candidate shall not, however, be declared elected if he had been on the State Roll for less than 10 years and if the total number of candidates so far declared from amongst advocates on the State Roll for at least 10 years as provided in these rules is less than 8 or 10 or 13 as aforesaid as the case may be.

(3) When at the end of any count only one seat remains unfilled and there are only 2 continuing candidates, and each of them has the same value of votes and no surplus papers can be transferred, the Returning Officer shall decide by lot which of them shall be excluded, and, after excluding him in the manner aforesaid, declare the other candidate to be elected:

PROVIDED that if the total number of candidates who have been on the State Roll for at least 10 years on the relevant date so far elected is less than the required number, then that candidate will be on that State roll for at least 10 years shall be declared elected and the other candidate shall be excluded.

Filling up vacancies or co-option

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

Particulars regarding seats to be filled

(5) In the case of every election of members of a State Council, the State Council shall:

- (a) Notify the minimum number of seats should be filled up from amongst advocates who, on the relevant date, will be advocates on a State Roll for at least 10 years.
- (b) Require every candidate to specify in his nomination paper the date of his enrolment and the period for which his name had been on the roll of one or more High Courts under the Indian Bar Councils Act, 1926, and the roll or rolls of State Councils under the Advocates Act, 1961 with full particulars thereof.
- (c) Indicate on the voting paper which of the candidates have been on a State Roll for at least 10 years as required:

PROVIDED that this rule shall not be applicable to any election held by any State Council before these rules have come into force.

Computation of period

(6) For the purpose of computing the minimum period of 10 years provided for in the proviso to Section 3(2)(b) of the Act, and these rules: -

(i) The period during which an advocate may have been on the roll of any other State Council or Councils on the roll of any High Court or High Courts under the Indian Bar Councils Act, 1926, shall be taken into account, and

(ii) The period shall be computed as on the last date notified for receiving the nominations for the election.

PART V

THE STATE ROLL AND SENIORITY

CHAPTER I

PREPARATION AND MAINTENANCE OF THE STATE ROLL (Rules under Sections 17, 19, 20 and 22 of the Act). -

1. (1) The Council may, from time to time, give directions as to the manner in which the State Councils shall prepare and maintain the Rolls under Section 17 of the Act.

(2) The copies of the State Roll to be sent under Section 19 of the Act shall be in Form 'B - 1 and B - 2' as set out in the rules at the end of this Chapter and shall contain such further details as the Council may specify.

2. Particulars of transfers under Section 18 of the Act, cancellations directed under the proviso to Section 26(1) of the Act, removal of names under Section 26A of the Act, punishments imposed by an order under Chapter V, particulars as to the result of appeals under the relevant decisions of the courts, and such other matters which the Council may specifically direct, shall be noted in the said Rolls.

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

4. Every page of the Roll shall bear the signature or a facsimile thereof of the Secretary or other person authorised by the State Council.

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

FORM B-I

(Under Rule 1(2) of Chapter I, Part V)

Part I / II Copy of Roll under Section 17 (1) (a) (b) of the Advocates Act, 1961 of the Bar Council of..... sent under Section 19 of the Advocates Act, 1961.

S.No.	Name	Address	Date of enrolment under the Bar Councils Act/Advocates Act	Date of entry as Vakil, Pleader or Attorney, if any	Date of Birth	Date of Transfer, if any	If enrolled in Supreme Court date of such enrol- ment	Date of enrolment as Senior Advocate in case designated as such on or after 1-12-1961	Remarks particulars envisaged under Rule)
1	2	3	4	5	6	7	8	9	10

FORM B-2

(Under Rule 1(2) of Chapter I, Part V)

Part II Copy of Roll under Section 17(l)(b) of the Bar Council of..... sent under Section 19 of the Advocates Act, 1961

Roll No.	Name and Address	Date of enrolment under the Advocates Act, 1961	Date of Birth	Date of transfer, if any, and particulars	Remarks
1	2	3	4	5	6

Particulars should be entered in the remarks column for persons enrolled under Section 24(3).

CHAPTER II

PREVENTION OF ENTRY IN MORE THAN ONE ROLL

(Rules under Sections 17(4) and 49(l)(ad) of the Act)

1. The rule of every State Council shall provide inter alia, for a declaration in its form of application for enrolment.
 - (a) That the name of the applicant is not on the roll of any other State Council, and
 - (b) That the applicant will not, so long as his name is on the roll of one of the State Councils, apply for enrolment, to any other State Council.

2. The Council may, on receipt of information that the name of any person is entered on the roll of more than one State Council, after hearing the person concerned, remove his name from any of the rolls on which his name appears and take such other action against him as may be called for.

CHAPTER III

TRANSFER OF NAME FROM ONE STATE ROLL TO ANOTHER STATE ROLL

(Rules under Sections 18 and 49(I)(b) of the Act)

1. Any person whose name is entered on any State Roll may make an application to the Council for transfer under Section 18 of the Act in Form 'C' in this Chapter. The application shall be accompanied by (i) a certified copy of the entry in the State Roll relating to the applicant and (ii) a certificate from the State Council stating that his certificate of enrolment has not been recalled, that the applicant is entitled to practice on the date of his application, that there are no disciplinary proceedings pending against the applicant and that it had no objection to the transfer being ordered.

On receipt of an application for transfer, the Secretary shall enquire from the State Council concerned whether they have any objection to the transfer being granted, and he shall thereafter place the papers for disposal before the Council or a Committee constituted for the purpose. If the Committee considered that the application shall be refused, the matter should be referred to the Council for orders.

2. (1) The order of the Council on the application for transfer shall ordinarily be in Form D in the annexure to this Chapter.
- (2) The applicant for transfer shall be informed about the order on his application.
- (3) On receipt of a communication from the Bar Council of India of an Order for transfer: -
 - (a) It shall be the duty of the advocate who has applied for transfer to produce the certificate of enrolment issued to him under Section 22 of the Act for endorsement in Form D-1 in this Chapter to the State Council on the roll of which his name appears. The said State Council shall as expeditiously as possible after the endorsement and the necessary entries in its roll transfer the certificate to the State Council to which the name of the Advocate is directed to be transferred;
 - (b) On receipt of the certificate endorsed as aforesaid the Secretary of the latter State Council shall make a further endorsement thereon in Form D-2 in this Chapter;
 - (c) On such endorsement being made and the other formalities, if any required by law being complied with the transfer shall be deemed to take effect from the date of the direction of the Bar Council of India under Section 18 of the Act.
 - (4) A Copy of the Order on the applications for transfer made by the Council shall be put up on the Notice Board of the State Councils concerned.

FORM C

BAR COUNCIL OF INDIA

(Under Rule I Chapter III Part V)

Application for Transfer to another Roll under Sections 18 and 49(l)(b)
of the Advocates Act, 1961.

From

.....
.....
.....

To

The Secretary
The Bar Council of India,
New Delhi.
Sir,

1. I request the transfer of my name from the roll of the Bar Council of to the roll of the Bar Council ofunder Section 18 of the Act for the reasons set out by me in this application.
2. I was enrolled in the Bar Council of on
3. My name is entered on the roll of the said Bar Council and my roll number is.....
4. I state that prior to my enrolment as aforesaid, in the Bar Council of.....I did not make any application for enrolment to any other State Bar Council and that no such application was either withdrawn, refused or dismissed.

(If any prior application had been made, details should be given here).

5. I state that there is/are no disciplinary proceedings pending against me in any State Bar Council.
6. The reasons for my application for transfer are as follows: -

(If the application for transfer is made within 2 years of the date of enrolment, applicant should state the reason why even at the first instance he did not apply for enrolment to the Bar Council to which transfer is sought).

7. After the transfer of my name to the roll of the Bar Council..... I intend to practice ordinarily at
My permanent address after transfer will be: -

.....
.....
.....

8. I undertake to communicate to the State Bar Council to which my name is to be transferred, any change in the said address.

9. Till the transfer is effected all communications may please be sent to the following address: -

.....

I undertake to furnish any further information that may be necessary in reply to any communication that may be sent to the said address till the transfer is ordered.

10. I enclose herewith:

- (i) A certified copy of entry in the State Roll.
- (ii) A certificate from the State Bar Council as prescribed in Rule 1(2) in Part V Ch. III.

I hereby declare that the facts stated herein are true.

Place:

Date:

Signature of the Advocate

(Applicant)

FORM D

ORDER ON TRANSFER APPLICATIONS THE BAR COUNCIL OF INDIA

RESOLVED that the names of the following persons be removed from and entered in the rolls of the State Bar Councils as shown against their names:

Transfer Application No.	Name as in the State Roll	Date of entry as Vakil, Pleader or Attorney if any	Date of enrolment under the BC/Advocates Act	Date of birth	On the roll of	Transfer to the roll of	Permanent address after transfer	If enrolled in Supreme Court date of such enrolment
1	2	3	4	5	6	7	8	9

FORM D-1

Name transferred to the roll of the Bar Council of By order of the Bar Council of India made under resolution No dated Date Secretary, Bar Council of.....

FORM D-2

On transfer from the roll of the Bar Council of with Roll No (Vide BCI Order dated and communication of State Bar Council ofDated) the name is entered in the State Roll of Bar Council of
Vide Roll No dated

Secretary, Bar Council of

CHAPTER IV

SENIORITY IN THE STATE ROLLS

(Rules Under Sections 17(3), 20 and 49(1)(ac) of the Act)

1. Seniority of Vakils, Pleaders and Attorneys not entitled to practice in the High Court: - The seniority of a Vakil, Pleader or Attorney, who was not entitled to practice in the High Court, and who was enrolled as an advocate immediately before the appointed day or who was enrolled after that day shall be determined according to the date of enrolment as advocate.

2. Seniority of other Advocates:

(1) The seniority of other advocates referred to in Section 17(l)(a) shall: -

(a) In the case of persons whose names were entered in the rolls under Section 8(3)(a) of the Indian Bar Councils Act, 1926, be the date from which their seniority was reckoned in the said rolls;

(b) In the case of persons admitted as advocates under Section 58A of the Act, be the dates of their first admission when they were entitled to practice in the High Court of Allahabad or the Chief Court of Oudh or the other High Courts or the Judicial Commissioners' Court mentioned in sub-sections (2), (3) and (4) of the said Section 58A;

(c) In the case of persons admitted as advocates under Section 58AA of the Act, be the date when they were first entitled to practice the profession of law under the law enforced in the Union Territory of Pondicherry;

(d) In the case of the other persons, be determined in accordance with the date of enrolment under the Indian Bar Councils Act, 1926.

Proviso to (a), (b), (c) and (d): - Provided that in the case of a person whose name had been entered on the rolls of more than one High Court, the date as shown in the High Court in which he was first enrolled shall be taken as the date for entry for purpose of seniority in the rolls under Section 17(l)(a) of the Advocates Act, 1961.

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

- (3) In the case of the persons referred to in Section 58AF of the Act, the date on which they are deemed to be advocates.
3. In cases not covered by any of the rules previous in this Chapter, or in case of doubt, the seniority shall on a reference by a State Council, be according to the date as may be determined by the Council.
4. Seniority of Senior Advocates of the Supreme Court: The seniority of a senior advocate before the appointed day shall be determined in accordance with the date of his enrolment as senior advocate.

CHAPTER V

SPECIAL PROVISION FOR ENROLMENT OF CERTAIN SUPREME COURT ADVOCATES

(Rules under Section 20 read with Section 49(1) of the Act)

1. Any Advocate who was entitled as of right to practise in the Supreme Court immediately before the appointed day and whose name is not entered in any State Roll may within 31st December, 1974 express his intention in the form prescribed under this rule to the Bar Council of India for entry of his name in the roll of any State Bar Council.
2. The notification of the Bar Council of India prescribing the date shall be published in the Gazette of India, and copies thereof sent to all Bar Councils. The notification or a gist thereof shall also be published in at least one English Newspaper in Delhi and one English Newspaper in every State.

THE BAR COUNCIL OF INDIA

Intimation under Section 20 of the Advocates Act, 1961

(Unnecessary columns / entries to be struck out)

To
The Secretary
The Bar Council of India,
21, Rouse Avenue,
Near Bal Bhawan
New Delhi-110 002.

1. I, (Name in block letters), residing at.....
....., was entitled as of right to practise in the Supreme Court of
India immediately before the appointed day viz., 1-12-1961.
- 2A. I was enrolled on as an Advocate of the Supreme Court of India was entitled as of right to practise in

the Supreme Court immediately before the appointed day viz., 1-12-1961.

I have not expressed to any State Bar Council my intention to practice under Section 17(1)(a) of the Advocates Act, 1961.

OR

2B. (i) I was first enrolled as an Advocate of the Supreme Court of India on and was entitled as of right to practise in the Supreme Court immediately before the appointed day viz., 1-12-1961.

(ii) I was enrolled later as Senior Advocate of the Supreme Court of India on.....

My Roll Number as Senior Advocate is..... I have not expressed to any State Bar Council my intention to practise under Section 17(1)(a) of the Advocates Act, 1961.

3. (To be entered if in service) On the date of this intimation, I am in service (Particulars to be given)

4. I hereby express my intention as mentioned under Section 20 of the Advocates Act, (as amended) for the entry of my name in the roll of the Bar Council of

I declare that these facts set out in this form are correct.

(Signature)

Date

Place

Address

.....

.....

PART VI

RULES GOVERNING ADVOCATES

CHAPTER I

RESTRICTIONS ON SENIOR ADVOCATES

(Rules under Sections 16(3) and 49(1)(g) of the Act)

Senior Advocates shall, in the matter of their practice of the profession of law mentioned in Section 30 of the Act, be subject to the following restrictions:

(a) A Senior Advocate shall not file a vakalatnama or act in any Court, or Tribunal, or before any person or other authority mentioned in Section 30 of the Act.

Explanation: “To Act” means to file an appearance or any pleading or application in any court, to Tribunal or before any person or other authority mentioned in Section 30 of the Act, or to do any act other than pleading required or authorised by law to be done by a party in such Court, or Tribunal, or before any person or other authority mentioned in the said Section either in person or by his recognised agent or by an advocate or an attorney on his behalf.

(b) (i) A senior Advocate shall not appear without an Advocate on Record in the Supreme Court or without an Advocate in Part II of the State Roll in any court, or tribunal, or before any person or other authorities mentioned in Section 30 of the Act.

(ii) Where a Senior Advocate has been engaged prior to the coming into force of the Rule in this Chapter, he shall not continue thereafter unless an Advocate in Part II of the State Roll is engaged along with him. Provided that a Senior Advocate may continue to appear without an Advocate in Part II of the State Roll in cases in which he had been briefed to appear for the prosecution or the defence in a criminal case, if he was so briefed before he is designated as a Senior Advocate or before coming into operation of the rules in this Chapter as the case may be.

(c) He shall not accept instructions to draft pleading or affidavits, advice on evidence or to do any drafting work of an analogous kind in any Court or Tribunal, or before any person or other authority mentioned in Section 30 of the Act or undertake conveyancing work of any kind whatsoever. This restriction however shall not extend to settling any such matter as aforesaid in consultation with an Advocate in Part II of the State Roll.

(cc) A Senior Advocate shall, however, be free to make concessions or give undertakings in the course of arguments on behalf of his clients on instructions from the junior Advocate.

(d) He shall not accept directly from a client any brief or instructions to appear in any Court or Tribunal, or before any person or other authority in India.

(e) A Senior Advocate who had acted as an Advocate (Junior) in a case, shall not after he has been designated as a Senior Advocate advise on grounds of appeal in a Court of Appeal or in the Supreme Court, except with an advocate as aforesaid.

(f) A Senior Advocate may in recognition of the services rendered by an Advocate in Part II of the State Roll appearing in any matter pay him a fee, which he considers reasonable.

CHAPTER 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 other 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 Advocate himself ought not to do. An Advocate shall refuse to represent the client who persists in such improper conduct. He shall not consider himself a mere mouth-piece of the client, and shall exercise his own judgement in the use of restrained language in correspondence, avoiding scurrilous attacks in pleadings, and using intemperate language during arguments in Court.
5. An Advocate shall appear in Court at all times only in the prescribed dress, and his appearance shall always be presentable.
6. An Advocate shall not enter 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.

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.

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.

SECTION II - DUTY TO THE CLIENT

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

12. An Advocate shall not ordinarily withdraw from engagements once accepted, without sufficient cause and unless reasonable and sufficient notice is given to the client. Upon his withdrawal from a case, he shall refund such part of the fee as has not been earned.

13. An Advocate should not accept a brief or appear in a case in which he has reason to believe that he will be a witness and if being engaged in a case, it becomes apparent that he is a witness on a material question of fact, he should not continue to appear as an Advocate if he can retire without jeopardising his client's interests.

14. An Advocate shall at the commencement of his engagement and during the continuance thereof make all such full and frank disclosures to his client relating to his connection with the parties and any interest in or about the controversy as are likely to affect his client's judgement in either engaging him or continuing the engagement.

15. It shall be the duty of an Advocate fearlessly to uphold the interests of his client by all fair and honourable means without regard to any unpleasant consequences to himself or any other. He shall defend a person accused of a crime regardless of his

personal opinion as to the guilt of the accused, bearing in mind that his loyalty is to the law which requires that no man should be convicted without adequate evidence.

16. An Advocate appearing for the prosecution in a criminal trial shall so conduct the prosecution that it does not lead to conviction of the innocent. The suppression of material capable of establishing the innocence of the accused shall be scrupulously avoided.
17. An Advocate shall not directly or indirectly, commit a breach of the obligations imposed by Sec. 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 authorised agent.
20. An Advocate shall not stipulate for a fee contingent on the results of litigation or agree to share the proceed thereof.
21. An Advocate shall not buy or traffic in or stipulate for or agree to receive any share or interest in any actionable claim. Nothing in this Rule shall apply to stock, shares and debentures or Government securities, or to any instruments, which are, for the time being, by law or custom negotiable, or to any mercantile document of title to goods.
22. An Advocate shall not, directly or indirectly, bid for or purchase, either in his own name or in any other name, for his own benefit or for the benefit of any other person, any property sold in the execution of a decree or order in any suit, appeal or other proceeding in which he was in any way professionally engaged. This prohibition, however, does not prevent an Advocate from bidding for or purchasing for his client any property, which his client may, himself legally bid for or purchase, provided the Advocate is expressly authorised in writing in this behalf.
23. An Advocate shall not adjust fee payable to him by his client against his own personal liability to the client, which liability does not arise in the course of his employment as an Advocate.
24. An Advocate shall not do any thing whereby he abuses or takes advantage of the confidence reposed in him by his client.
25. An Advocate should keep accounts of the client's money entrusted to him, and the accounts should show the amounts received from the client or on his behalf, the expenses incurred for him and the debits made on account of fees with respective dates and all other necessary particulars.
26. Where moneys are received from or on account of a client, the entries in the accounts should contain a reference as to whether the amounts have been received for fees or expenses, and during the course of the proceedings, no Advocate shall, except with the consent in writing of the client concerned, be at liberty to divert any portion of the expenses towards fees.
27. Where any amount is received or given to him on behalf of his client the fact of such receipt must be intimated to the client as early as possible.

28. After the termination of the proceeding the Advocate shall be at liberty to appropriate towards the settled fee due to him any sum remaining unexpended out of the amount paid or sent to him for expenses, or any amount that has come into his hands in that proceeding.
29. Where the fee has been left unsettled, the Advocate shall be entitled to deduct, out of any moneys of the client remaining in his hands, at the termination of the proceeding for which he had been engaged, the fee payable under the rules of the Court, in force for the time being, of 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 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 photograph to be published in connection with cases in which he has been engaged or concerned. His sign-board or name plate should be of a reasonable size. The sign-board or name-plate or stationery should not indicate that he is or has been President or Member of a Bar Council or of any Association or that he has been associated with any person or Organisation or with any particular cause or matter or that he specialises in any particular type of work or that he has been a Judge or an Advocate General.
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 agency.

38. An Advocate shall not accept a fee less than the fee taxable under the rules when the client is able to pay the same.

39. An Advocate shall not enter appearance in any case in which there is already a vakalatnama 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 should 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. 90/- every third year commencing from 1st April, 1993 along with a statement of particulars as given in the form set out at the end of these Rules, the first payment to be made on or before 1st April, 1993 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. 90/- every three years a consolidated amount of Rs. 300/-. This will be a life time payment to be kept in the fixed deposit by the concerned State Bar Council and interest to be used for the purpose of this rule. However, payment made by the concerned Advocate before this consolidated payment shall be exclusive of it and no credit shall be given for the payment, but those Advocates who have paid consolidated amount of Rs. 200/- only as a consolidated amount of Rs. 100/- will be required to pay.

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: All Advocates who are in actual practice and are not drawing salary of 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 1-4-1994 and for period prior to this Advocates will continue to be covered by this 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 for the State" 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 the Bar Council of India shall deposit the said amount in a 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 the 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 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(I) 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 practice:

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 obtains 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 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 councils 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 the Bar Council of India.

(2) (i) Every State Council shall have an Advocate 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 modification 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

Place

Signature

Name in block letters

Enrolment No

Received a sum of Rs. 30/- from..... towards payment under Rule 40, Chapter II, Part VI of the Rules of the Bar Council of India by way of Postal Order / Bank Draft / Cash on

Dated:

Place:

Secretary

Bar Council of

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 a 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 THEIR 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 ordinary sitting fee, provided none of his duties are of an executive character. An Advocate shall not be a Managing Director or a Secretary of any company.

49. An Advocate shall not be a full-time salaried employee of any person, 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 practice as an Advocate so long as he continues in such employment.

Nothing in this rule shall apply to a Law Officer of the Central Government of a State or of any Public Corporation or body constituted by statute who is entitled to be enrolled under the rules of his State Bar Council made under Section 28(2)(d) read with Section 24(1)(e) of the Act despite his being a full time salaried employee.

Law Officer for the purpose of this Rule means a person who is so designated by the terms of his appointment and who, by the said terms, is required to act and / or plead in Courts on behalf of his employer.

50. An Advocate who has inherited, or succeeded by survivorship to, a family business may continue it, but may not personally participate in the management thereof. He may continue to hold a share with others in any business which has descended to him by survivorship or inheritance of 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 of 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 of 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 suspension together with his certificate of enrolment in original.

(2) Whenever any such Advocate who has suspended his practice desires to resume his practice, he shall apply to the Secretary of the State Bar Council for resumption of practice, 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 attain terms of Rule 24 of Part IX.
6. 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.

An Advocate who is under suspension, shall be under the same disability one in which he held office.

7. An officer after his retirement or otherwise ceasing to be in service shall not practice for a period of 2 years in the area in which he exercised jurisdiction for a period of 3 years before his retirement or otherwise ceasing to be in service.

Explanation: ‘Officer’ shall include a Judicial Officer, Additional Judge of the High Court and Presiding Officer or Member of the Tribunal or authority or such other Officer or authority as referred to in Section 30 of the Act.

“Area” shall mean area in which the person concerned exercising jurisdiction.

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.

CHAPTER IV

FORM OF DRESSES OR ROBES TO BE WORN BY ADVOCATES

(Rules under Section 49(1)(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: -

I. Advocates other than lady Advocates

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

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

II. Lady Advocates

- (a) Black and full or half 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 of long skirts (white or black of any mellow or subdued colour without any print or design) of Flare (white, black or black striped or grey) or Punjabi dress churidar-kurta or salawar-kurta with or without dupatta) white or black:

PROVIDED that the wearing of Advocates' gowns shall be optional except when appearing in the Supreme Court or in a High Court:

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

PART VII

DISCIPLINARY PROCEEDINGS AND REVIEW

CHAPTER I

COMPLAINTS AGAINST ADVOCATES AND PROCEDURE TO BE FOLLOWED BY DISCIPLINARY COMMITTEES OF THE STATE BAR COUNCIL AND THE BAR COUNCIL OF INDIA

(Rules under Section 49(1)(f) of the Act)

A. Complaint and Enquiry under Sections 35, 36 and 36B of the Act

1. (1) A complaint against an Advocate shall be in the form of a petition duly signed and verified as required under the Code of Civil Procedure, 1908. The complaint could be filed in English or in Hindi or in regional language where the language has been declared to be a State language and in case the complaint is in Hindi or in any regional language, the State Bar Council shall translate the complaint in English whenever a disciplinary matter is sent to the Bar Council of India under the Advocates Act.

Every complaint shall be accompanied by the fees as prescribed in the rules framed under Section 49(h) of the Act.

(2) The Secretary of the Bar Council may require the complainant to pay the prescribed fees if not paid, to remove any defects and call for such particulars or copies of the complaint or other documents as may be considered necessary.

(3) On a complaint being found to be in order, it shall be registered and placed before the Bar Council for such order as it may deem fit to pass.

(4) No matter taken up by a State Bar Council suo motu or arising on a complaint made under Section 35 of the Act shall be dropped solely by reason of its having been withdrawn, settled or otherwise compromised, or that the complainant does not want to proceed with the enquiry.

2. Before referring a complaint under section 35(1) of the Act to one of its Disciplinary Committees to be specified by it, the Bar Council may require a complainant to furnish within a time to be fixed by it, further and better particulars and may also call for comments from the Advocates complained against.

3. (1) After a complaint has been referred to a Disciplinary Committee by the Bar Council, the Registrar shall expeditiously send a notice to the Advocate concerned requiring him to show cause within a specified date on the complaint made against him and to submit the statement of defence, documents and affidavits in support of such defence, and further informing him that in case of his non-appearance on the date of hearing fixed, the matter shall be heard and determined in his absence.

Explanation: Appearance includes, unless otherwise directed, appearance by an Advocate or through duly authorised representative.

(2) If the Disciplinary Committee requires or permits, a complainant may file a replication within such time as may be fixed by the Committee.

4. The Chairman of the Disciplinary Committee shall fix the date, hour and place of the enquiry which shall not ordinarily be later than thirty days from the receipt of the reference. The Registrar shall give notice of such date, hour and place to the complainant or other person aggrieved, the advocate concerned and the Attorney General or the Additional Solicitor General of India, or the Advocate General as the case may be, and shall also serve on them copies of the complaint and such other documents mentioned in Rule 24 of this Chapter as the Chairman of the Committee may direct at least ten days before the date fixed for the enquiry.
5. (1) The notices referred to in this Chapter shall subject to necessary modification, be in Form Nos. E-1 and E-2 be sent to the Advocates appearing for the parties. Notice to a party not appearing by the Advocate shall be sent to the address as furnished in the complaint or in the grounds of appeal. The cost of the notices shall be borne by the complainant unless the Disciplinary Committee otherwise directs.
- (2) The notices may be sent ordinarily through messenger or by registered post acknowledgement due, and served on the Advocate or the party concerned or his agent or other person as provided for in Order V of the Civil Procedure Code.
- (3) Notice may also, if so directed by the Committee be sent for service through any Civil Court as provided for under Section 42(3) of the Advocates Act.
- (4) Where the notice sent to any party cannot be served as aforesaid it may be served by affixing a copy thereof in some conspicuous place in the office of the Bar Council, and also upon some conspicuous part of the house (if any) in which the party concerned is known to have last resided or had his office, or in such other manner as the Committee thinks fit. Such service shall be deemed to be sufficient service.
- (5) Payment of bills and / or charges for summons to witness etc. shall be in accordance with the rules under Section 49 (h) of the Act.
6. (1) The parties can appear in person or by an Advocate who should file a vakalatnama giving the name of the Bar Council in which he is enrolled, his residential address, telephone number if any, and his address for service of notice if any Senior Advocate is entitled to appear with another Advocate who has filed a vakalatnama.
- (2) The Bar Council or its Disciplinary Committee may at any stage of a proceeding appoint an Advocate to appear as Amicus Curiae. Such Advocate may be paid such fee as the council or the Committee may decide.
- (3) Excepting when the Committee has otherwise directed, service on the Advocate shall be deemed to be sufficient service on the parties concerned, even if copies of the notices are in addition sent to the parties, whether the parties have or have not been served.
- (4) Unless otherwise indicated, where more than one Advocate appears for the same party, it is sufficient to serve the notice on any of them.
7. (1) If in an enquiry on a complaint received, either the complainant or the respondent does not appear before the Disciplinary Committee in spite of service of notice, the Committee may proceed ex-parte or direct fresh notice to be served.
- (2) Any such order for proceeding ex-parte may be set aside on sufficient cause being shown, when an application is made supported by an affidavit, within 60 days of the passing of the ex-parte order.

Explanation: The provisions of Section 5 of the Limitation Act, 1963 shall apply to this sub-rule.

8. (1) The Disciplinary Committee shall hear the Attorney General of the Additional Solicitor General of India or the Advocate General as the case may be or their Advocate, and parties or their Advocates, if they desire to be heard, and determine the matter on documents and affidavits unless it is of the opinion that it should be in the interest of justice to permit cross examination of the deponents of to take oral evidence, in which case the procedure for the trial of civil suits shall as far as possible be followed.

(2) On every document admitted in evidence, the following endorsement shall be made which shall be signed by the Chairman or any member of the Committee: -

The Disciplinary Committee of the Bar Council of Exhibit No Date of Document Produced by Date Signature of

(3) The exhibits shall be marked as follows: -

(a) Those of the complainant as C1, C2, etc.

(b) Those of Respondents as R1, R2, etc.

(c) Those of Disciplinary Committee as D1, D2, etc.

(4) The Disciplinary Committee may at any stage direct the parties of their Advocates to furnish such further and better particulars as it considers necessary.

9. (1) Evidence given before the Disciplinary Committee shall be recorded preferably in English by any member of the Committee or any other person authorised by the Committee. The evidence so recorded shall be signed by the Chairman, or if the Chairman is not there when the evidence is recorded, by any member of the Committee.

(2) Whenever the record of a case decided by the State Bar Council or its Disciplinary Committee in which evidence has been recorded in a language other than English is required to be sent to the Bar Council of India or its Disciplinary Committee, a translation thereof in English made by a person nominated by the Committee Registrar certifying the same to be true copy shall also be sent.

10. (1) Every Disciplinary Committee shall make a record of its day-to-day proceedings.

(2) The Registrar of the Disciplinary Committee shall maintain a case diary setting out shortly in order of date, all relevant information concerning the date of filing, the date for hearing and despatch and service of the notices on the parties of the Advocates or the Attorney General or the Additional Solicitor General or the Advocate General as the case may be, of statements of petitions filed and / or the order thereon and of other proceedings in the matter before the Committee.

11. (1) If in any enquiry pending before the Disciplinary Committee, the complainant dies and there is no representative who is willing to conduct the case on his behalf the Disciplinary Committee may, having regard to the allegations made in the complaint and the evidence available, make a suitable order either to proceed with the enquiry or to drop it.

(2) (a) In the case of an enquiry against only one Advocate, on his death the Disciplinary Committee shall record the fact of such death and drop the proceedings.

(b) Where the enquiry is against more than one Advocates, on the death of one of them, the Disciplinary Committee may continue the enquiry against the other Advocates unless it decides otherwise.

(3) No Disciplinary enquiry shall be dropped solely by reason of its having been withdrawn, settled or otherwise compromised, or that the complainant does not want to proceed with the enquiry.

12. Unless otherwise permitted, counsel appearing before any of the Disciplinary Committee of the State Bar Council or Bar Council of India shall appear in court dress.

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

14. (1) The finding of the majority of the members of the Disciplinary 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 member dissenting shall be entitled to record his dissent giving his own reason. It shall be competent for the Disciplinary Committee to award such costs as it thinks fit.

(2) The Registrar of the Disciplinary Committee shall send free of charge to each of the parties in the proceedings, a certified copy of the final order of judgement as set out in Rule 36 in this Chapter.

(3) The date of an Order made by the Disciplinary Committee shall be the date on which the said Order is first received in the office of the Bar Council after it has been signed by all the members thereof. For the purpose of limitation the date of the Order shall be the date on which the contents of the Order duly signed as aforesaid are communicated to the parties affected thereby.

15. Save as otherwise directed by the Disciplinary Committee or the Chairman thereof, certified copies of the records of a case pending before the Disciplinary Committee may be granted to the parties or to their counsel on an application made in that behalf and on payment of the prescribed fee.

16. (1) The Secretary of a State Bar Council shall send to the Secretary of the Bar Council of India quarterly statements of the complaints received and the stage of the proceedings before the State Bar Council and Disciplinary Committees in such manner as may be specified from time to time.

(2) The Secretary of the Bar Council of India may however call for such further statement and particulars as he considers necessary.

17. (1) The Secretary of every State Bar Council shall furnish such particulars and send such statements as may be considered necessary by the Secretary of the Bar Council of India for purposes of Section 36B of the Act and send all the records of

proceedings that stand transferred under the said Section.

(2) The date of receipt of the complaint of the date of the initiation of the proceedings at the instance of the State Bar Council shall be the date on which the State Bar Council refers the case for disposal to its Disciplinary Committee under section 35(l).

(3) Whenever the records of proceedings are transferred under Section 36B of the Act to the Council, the requirements in Rule 9(2) of this Chapter shall be followed by the Disciplinary Committee of the State Bar Council.

B. Withdrawal of Proceedings under Section 36 of the Act

18. (1) Where a State Bar Council makes a report referred to in Section 36(2) of the Act, the Secretary of the State Bar Council shall send to the Secretary of the Bar Council of India all the records of the proceedings along with the report.

(2) An application by a person interested in the withdrawal of a proceeding referred to in Section 36 (2) of the Act, shall be signed by him and it shall set out the necessary facts supported by an affidavit and accompanied by the fee prescribed.

(3) For making an order on an application of a party or otherwise under Section 36(2) of the Act, the Disciplinary Committee of the Bar Council of India may:

(a) Call for a Report of the Disciplinary Committee seized of the proceeding;

(b) Issue notice to the respondent;

(c) Require the parties to file such statements as it considers necessary;

(d) Call for the records of the proceedings; and

(e) Examine any witnesses;

(4) In the proceedings before the Disciplinary Committee of the Bar Council of India under Section 36, unless otherwise directed, the parties may appear in person or by Advocate who shall file a vakalatnama as provided for under Rule 6 (1) in this Chapter.

(5) As a consideration of the Report of a State councils or otherwise the Disciplinary Committee of the Bar Council of India shall pass such orders as it considers proper.

C. Appeal to the Bar Council of India under Section 37 of the Act

19. (1) An appeal to the Council provided for under Section 37 of the Act, shall be in the form of a memorandum in writing as set out in Rule 21 in this Chapter. If the appeal is in a language other than English, it shall be accompanied by a translation thereof in English.
- (2) In every appeal filed under Section 37(1) of the Act, all persons who were parties to the original proceedings shall alone be impleaded as parties.
- (3) Save as otherwise directed by the Disciplinary Committee of the Council, in an appeal by the Advocate against an order under Section 35, in case of death of the complainant the legal representatives of the complainant shall be made parties.
20. (1) An appeal may be presented by the appellant or his Advocate or by his recognised agent in the office of the Bar Council of India, or sent by registered post with acknowledgement due so as to reach the Secretary, Bar Council of India on or before the last day of limitation.
- (2) Any appeal may be admitted after the period of limitation if the appellant satisfies the Disciplinary Committee that he has sufficient cause for not preferring the appeal within such period. Any such application for condonation of delay shall be supported by an affidavit.
21. (1) The memorandum of appeal referred to in Rule 19(1) of this Chapter shall contain necessary particulars as in the Form G. The memorandum of appeal shall state when the order was communicated to the applicant, and how it is in time.
- (2) Along with the memorandum of appeal, the appellant shall file:
- (a) Either the authenticated or the certified copy of the order appealed against, signed by the Registrar of Disciplinary Committee, and
- (b) Five additional copies of the memorandum of appeal and of the order appealed against, if there is only one respondent; if there is more than one Respondent, such number of additional copies as may be necessary. All copies shall be certified as true copies by the appellant or by his counsel.
- (3) Every memorandum of appeal shall be accompanied by the prescribed fees in cash. In case the memo is sent by post, it shall be accompanied by the M.O. Receipt issued by the Post Office.
- (4) If the papers filed in an appeal are not in order, the Registrar shall require the appellant to remove such defects within a specified time.
22. (1) Subject to the provisions contained in Rule 29(2) in this chapter, the Chairman of the Executive Committee or in his absence the Vice-Chairman of the Executive Committee or such other member authorised in this behalf by the Council shall have the power to allocate matters relating to the Disciplinary Committee, save when any such case has been allotted by the Council to any particular Disciplinary Committee.
- (2) Any matter allotted to a particular Disciplinary Committee, which has not been heard, may be reallocated to a different

Disciplinary Committee.

(3) Notwithstanding the provisions of Rule 30 in this Part the Chairman of any Disciplinary Committee shall have powers to issue interim orders on urgent matters which may be placed before him by the Registrar.

23. Subject to any resolution of the Bar Council of India, in this behalf relating to the place of hearing, the Chairman of the Disciplinary Committee concerned shall fix the date, hour and place for the hearing of the appeal.

24. (1) The appellant shall be required to file six typed sets of the following papers properly paged and indexed if there is only one respondent, and as many more sets as there may be additional respondents for the use of the Disciplinary Committee and by the other parties and for the record: -

- (a) The complaint, statement in the defence of the Advocate,
- (b) The evidence oral and documentary and such other papers on which parties intend to rely.
- (c) Any other part of the record as may be directed by the Committee.

Where any of the above papers is in a language other than English, English translations thereof shall be filed.

(2) The Respondent shall, if he so desires, or if so called upon, file six sets of typed papers of any part of the record on which he intends to rely. He shall also file English translations of such papers as are not in English.

25. The Registrar shall give notices to the parties or their Advocates or their recognised agents informing them of the date, time and the place of the hearing of the appeal.

A copy of the memorandum of appeal shall be sent to the respondent along with the notice of the appeal.

26. (1) No appeal filed under Section 37 of the Act against an order of punishment of an Advocate shall be permitted to be withdrawn on account of settlement or compromise or adjustment of the claim against the advocate.

(2) Every appeal filed under Section 37 of the Act by or against an Advocate shall abate on the death of the Advocate so far as he is concerned.

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

28. (1) The Registrar shall issue notice to the State Council concerned for the complete records to be sent to the Council.

(2) The Registrar of the State Council concerned shall send along with the records a list containing particulars under the following columns, and comply with such other directions as may be issued.

Serial. No. of Document	Date of Document	Description of Document

D. Application for Stay, and other matters

29. (1) An application for stay made under Section 40, sub-section (1) or (2) of the Act shall be accompanied by an affidavit and the fees, if any prescribed by the rules of the Council made under section 19(h) of the Act. Where the affidavit is not in English, a translation thereof in English shall be filed. The applicant shall file with his application at least five copies of the application, and the affidavit and as many additional copies thereof as there are respondents. Where the application is not in English five copies with translation thereof in English shall also be filed.

In every application for stay made to the Council, the applicant shall state if any application has been made to the State Council, and the orders thereon.

(2) Before a matter is allotted to a Disciplinary Committee under Rule 22 above, the Registrar may obtain orders on applications for interim stay or other urgent applications from the Chairman of any of the Disciplinary Committees.

The orders passed under this sub-rule shall be communicated to the parties and to the Secretary of the Bar Council concerned.

30. 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 on which the said order is first received in the office of the Council after it has been signed by all the members thereof.

E. Rules applicable to all proceedings before the Disciplinary Committee of the State Bar Councils and the Bar Council of India

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

Proceedings to be in camera

33. All the proceedings before the Disciplinary Committee shall be held in camera **inspection of records and copies**

34. (1) Save as otherwise directed by the Disciplinary Committee of the Chairman thereof, inspection of any of the records in any proceeding before the Disciplinary Committee may be permitted to the parties or their Advocates on presentation of an application duly signed by the applicant or his Advocate and on payment of the prescribed fee on any working day except during the summer or other vacations of the Supreme Court.

(2) An application for inspection shall be made to the Registrar of the Disciplinary Committee. The Registrar of the Disciplinary Committee may permit the inspection in his presence or in the presence of any member of the staff authorised by him.

The person inspecting shall not be entitled to make copies of the record of which inspection is granted. He shall, however, be permitted to make short notes in pencil.

(3) Save as otherwise directed by the Disciplinary Committee or the Chairman, thereof, certified copies of the records of a case pending before the Disciplinary Committee may be granted to the parties or to their counsel on an application made in that behalf and on payment of the prescribed fee.

(4) A copy of a final judgement in a decided case may be given to any person applying for the same on payment of the prescribed fee therefor, provided however that the name of the Advocate against whom the proceedings were taken shall be omitted.

Order awarding Costs: Decretal Order

35. (1) All orders where costs are awarded in disciplinary proceedings shall specify the amount of costs awarded and also state the party against whom the order is made, and the time within which the amount is payable.

(2) As soon as possible after the order is made by the Disciplinary Committee, in respect of every order where costs are awarded to any of the parties, a decretal order shall be drawn up as in Form J-1 / J-2 at the end of this Chapter signed by the Secretary of the State Bar Council or the Council as the case may be, as Registrar of the Disciplinary Committee and bearing the seal of the State Bar Council or the Council as the case may be.

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

Copies of Final Orders

36. The Secretary of the State Bar Council of the Bar Council of India as the case may be, shall send to each of the parties in the proceedings, a certified copy of the final order made under section 35, 36, 36B or 37 signed by him as Registrar of the Disciplinary Committee and bearing the seal of the State Bar Council/Bar Council of India as the case may be. No charges shall be payable on the copies so sent. Charges as prescribed under the rules shall however be payable for all additional copies of the said order applied for.

FORM E-1

(Under Rule 5 in Chapter 1, Part VII)

Notice of hearing of Complaint under Section 35 / 36 of the Advocates Act, 1961 and Rule 5, Chapter I, Part VII of the Rules of the Bar Council of India.

Before the Disciplinary Committee of the Bar Councils of

D.C. Enquiry No 19

..... Complainant / s

(With Address)

Versus

..... Respondent/s

(With Address)

WHEREAS a complaint dated against respondent/s, a copy of which is sent herewith has been referred for disposal to the above Committee of the Bar Council under Section 35 / 36 of the Advocates Act, 1961 and the Disciplinary Committee has fixed..... (time) on..... (date) for the hearing of the case at..... (place) in accordance with the procedure prescribed under the relevant rules of the Council.

The Respondent may submit his statement of defence together with any documents or affidavits in support of his defence within..... days from the date of this notice. The respondent shall send one copy of his statement of defence to the complainant and one copy to the Advocate-General direct under registered A.D. cover. The complainant may be entitled to file a reply to the statement of defence together with such documents of which he proposes to rely in support thereof within days.

The parties above-named are required to appear in person or through Advocate before the said Committee on the said date, time and place or any other date or dates and place to which the matter may be admitted. It shall be open to the parties to examine the witnesses that may be permitted before the Disciplinary Committee.

If on any date of hearing any party is absent, the hearing will proceed ex-parte against him.

..... is required to file..... copies of..... to the Registrar, Disciplinary Committee, Bar Council of on or beforeDated this the day of the month19 By Order

Registrar

Disciplinary Committee

Bar Council of

FORM E-2

The Disciplinary Committee of the Bar Council of India

(Notice of hearing under Rule 5 in Chapter I Part VII of the Rules of the Bar Council of India)

(Subject to necessary modifications)

DLC/D//19

Date.....

In the Matter of

No. on the file of the Disciplinary Committee of the Bar Council of (B.C.I. Tr. Case No./ 19)

..... Complainant(s)

Vs.

..... Respondent(s)

Notice under Section 36B read with Sections 35 and 36 (2) of the Advocates Act and the Rules made thereunder

WHEREAS the proceedings between the parties above referred to before the Disciplinary Committee of the Bar Council of..... stand transferred to the Bar Council of India under Section 36B of the Advocates Act, 1961, and the records in the same have been received by the Bar Council of India for disposal by the Disciplinary Committee of the Bar Council of India as provided for the said Section 36B read with Section 36A and the other provisions of the Act and the Rules of the Bar Council of India in this behalf.

The parties in the above proceedings will take notice that the hearing in the same has been fixed: -

At (place)

For (date and time)

The Disciplinary Committee will continue the proceedings from the stage at which it was so left by the Disciplinary Committee of the Bar Council of and will hear arguments on the evidence, oral and documentary already on record.

The parties are required to be ready with all their evidence; oral and documentary and for arguments.

The parties above named are required to appear in person or through Advocate or through duly authorised agents before the said Committee on the said date, time and place or any other date or dates and place to which the matter may be adjourned.

In view of the pendency of these proceedings for a long time and its automatic transfer to the Bar Council of India under Section 36(3) of the Advocates Act, the hearing will be pre-emptory and no adjournment may be granted.

If the parties fail to appear in person or by Advocate or to comply with the other requirements of this notice, the Committee will proceed ex-parte or make such other orders as it may deem fit.

The parties engaging any counsel may send their Vakalatnama duly signed by the counsel giving the address of the Advocate for the purpose of future communication.

Please note that notice of the hearing sent to the Advocate will be sufficient notice to the party even if a copy of the notice is sent to any of the parties.

Registrar,

Disciplinary Committee of the Bar Council of India

Copy to:

The Attorney General of India,

New Delhi.

FORM F

(Under Rule 4 in Chapter I, Part VII)

(Subject to necessary modifications)

From:

The Secretary

Bar Council of

To

The Attorney General/

Additional Solicitor General of India/ Advocate General

.....

.....

Notice under Section 35 (2) / 36 (3) of the Advocates Act, 1961

Sir,

Please find enclosed copy of a notice dated..... issued under section 35 (2) / 36 (3) of the Advocates Act, 1961 for the hearing of a case before the Disciplinary Committee of the Bar Council of.....

Registrar,

Date:

Place:

FORM G

MEMORANDUM OF APPEAL

(Under Rule 21 in Chapter I, Part VII of the Rules of the Bar Council of India)

(Subject to necessary modification)

BEFORE THE DISCIPLINARY COMMITTEE OF THE BAR COUNCIL OF INDIA

Under Section 37 of the Advocates Act, 1961

D.C. APPEAL NO. /19.....

.....
..... Appellant

Versus

..... Respondent

1. (a) Appellantson of (Residing at)

Age (To be filled in)

(to be filled up if the vakalatnama is filled by the Advocate)

The appellant appears by Advocate Shri Roll No enrolled in the Bar Council of The Address for the service of Appellant is that of his advocate.....

(b) Respondent (s) (I)

S/o

Residing at

2. The appellant files this appeal against the Order datedin case No. of the Disciplinary Committee of the Bar Council of

3. The Complaint against the advocate, who is the Appellant / Respondent in this appeal was filed on..... in the Bar Council of.....

The Bar Council referred the Complaint for enquiry to its Disciplinary Committee on.....The Disciplinary Committee of the Bar Council to which the matter was referred has dismissed the complaint / made an Order for punishment against the advocate, reprimanding him / suspending him / removing his name.

4. The Committee has passed no Order for costs / also passed an order for costs of Rs. payable by to

5. The Order of the Disciplinary Committee will come into operation w.e.f.....

6. The appellant has made no application to the Disciplinary Committee of the State Bar Council ofThe appellant has made an application before the Disciplinary Committee of the State Bar Council of..... onwhich has made an Order for stay upto /which has dismissed the application for stay.

7. Six copies of the Order of the Disciplinary Committee of the State Bar Council on the Stay Application are filed with this appeal.

The order of the Disciplinary Committee of the Bar Council ofwas received/ communicated to the applicant on

The appeal is in time / (Not in time).

The appeal is filed after the period of limitation and application for condonation of delay supported by an affidavit is filed herewith.

The appellant has paid Rs. 100/- fee for the appeal onin cash/is paying Rs.100/-

The appellant files this appeal for the following amongst other grounds:

1, 2, 3 ,etc.

Appellant / Advocate for Appellant.

Place:

Date:

Enclosures:

1. Certified copy of the Order complained against with 5 extra copies.
2. Memo of grounds of appeal with 5 extra copies.
3. Application, if any, for stay with 5 extra copies.
4. Affidavit in support of application for stay with 5 extra copies.

FORM H
(Under Rule 25 in Chapter I, Part VII)
(Subject to necessary modifications)

Before the Disciplinary Committee (.....) of the Bar Council of India D.C. Appeal No. /19
against

Order of the Disciplinary Committee of Bar Council ofDatedin Case /Complaint NoIn the matter of
ShriAdvocate

.....Appellant (s)

Versus

..... Respondent (s)

Notice of Appeal under Section 37 of the Advocates Act, 1961 and intimation of the date of hearing.

WHEREAS an appeal has been filed by the applicant above named against the Order of the Disciplinary Committee of the State Bar Council ofin Case / Complaint Nodated

The parties to the appeal will please take notice that the hearing of the above appeal before the said Committee has been fixed for the at (Place) at

If any of the parties to the appeal fail to appear in person or through advocate on the date of the hearing or any date on which it may be adjourned, the matter will be proceeded with ex-parte.

Please also take notice that stay of the operation of the Order filed against has been granted by Order of the Disciplinary Committee dated

New Delhi

.....

Registrar,
Disciplinary Committee,
Bar Council of India.

Note: One copy of the grounds of appeal is sent to each of the respondents.

FORM I

(Under Rule 29, Chapter I, Part VII)

(Subject to necessary modifications)

Disciplinary Committee (.....) of the Bar Council of India

..... (Chairman)

.....

.....

Miscellaneous Petition No(Stay)

IN

D.C. Appeal No.....

..... Appellant(s)

Vs.

..... Respondent(s)

Dated the

Petition for stay and suspension of the operation of Order of the Disciplinary Committee of the Bar Council of..... in Case / Complaint No..... dated..... suspending the petitioner from practice under Section 35(3) of the Advocates Act, 1961 for a period of..... pending the disposal of the appeal filed against the said Order.

ORDER

The operation of the order of the Disciplinary Committee of the Bar Council of.....datedin Case/Complaint No..... is stayed.

By Order

Registrar,

FORM J-1**(Under Rule 35(2) Chapter I, Part VII)****BEFORE THE DISCIPLINARY COMMITTEE OF THE BAR COUNCIL OF ORIGINAL
JURISDICTION** (To be added in matter before the Bar Council of India)

Complaint / Case No19

(On a complaint made by Shri (Address)

..... Complainant(s)

(Name and Address)

Vs.

..... Respondent(s)

(Name & Address)

.....19 (Date)

Present: -

Shri.....(Chairman)

Shri..... (Member)

Shri.....(Member)

For the Complainant: Shri, Advocate in / person

For the Respondent: Shri, Advocate in / person

The Case above mentioned being called on for hearing before the Disciplinary Committee of the Bar Council of on theday of..... 19....., **UPON** hearing Advocate for the Complainant / the Complainant in person **AND** Advocate for the Respondent (Respondent in person) / Respondent not appearing either in person or through Counsel though served; the Disciplinary Committee of the Bar Council ofdetermining (state the gist of the punishment) **DOTH ORDER:**

That the Complaint / Case be and the same is hereby dismissed/allowed.

That there shall be no order as to costs;

That the Complainant / Respondent do pay to the Respondent / Complainant herein the sum of Rs/-(Rupees(in words) being the costs incurred in the Bar Council of withinmonth from the date of this order;

That this Order be punctually observed and carried into execution by all concerned;

WITNESS ShriChairman of the Disciplinary Committee of the Bar Council of at this the
.....day of 19

Registrar,

Disciplinary Committee of the Bar Council of.....

FORM J-2

(Under Rule 35(2) in Chapter I, Part VII)

The Disciplinary Committee of the Bar Council of India

D.C. Appeal No of 19

(On appeal from the Order dated theday of 19of the Bar Council of in Case No..... of
19.....)

..... Appellant(s)

(Name & address)

Versus

..... Respondent(s)

.....

(Name & address)

.....19

(Date)

Present: -

Shri (Chairman)

Shri (Member)

Shri (Member)

For the Appellant: Shri , advocate / in person

For the Respondent: Shri , advocate / in person

The appeal above mentioned being called on for hearing before the Disciplinary Committee of the Bar Council of India on the
.....day of 19, **UPON** hearing Advocate for the appellant (the appellant in person) AND Counsel for the
Respondent (the Respondent in person) / Respondent not appearing either in person or through Advocate though served. The
Disciplinary Committee of the Bar Council of India **DOETH** Order:

That the original order dated is hereby confirmed /set aside / modified as under : -

That the Appeal be and the same is hereby dismissed/allowed;

That there shall be no order as to costs;

That the Appellant / Respondent **DO** pay to the Respondent/Appellant herein the sum of Rs /-[Rupees(in words)] being the costs incurred in the Bar Council of India as well as the sum of Rs/- [..... (in words)] being the costs incurred in the Bar Council ofwithinmonths from the date of this Order.

That this Order be punctually observed and carried into execution by all concerned.

WITNESS Shri Chairman of the Disciplinary Committee of the Bar Council of India at (Place) this theday of 19

Registrar,

Disciplinary Committee of Bar Council of India

CHAPTER II

REVIEW UNDER SECTION 44 OF THE ACT

1. An application for Review under Section 44 of the Act shall be in the form of a petition duly signed and supported by an affidavit accompanied by the prescribed fee and filed within 60 days from the date of the Order sought to be reviewed.
2. Every such application shall be accompanied by:
 - (a) Certified copy of the Order complained of,
 - (b) Five additional copies of the application, affidavit and the order, and
 - (c) If there are more respondents than one, as many additional true copies as may be necessary.
3. Every such application shall set out the grounds on which the Review is sought and shall further state whether any proceeding in respect thereof was filed and is still pending or the result thereof as the case may be.
4. If a Disciplinary Committee of Bar Council does not summarily reject the application under Section 44 of the Act, or wishes to exercise its powers under Section 44 suo motu, the Secretary of a Bar Council shall issue as nearly as may be in the Form K at the end of this Chapter, notice to the parties and to the Advocate-General concerned or the Additional Solicitor-General of India in the case of the Bar Council of Delhi.
5. (1) If after the hearing referred to in Rule 4, the Disciplinary Committee of a State Bar Council does not dismiss the application, and decides that the application for review should be allowed, the copy of the Order along with the relevant record

shall be sent to the Bar Council of India for approval.

(2) If the Bar Council of India approves the order of the Bar Council the Disciplinary Committee of the State Bar Council shall communicate the Order to the parties, if the Bar Council of India does not approve it, the Disciplinary Committee of the State Bar Council shall make its order dismissing the application and inform the parties.

6. The decision of the Disciplinary Committee of the Bar Council of India on an application for Review of its Order shall be communicated to the parties.

7. In the proceedings under this Chapter, unless the Disciplinary Committee of the State Bar Council or the Bar Council of India, as the case may be, otherwise decides, the parties may appear by the Advocate who shall file a vakalatnama signed by the party.

FORM K

NOTICE UNDER SECTION 44 OF THE ADVOCATES ACT, READ WITH RULE 4 IN CHAPTER II, PART VII OF THE RULES OF THE BAR COUNCIL OF INDIA

(Subject to necessary modifications)

THE BAR COUNCIL OF

REVIEW APPLICATION/19

..... Petitioner/s

Versus

..... Respondent/s

WHEREAS on the application of/suo motu the Disciplinary Committee of the Bar Council of..... having considered that there are prima facie grounds for Review of the Order made in Case No.

..... 19 on

The Respondent is informed that the said application will be heard by the Disciplinary Committee of the Council of..... on19..... at (time) (place)..... and that if the Respondent does not appear in person or through his advocate on the said date or on such other date to which the hearing may be adjourned, the matter will be heard and disposed of in his absence.

Date thisday of19

Office of the Bar Council of

Registrar,

PART VIII**1. A State Council may levy fees, not exceeding the limits prescribed hereunder in any of the following matters:**

(a)	Petition challenging the election of one or all members of the State council	Rs. 500.00
(b)	Complaint of professional misconduct under section 35 of the Act: PROVIDED that no fee shall be payable on complaint made by any court or tribunal or other statutory body or wherein a proper case the Bar Council grants exemption therefor.	Rs. 100.00
(b1)	The complainant shall be liable to pay in addition to the fee in sub-clause (b) the cost of service of process unless the Disciplinary Committee grants exemption therefor.	
(c)	Certificate as to the date of enrolment and the continuance of the name of the Advocate on the roll	Rs. 25.00
(d)	Certificate required to be produced with the transfer application under Section 18 of the Act.	Rs. 50.00
(e)	Inspection by complainant or the concerned Advocate, of documents relating to the disciplinary matters.	Rs.10.00
(f)	Inspection of the roll of the Advocates or the voters list.	Rs.10.00
(g)	Any application made in any proceedings before State Council or its Committee other than the Disciplinary Committee.	Rs.10.00

2. A fee as specified hereunder shall be paid in the following matters:

(a)	Complaint of professional misconduct referred under sec. 36 of the Act:	Rs.100.00

	PROVIDED that no fee shall be payable on complaint or appeal made by any court or tribunal or other statutory body or where in proper case the Council grants exemption therefor.	
(a-1)	The complainant shall be liable to pay in addition to the fee in sub-clause (a) the cost of service of process unless the Disciplinary Committee grants exemption thereof.	
(b)	An appeal filed under section 37 of the Act.	Rs. 100.00
(c)	An application for stay made to the Council under the Act.	Rs. 50.00
(d)	(i) An application for inspection	Rs. 10.00
	(ii) Inspection in cases finally decided when permitted.	Rs. 25.00
(e)	An application for withdrawal under Section 36 of the Act.	Rs. 50.00
(f)	An application for Review under the Act.	Rs. 100.00
(g)	An application for the exercise of its power under Section 48A of the Act (Revision)	100.00
(h)	Any application made in any proceedings before the Council or Committee other than the Disciplinary Committee.	Rs. 10.00

3. (a) Every application of an authenticated copy of any certificate, order of other proceedings, entry on any roll, or any document or deposition in any proceeding, before a State Council or the Council or a Committee thereof shall be accompanied by a fee of Rs. 10/and the copying charges as follows:

Every exemplification of the order or other documents in addition to Rs. 20/the folio and other charges.

Copying charges for folio 10/-

A folio shall be deemed to consist of two hundred words; seven figures shall be counted as one word, and more than half a folio shall be reckoned as a folio.

(b) In any proceedings, summons to witness shall only be issued on payment of the requisite batta and/or charges according to the rates prescribed by the High Court, the case of State Council, and the Supreme Court in the case of the Council or Committee thereof as the case may be.

(c) Every interlocutory application, including a petition for excusing delay or for obtaining stay for proceedings of a Disciplinary Committee shall be accompanied by a fee of Rs. 25/- in the case of the Disciplinary Committee of a State Council and a fee of Rs.25/- in the case of the Disciplinary Committee of the Council.

(d) An application by a party to the proceedings for unattested copies of depositions of witnesses may be supplied at the rate of Rs. 5/- for each page of the deposition.

4. Application for transfer from one State Bar Council to another

State Bar Council Rs.100.00

RESUMPTION OF PRACTICE

5. For resumption of practice as an Advocate, an applicant shall have to pay a sum of Rs. 500/- in favour of the State Bar Council and Rs. 100/- in favour of the Bar Council of India by way of separate Bank Drafts drawn in favour of the respective Bar Councils.

PART IX

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

(Rules under Section 49(a),(i) and (i) of the Act)

ELECTION

1. The election of members of State Councils shall only be by secret ballot. There shall be no voting by post except that a State Council may permit voting by post to Advocates eligible to vote and who do not ordinarily practise at the seat of the High Court or the seat of any of the District Courts in the State.

Explanation: An Advocate shall be deemed ordinarily to practise at the place, which is given in his address in the Electoral Roll.

2. Any candidate who by himself or through his agent seeks or attempts to secure from any voter his ballot paper with intent to prevent him from transmitting it directly or with intent to ensure that the vote has been cast for a particular candidate shall be guilty of an election malpractice which shall invalidate his election whether or not the result of the election has been materially affected thereby.

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

4. A State Council may require deposit from every candidate standing at an election, which may be forfeited in case the candidate is unable to secure at least 1/8 of the quota fixed for the election.

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

FUNDS OF STATE COUNCILS

6. The funds of State Councils must first be deposited in the State Bank of India or any Nationalised Bank before any money could be expended, and disbursement shall ordinarily be made by cheques, unless the amount involved is small.
7. The State Bar Council may decide from time to time investment of its funds in the following securities. -
 1. Fixed Deposits or Cumulative Deposits in the State Bank of India or in such other Nationalised Banks;
 2. In any other securities specified in Section 20 of the Indian Trust Act, 1882;
 3. In the fixed deposits or cumulative deposits with Government companies as defined in the Companies Act, 1956.
8. Every State Council shall maintain a provident fund for its employees and also pay gratuity in accordance with rules, which each Council may frame.
9. The State Councils may accept donations in cash or kind for any of the purposes of the Act.
10. The accounts of every Council shall be audited by Chartered Accountant once a year.

BOOKS AND REGISTERS

11. The State Bar Councils and the Bar Councils of India shall maintain the following books: -
 - (a) Minutes books;
 - (b) Attendance Register for the staff;
 - (c) Leave Register for the staff;
 - (d) Acquittance Register;
 - (e) Day Book and Ledger;

- (f) Receipt Book;
- (g) Financial Assistance Register;
- (h) Provident Fund Account; and
- (i) Property Register.

THE BAR COUNCIL OF.....

COPY APPLICATION REGISTER

12. Every State Bar Council shall maintain: -

(a) A Copy Application Register containing as far as possible the following entries: -

- 1. Serial No.
- 2. D.C. Enquiry No./ D.C. Appeal No.
- 3. Name of Advocate/party (Making the Application).
- 4. No. of Folio.
- 5. Charges payable.
- 6. Date of Receipt of Copy Application.
- 7. Date of notifying charges payable.
- 8. Date of payment.
- 9. Date when copy ready.
- 10. Date of Delivery.

11. Signature for receipt.

12. Remarks.

To every certified copy applied for and furnished shall ordinarily be affixed a Rubber Stamp containing inter alia the following columns: -

THE BAR COUNCIL OF C.A. No

1. No. of D.C. Proceeding.
2. Date of communication of Order.
3. Date of receipt of copy application.
4. Date when charges are called for.
5. Date when charges are paid.
6. Date when copy despatched or delivered.
7. Charges paid for the copy.

Date: _____ Signature of Secretary or other person authorised

(b) “Bar Council Complaint Register”, containing the following columns:

Sl.No.	Date of receipt of complaint	Name of Complainant or other person and address.	Name of Advocate against whom the complaint is made, his Roll No.	Date on which Bar Council considered
1	2	3	4	5

If rejected prima facie, Reference to page of or referred to its Disciplinary committee and date of resolution.	Reference to page of Disciplinary Committee Register further particulars.	If suo moth, necessary particulars	Any other
6	7	8	9

(c) Disciplinary Committee Register containing the following columns: -

S.No.	Number of Case.	Complainant's Address.	Name of the Advocate about whom complaint is made and his address and Roll No.
1	2	3	4

Date of reference by Bar Council	Name of Members of Disciplinary Committee	If summarily rejected, date.	If not summarily rejected, dates of Enquiry	List of Final Order tinder Section 35 (1) and date
5	6	7	8	9

Date on which Order was sent to the parties.	Date Of receipt of Order communicated to parties	If appeal filed number of the appeal and particulars	Date of receipt of notice of despatch of records.
10	11	12	13

Date of despatch of records to Bar Council of India	Result of Appeal etc.	Date of receipt of Records received back from the Bar Council of India.	Date of return of documents to parties.	Remarks and other particulars
14	15	16	17	18

13. The Bar Council of India shall maintain the following Registers:

1. Copy Application Register, containing entries as nearly as possible as in the case of the copy application register of State

Bar Councils with necessary modifications.

2. The Bar Council of India Complaint Register, containing entries on matters required with reference to register of the State Bar Councils.

3. The Disciplinary Committee Register containing similar entries with necessary modifications as is necessary for State Bar Councils.

4. The Disciplinary Committee appeal registers containing the followings columns:

SI.NO.	Date of Receipt of papers	Name of Appellant	Name of Respondent and Roll Number	Name of Advocate against whom enquiry is made	Appeal from Bar Council Of....
1	2	3	4	5	6

Date on which papers were found in order	Names of Members of Disciplinary Committee	Dates of hearing	Date of receipt of records of the Disciplinary Committee appealed against	Date of final Order
7	8	9	10	11

Date of Despatch of Order to parties	Date Of receipt of Order communicated	Particulars as to Appeal to Supreme Court, if any	Results of Appeal to Supreme Court
12	13	14	15

Review application, if any, with particulars	Date of despatch of records received by the Bar Council	Other particulars and remarks
16	17	18

SCRUTINY OF RECORDS OF STATE COUNCILS

14. (i) The Chairman, (ii) the Vice-Chairman, (iii) any member of the Council or the Secretary of the Council duly authorised by resolution, shall be entitled at any time to look into any of the records or other papers of any State Council.

ENROLMENT

15. (1) In addition to the enrolment fee laid down in section 24 of the Advocates Act, persons desirous of being enrolled as advocates shall also be liable to pay to the State Councils, Stamp Duty payable by them under the Indian Stamp Act and such Bar Councils shall be entitled to recover the same before making the entry of their names in the rolls.

- (2) Every candidate-seeking enrolment as an Advocate shall be required to affirm and subscribe to the following declarations:

- (a) I shall uphold the Constitution and the Laws;
- (b) I shall faithfully discharge every obligation cast on me by the Act and the Rules framed thereunder'.

ELECTORAL ROLL AND ELECTION

16. (1) Every State Council shall hold its elections well in time before the expiry of the terms of its members and take all steps necessary in respect thereof.

- (2) The Secretary of every State Council shall take steps in time or prepare and publish the electoral rolls for the purpose of the elections.

SUPERVISIONS AND CONTROL

17. The State Councils shall, when so required, make such periodical returns or statements or furnish such information as may be prescribed or called for the council.

18. The Secretary of every State Council shall inter alia send to the Secretary of the Council:

- (a) A copy of the notice of every election of members to the State Council, a copy of the list of members elected, intimation of election disputes, if any referred to any tribunal or Committee and the result thereof;
- (b) The names of the ex-Officio member of the State Council,
- (c) The name of members of the State Council co-opted for any vacancy;
- (d) The names of members elected as Chairman and Vice-Chairman of the State Council from time to time-
- (e) The name of the Secretary of the State Council and his residential address;
- (f) Address of the State Council, and intimations as to its hours of work and holydays;

- (g) The name and address of the members elected to the Council and the date of election;
 - (h) Before the 31st day of December each year a statement as to the number of Disciplinary matters taken on file, number of cases disposed of and number of cases pending.
19. The Secretary of each State Bar Council shall keep the Bar Council of India informed of all proceedings in any Court or Tribunal instituted by or against the Bar Council, and shall wherever necessary send copies of such proceedings.
20. Every State Council shall arrange for the audit of its accounts in time in accordance with its rules, and send forthwith after audit, the copy of the audited account together with a copy of the report of the auditors thereon to the Council.
21. Every State Council shall pay to the Council the sum payable to it within the time provided for under Section 46 of the Act. Such payment shall be made by-
- (a) Sending a draft for the amount payable; or
 - (b) Giving suitable directions to its bankers to transfer the amount payable to the credit of the Council.
22. (a) The State Councils shall give due publicity to their rules.
- (b) The State Councils shall furnish information of the names of persons (with their roll numbers and other necessary particulars) removed from its rolls or suspended under Chapter V of the Act, or who voluntarily suspend practice, and of those who resume practice, to all the Bar Associations and the High Courts and the Subordinate Courts in the State.
23. (a) The names of Advocate shall be entered in the rolls without suffixes, prefixes, titles or degrees.

In the case of any person who has taken a degree in law from any University, the name shall be the same as entered in the degree or other certificate granted by the University, in the case of Barrister, as in the certificate of call to the Bar;

In the case of Vakil, Pleader or Attorney or Mukhtiar, as it is in certificate of entry as such Vakil, Pleader or; Attorney or Mukhtiar and

In the case of any person previously enrolled as an Advocate, whether he holds a degree in law or not, as in the certificate of such admission.

In the case of any person not falling under any of the above categories, the name shall be such as the State Council or the Enrolment Committee may determine.

- (b) The name as entered in the roll of the State Council shall not be altered in any respect except when:
 - (i) On an application for the purpose, the State Council accords its permission;

- (ii) A notice thereof is thereafter affixed on the notice board of the State Council and published in the local gazette in one issue or in local English newspaper as the State Council may specify and
- (iii) The applicant defrays all the necessary costs thereof.

(c) Every State Council shall forthwith communicate to the Council, the change if any in the name of any advocate on its rolls.

24. (a) When the name of an advocate is removed from the rolls, or an advocate is suspended from practice or otherwise punished under an order of any Disciplinary Committee or an order of the Supreme Court under section 38 or when an intimation of voluntary suspension from practice is received from the advocate, the State Bar Council in respect of a person in its roll and the Council in respect of a person whose name is not in any State Roll, shall furnish information thereof giving the name of the advocate, his roll numbers and date of enrolment, his address, nature of the punishment inflicted-

- (i) To the Registrar of the High Court of the State;
- (ii) To the Registrar of the Supreme Court of India;
- (iii) To the Bar Association in the High Court;
- (iv) To the District Court of the State, and
- (v) To such other authorities as the State Council or the Council may direct.

(b) The State Bar Councils and the Bar Council of India will also cause to be published in the State Gazettes or the Gazette of the Government of India as the case may be, information relating to the removal from the roll or the suspension of an advocate for misconduct.

RULES MADE BY THE CENTRAL GOVERNMENT UNDER SECTION 49A 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 makes 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 practising Advocate to take up law teaching.** -

(1) Notwithstanding anything to the contrary contained in any rule made under the Act, an advocate may, while practising, 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 hours, be deemed, for the purposes of the Act and the rules made there under, 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.

Note:

1. The sub rule amended w.e.f. 18-6-1977.
2. The sub-rule added w.e.f. 25-11-1978.
3. The sub-clause added w.e.f. 25-11-1978.
4. The sub-clause added w.e.f. 25-11-1978.
5. The scale of pay revised and came into force from 1-7-1987.
6. The scale of pay revised and came into force from 18-6-1977.
7. The sub-clause added w.e.f. 23-1-1982.

8. Chapter I amended w.e.f. 6-9-1980.
9. The proviso added w.e.f. 4-4-1981.
10. The rule added w.e.f. 2-5-1981.
11. Form D-2 revised w.e.f. 27-11-1988.
12. Amount revised w.e.f. 28-11-1987.
13. The sub-clause added w.e.f. 7-4-1974.
14. The sub-clause added w.e.f. 7-4-1979.
15. The rule amended w.e.f. 27-11-1988.
16. The rules under section 49A were framed by the Ministry of Law, Justice and Company affairs and came into force w.e.f. 16-10-1976.

1-6-89	Revision of fees	Resolution No. 31/79
20-2-91	Rule 8 in Chapter 11 Part VI proviso amended	Resolution No. 12/91
20-2-91	Rule 6 in Part VI Chapter 11 Proviso added	Resolution No. 11 /91
20-2-92	Rule 4(2) in Chapter I Part III to be deleted	Resolution No. 5/92
31-10-92	Rule 40 in Chapter IX Part VI amended	This rule came into force from 1-4-93

Rule 7 Chapter III Part VI (in place of at the time of within 3 years) added.