

JHARKHAND STATE BAR COUNCIL RULES

also incorporated

- ✓ Jharkhand State Bar Council New Advocates' Stipend Rules 2016
- ✓ The Jharkhand Advocates' Welfare Fund Act, 2012
- ✓ Model Rules of the Advocate/Bar Associations within the State of Jharkhand framed by Jharkhand State Bar Council
- ✓ The Bar Council of Bihar (Jharkhand) Election Rules, 1968
- ✓ Affiliation Rule
- ✓ The Jharkhand Advocates' Welfare (Pension & Family Pension) Scheme, 2012
- ✓ The Bihar Reorganisation Act, 2000
- ✓ The Advocates Act, 1961
- ✓ The Bar Council of India Rules
- ✓ The Bihar (Jharkhand) State Advocates' Welfare Fund Act, 1983
- ✓ The Bihar (Jharkhand) Advocates' Welfare Fund Rules, 1984
- ✓ The Advocates' Welfare Fund Act, 2001
- ✓ Advocates' (Right to Takeup Law Teaching) Rules, 1979

PUBLISHED & COMPILED BY

Jharkhand State Bar Council Rules Committee

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JHARKHAND STATE BAR COUNCIL
(Statutory Body Constituted under the Advocates Act, 1961)
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FOREWORD

After I assumed the office of the Chairman, Jharkhand State Bar Council, I always used to feel the difficulties of collecting various rules, governing and concerning the Jharkhand State Bar Council. Many of the rules were in existence having been framed by the Bihar State Bar Council which became applicable on the Jharkhand State Bar Council after 15.11.2000. However many rules were also framed by the Jharkhand State Bar Council such as Affiliation Rules, Model Rules etc and in view of the enactment of Jharkhand State Advocates Welfare Fund Rules, 2012, the necessity to compile a book containing the collection of all the rules and acts applicable to the advocates in general and particularly for the use of the State of Jharkhand State was felt necessary. Therefore the matter was considered by the Rules Committee of the Jharkhand State Bar Council which approved the compilation of such rule which was also approved by the Bar Council.

In the above perspective, this compilation has been made to ensure availability of all the rules and acts applicable on the advocate throughout the State of Jharkhand, covered under the Jharkhand State Bar Council.

I hope this compilation is of tremendous use to all the Advocates.

(Rajiv Ranjan)

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भारतीय विधिज्ञ परिषद् BAR COUNCIL OF INDIA

(Statutory Body Constituted under the Advocates Act, 1961)

21, Rouse Avenue Institutional Area, New Delhi - 110 002

BCI: D: 1430 /2016 (AT/Council Mtg 13.2.2016)

4.4.2016

The Secretary
Bar Council of Jharkhand
High Court Compound
Ranchi, Jharkhand-834001

Sir,

The General House of the Council at its meeting held on 13.2.2016 under Item No. 66/2016 has considered the letter dated 11.1.2016 received from Secretary, Jharkhand State Bar Council requesting to approve the resolution No. 9/2016 dated 9.1.2016 passed by it with regard to "The Jharkhand State Bar Council New Advocates' Stipend Rules, 2016". After consideration, the Council has passed the following resolution :-

Resolution No. 42 /2016

After consideration the letter dated 11.1.2016 received from Secretary, Jharkhand State Bar Council requesting to approve the resolution No. 9/2016 dated 9.1.2016 passed by it with regard to "The Jharkhand State Bar Council New Advocates' Stipend Rules, 2016, the Council approves the same.

This is for your information.

Yours sincerely,

[Ashok Kumar Pandey]
JOINT SECRETARY

206/16
R.S. 2016
21/4/16

THE JHARKHAND STATE BAR COUNCIL NEW ADVOCATES' STIPEND RULES 2016

AIMS AND OBJECTS

To provide for monetary assistance for the young advocates newly enrolled with Jharkhand State Bar Council with an objective to encourage them as officers of law & justice and support them for enhancement of skills.

Whereas, the need for monetary assistance to the young & newly enrolled advocates has been felt for a long time and has been often expressed but as yet, there is no such provision, And

Whereas, it is necessary to encourage the enhancement of the skills of young advocates newly enrolled with the State Council, And

Whereas, it is expedient to make special provisions to regulate the grant monetary assistance to such advocates

Therefore, Jharkhand State Bar Council makes **The Jharkhand State Bar Council New Advocates' Stipend Rules 2016** on the **9th Day of January 2016** as follows:

1. **Short Title, Extent & Commencement:**

- (1) This Scheme shall be called "**The Jharkhand State Bar Council New Advocates' Stipend Rules, 2015**" (in short- "Stipend Rules") framed in exercise of power conferred under sections 6 and 15(1)(3) of the Advocates' Act 1961 read with Rule 9 (2) (i) of the Jharkhand Advocates Welfare Fund Act, 2012
- (2) It extends to the whole of the State of Jharkhand and covers all young advocates enrolled with the State Council except those mentioned by Rule 1 (4) or those disqualified vide any other clause/ sub clause etc under this Rule.
- (3) The Scheme shall come into force with effect from the date decided by the Jharkhand State Bar Council.
- (4) This Scheme shall not apply (a) to advocates enrolled at 40 years of age or thereafter (b) to advocates enrolled after retirement, etc from service of government, public authority, local body or any other private institution, and (c) to the Advocates who are members only of such Advocates' Association which is not recognised/affiliated by the Jharkhand State Bar Council or has not remitted the contribution of 10% share in terms of Rule 57(6) of the Model Rules, 2007 as amended in 2012 or 10% of gross income of Association where hazri form is not in use.

2. **Definitions:**

In this Scheme unless the context otherwise requires:-

- (i) "**Act**" means the Advocates' Act 1961.

- (ii) "Account Officer" means an officer appointed by the Council for Stipend Fund to look after the receipts and expenses related to the said fund
- (iii) "Advocate" means a person who has been enrolled on the State Roll of the Advocates' prepared and maintained by the State Bar Council of Jharkhand under Section 17 of the Advocates' Act, 1961 read with relevant provisions of the Bar Council of India Rules, 1975 and amended from time to time
- (iv) "Advocates' Association" means an association of Advocates by whatever name called and affiliated with the State Bar Council.
- (v) "Advocates' Stipend Fund" means the fund earmarked by the Trustee Committee of the State.
- (vi) "Bar Council" means State Bar Council of Jharkhand constituted under the Advocates' Act, 1961.
- (vii) "Member of the Stipend Fund" means a young & newly enrolled advocate on State Roll of Jharkhand State Bar Council who is below the age of 40 years and who has been admitted to the membership of the Stipend Fund under these Rules.
- (viii) " Stipend " means monetary assistance payable to the young & newly enrolled advocates with Jharkhand State Bar Council below the age of forty years, at the rate to be decided and to be revised from time to time by the Trustee Committee in consultation with Jharkhand State Bar Council and payable for a maximum of three years or up to the age of forty years of the beneficiary advocate, whichever is earlier, paid through transfer of fund from the account of the Stipend fund to the account of the beneficiary advocate.
- (ix) "Prescribed Form" means the form to be prescribed by the Administrator with the approval of Council.
- (x) "Regular Advocate" means advocate who pursues regular practice and is a member of Trustee Committee.
- (xi) "Trustee Committee" means the Trustee Committee constituted and functions under the Jharkhand Advocates Welfare Fund Act,2012

3. The New Advocates' Stipend Fund:-

- (1) The Jharkhand State Bar Council in consultation with Trustee Committee shall constitute a Accounts Head to be called "New Advocates' Stipend Fund"
- (2) There shall "be credited to the Stipend Fund:
 - (i) The entire share received by the State Council as share for the conduct of AIBE from the BCI
 - (ii) Any voluntary contribution or donation or grant or aid made to the Stipend Fund by the Bar Council of India, Jharkhand State

Bar Council, any Association of Advocates or other Association/ institution, any advocate or other person or persons.

- (iii) Any grant made by the Centre/State/ Local Govt. to the Stipend Fund.
- (iv) All sums or any profit or dividend or other return/interest received on any investment in the reputed financial institutions or in Govt's Treasury Bond or other fund decided by the Council as fit for investment.
- (v) All sum collected by way of application fee under these Rules and other charges and interest thereon.
- (vi) From any other source prescribed and decided by the Bar Council.
- (vii) Any donation from elected representative of the people or member of Parliament,
- (viii) An amount or percentage of profit from the sale of JBCJ to be decided by the Council after consideration of the profit/return accrued at the end of the financial year.

4. Operation of the Fund:-

- (1) The Stipend Fund shall constitute an account head within the Trustee Committee Fund maintained under the Jharkhand Advocates Welfare Fund Act, 2012 which shall be opened and operated by the joint signatures of the Chairman of the Trustee Committee and the Chairman, Jharkhand State Bar Council.
- (2) The amount payable under this scheme and all expenditure relating to the management and administration of the Fund shall be paid out of this stipend Fund.
- (3) The accounts of the Stipend Fund shall be annually audited by the Chartered Accountant appointed by Bar Council and the report shall forthwith be placed before the Bar Council and the Trustee Committee for consideration. The audit report shall annually be published in J.B.C.J. and on the official website of Jharkhand State Bar Council for due information to the stakeholders.
- (4) No cash withdrawal from the Stipend Fund shall be permissible, and all payments to the beneficiary young and newly enrolled advocates shall be through account to account transfer of entitlements.
- (5) The Stipend Fund may be invested in profit making financial institutions or in government treasury bond with the approval of Bar Council, if felt necessary by the Trustee Committee.

5. Membership, Rate and Entitlement for Stipend

- (1) Any young and newly enrolled Advocate who has been enrolled below the age of 40 years and who plans to pursue regular practice may apply for stipend to be paid by the Trustee Committee from the Stipend Fund.

- (II) The Stipend shall be payable to such young advocates who are newly enrolled with Jharkhand State Bar Council for a maximum of three years or till the age of forty years whichever is earlier
- (III) The stipend shall be paid to the eligible advocates @ Rs one thousand per month which amount may be revised from time to time by the Trustee Committee in consultation with the State Bar Council with due regard to availability of fund and the number of applicants

6. Cessation of membership and consequences thereof: -

- (1) The membership of this Stipend Fund and eligibility for payment shall be liable to be terminated in the following cases:-
 - (i) If a person ceases to be an advocate on account of voluntary suspension or the license to practice as advocate has been cancelled on account of punishment for professional or other misconduct by appropriate authority.
 - (ii) If an advocate ceases to be a regular practitioner which means that the said advocate has voluntarily failed to visit the Courts over a considerable period and/ or taken up some other profession/ occupation as may be reported by the Vigilance Committee under the Model Rules. Provided that on such report, the concerned advocate shall be asked to submit explanation and the decision shall be taken by the Stipend Committee after such opportunity has been duly afforded
 - (iii) The membership to fund shall also be terminated when the concerned Advocates' Association fail to remit the share of Bar Council of the hazri form and/or 10 % of the gross income where hazri system is not applicable
 - (iv) The membership of this Stipend Fund shall cease after expiry of three years from the Start of such membership.

7. Power to give directions and to make clarifications:-

- (1) For the proper and efficient functioning of the scheme, the Bar Council in the exercise of its powers of general supervision and control, give such directions to the Trustee Committee as may appear to it be necessary, and the Trustee Committee shall comply with such directions.
- (2) In case of any doubt with regard to any word or phrase, the clarification made by Bar Council shall be final.

12. Power to Amend the Rules:

The Bar Council in consultation with the Trustee Committee shall have right to amend the Rules in accordance with-necessity.

APPLICATION FOR STIPEND UNDER THE STIPEND RULES, 2016

To
Hon'ble Chairman
Jharkhand State Bar Council
Sir,

I hereby apply for stipend under "The Stipend Rules, 2016". My particulars are as follows:

Name Enrollment No
Place of Practice Bank of India SB Account No
Phone No E mail id
Permanent Address
Address for Correspondence

Forwarded by Association:-

DECLARATION:

I undertake to utilize this fund for the advancement of my professional skills I hereby declare that if I quit active practice or attain 40 years of age, I shall duly communicate the same to the office of Jharkhand State Bar Council and give up my entitlements under the aforesaid rules so that the Stipend Fund may be augmented for the greater benefit of such other young and newly enrolled advocates who may need such assistance more.

I also undertake to file application every six months under the aforesaid rules to show that I have not quit practice or got so employed or engaged

I shall communicate any change of my phone number, e mail id and/ or permanent or correspondence address.

Date .

Place

Signature.....

FOR OFFICE USE ONLY

Application forwarded to Hon'ble Chairman, Jharkhand Advocate's Welfare Fund Trustee Committee. Forwarded application Sr no

(JSBC)

Enclosure:-

Proof of age (to be same as provided for enrollment, unless special permission is sought)



"The following rules framed by the Bar Council of Bihar and contained in Chapter I (Definitions) were approved at the meeting of the Bar Council of India on 24th November, 1962."

Sd. A.N. Veeraraghavan,
Secretary
The Bar Council of India, New Delhi.
3-12-1962

THE BAR COUNCIL OF BIHAR (JHARKHAND) RULES, 1962

(Rules under the Advocate Act, 1961 Framed by The Bar Council of Bihar)

CHAPTER I

Definition's :-

1. "Act" means the "Advocates Act, 1961".
2. "An Advocate" shall include an Attorney enrolled as an Advocate.
3. "Articled Clerk" means a person who is registered as such by the Bar Council and is undergoing a course of training under rules prescribed hereinafter.
4. "Bar Council" means the Bar Council for the State of Bihar constituted under section 3 of the Act.
5. "A candidate" shall mean a graduate-in-law or a Barrister, as the case may be, otherwise eligible for admission under section 24(1) of the Act.
6. "Master" means the Advocate under whom an Articled clerk is receiving training or an Advocate under whom an authorised clerk is serving.
7. "Receiving training" shall include reading in chambers of an advocate as hereinafter provided.
8. "Secretary" means the Secretary of the Bar Council and includes any person appointed by the Bar Council to perform any of the duties of the Secretary.
9. "State Roll" means the roll of advocates prepared and maintained by the Bar Council under section 17 of the Act.

The above rules contained in Chapter I, framed by the Bar Council of Bihar were approved at the meeting of the Bar Council of India on 24th November, 1962.

Sd. A.N. Veeraraghavan,
Secretary
The Bar Council of India, New Delhi.
3-12-1962

CHAPTER II
ARTICLED CLERKS

(Rules under Section 28(2) (c) read with Section 24 (1) of the Act.)

[Rules are deleted]

"The following rules framed by the Bar Council of Bihar and contained in Chapter III were approved in the meeting of the Bar Council of India on the 24th November, 1962."

Sd. A.N. Veeraraghavan,
Secretary

The Bar Council of India, New Delhi.
3-12-1962

CHAPTER III

(Rules under Section 28(2)(c) read with Section 15(1) and 26 of the Act.)

Enrolment.

1. An application for admission as an Advocate On the roll of the Bar Council of Bihar shall be made in Form prescribed being FORM No. VII in the Appendix to those rules.
2. The application shall be scrutinized by the Scrutiny Committee and if the application is found to be incomplete or defective, the Secretary shall call upon the applicant to rectify the defects or to file another application and/or to submit documents required to be submitted and which have not/been submitted.
3. The Scrutiny Committee may make such inquiries as it may consider necessary for the purpose of the verification of the statements made in the application.
4. The Scrutiny Committee after examining the application and the appended documents and-making inquiries, if any, shall make a report in regard to the application.
5. (i) On the application being reported by the Scrutiny Committee to be in order, the Secretary shall cause a notice to be posted on the Notice Board of the Bar Council and at such places as the Bar Council may direct notifying the name and address of the applicant and such other facts relating to the application, if any, as may be prescribed from time to time by the Bar Council.
(ii) The notice shall remain on the Notice Board of the Bar Council and at other places, if any, for a continuous period of fourteen days.
(iii) Any person may within the period of fourteen days prescribed in sub-rule (ii) prefer in writing to the Bar Council any objection against the enrolment of the applicant.

If any objection is received, the Secretary shall send a copy of the objection to the applicant and call upon him to submit an explanation within fourteen days of the receipt of the Secretary's letter.

6. The Secretary shall submit the application together with all documents and papers and reports and objections, if any, relating there to the Enrolment Committee.

The Enrolment Committee shall proceed to dispose of every application after—

- (i) considering the materials before it and
(ii) making such inquiry, if any, as it may consider necessary; in accordance with the provisions of the Act and the rules made there-under and the resolutions passed and/or directions given and/or the principles laid down from time to time by the Bar Council and shall either—

- (i) allow the application and direct the enrolment of the applicant or
(ii) propose to refuse the application.

Provided that the Enrolment Committee shall before recording its proposal to refuse the application fix a date for hearing the applicant and give notice of the date by registered post to the applicant and on the applicant being present on the date fixed or on any adjourned date shall hear him in support of his application.

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

8. (i) The reference to the Bar Council of India under the provisions of Section 26(2) of the Act shall be accompanied by—

- (a) statements of the grounds in support of the refusal of the application;
(b) true copy of the application and the appended documents relating thereto;
(c) objections, if any;
(d) reports, if any; and
(e) such other documents and papers as may be considered necessary,

(ii) On receipt of the opinion of the Bar Council of India, the Enrolment Committee shall ordinarily dispose of the application in conformity therewith before the expiry of fourteen days from the date of the receipt of the opinion.

9. (i) On the order of the Enrolment Committee directing enrolment of the applicant as an Advocate on the state roll the Secretary shall notify the fact and call upon the applicant to present himself to sign the Register of

Advocates maintained for the purpose at the Office of the Bar Council or at such other place and at such hour and date as the Chairman may direct.

- (ii) The applicant shall duly present himself in the complete robe of an advocate' on the date and hour and place fixed under-rule (i) and sign the Register of Advocates maintained for the purpose by the Bar Council in presence of the Chairman or any other member nominated for the purpose by the Chairman.
- * (iii) The Chairman or his authorised nominee or the member, as the case may be, present at the signing of the Advocates Register shall thereafter put his signature in the Column provided in the Advocates Register.
- (iv) On the required signatures being made in the Register of Advocates, the Secretary shall forthwith:—
 - (a) issue a Certificate of Enrolment in FORM VIII in the appendix to these rules under the Seal of the Bar Council duly signed by the Chairman or Vice-Chairman or any other member authorised in this behalf by the Bar Council, to the advocate enrolled; and
 - (b) cause the name and address of the enrolled advocate to be entered in the state Roll of Advocates.

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

"The above Rules framed by the Bar Council of Bihar under Sec, 28 (2) (c) read with Sec. 15 (1) and Section 26 of the Advocates Act 1961 were approved by the Bar Council of India at its meeting on the 24th November, 1962."

Sd. A.N. Veeraraghavan,
Secretary, The Bar Council of India, New Delhi.
3-12-1962

Resolution No. 52 of 1963.

Rules approved by the Bar Council of India at the meeting of the Bar Council of India on the 26th & 27th January, 1963.

Sd. A.N. Veeraraghavan,
Secretary, The Bar Council of India, New Delhi.
2-2-1963

* amended 8/2013 dt. 30.08.13 approved by JSBC, Resolution No. 48/2013 dt. 14.09.13.

CHAPTER IV

(Rule under Section 28(2)(a) read with Section 17(1)(a) of the Act).

**ADVOCATES UNDER THE INDIAN BAR COUNCIL ACT,
1926 AND THEIR ENTRY ON THE BAR COUNCIL ROLL OF
ADVOCATES.**

1. (i) A person entered as an Advocate on the Roll of any High Court in India under the Indian Bar Council Act, 1926 proposing to practice within the Jurisdiction of the Bihar State Bar Council and desirous of having his name and address entered on the Roll of Advocates of the Bihar State Bar Council may apply to the Bar Council
 - (ii) The application for such entry shall be made :—
 - (a) in the Form prescribed being FORM No. IX in the Appendix to these rules;
 - (b) not later than 31st March, 1963 or such extended time as the Bar Council may hereinafter notify.
 - (iii) The application shall be filled in Correctly and with all the required details by the applicant wherein the place chosen for his practice within the jurisdiction of the Bar Council shall be Stated.
2. The application shall be referred to the Scrutiny Committee for consideration and report.
 3. On the report of the Scrutiny Committee that the application is in order and that the applicant is entitled to have his name and address entered on the Roll of Advocates of the Bar Council and on being satisfied. The Bar Council shall direct that the name and address of the applicant be so entered in the Roll of Advocates.

The above rules framed by the Bar Council of Bihar under Section 28(2)(a) read with Section 17(1)(a) of the Advocates Act, 1961 were approved at the meeting of the Bar Council of India dated 26th & 27th January, 1963. (See from No. 9 enclosed)

Sd. A.N. Veeraraghavan,
Secretary

The Bar Council of India, New Delhi.
2-2-1963

"The following rules framed by the Bar Council of Bihar and contained in Chapter V were approved at the meeting of the Bar Council of India on the 24th November, 1962."

Sd. A.N. Veeraraghavan,
Secretary

The Bar Council of India, New Delhi.
3-12-1962

CHAPTER V

*(Rules framed under Section 28(2)(d) read with
Section 17(1) and Section 24(1)(e) of the Act.)*

**CONDITIONS SUBJECT TO WHICH A PERSON MAY BE
ADMITTED ON THE STATE ROLL.**

1. A person who is otherwise qualified to be admitted as an Advocate but is either in full or part-time service or employment or is engaged in any trade, business or profession shall not be admitted as an Advocate.

Provided however that this rule shall not apply to :—

- (i) Any person who is a Law Officer of the Central Government or the Government of a State;
 - (ii) Any person who is in part-time service as a Professor, Lecturer or Teacher-in-Law, or ("as Secretary or Deputy Secretary of the Bar Council;)-Omit
 - (iii) Any person who by virtue of being a member of a Hindu Joint family has an interest in a joint Hindu family business, provided he does not take part in the Management thereof; and
 - (iv) Any other person or class of persons as the Bar Council may from time to time exempt.
2. Every person applying to be admitted as an Advocate shall, in his application make a declaration that he is not in full or part-time service or employment and that he is not engaged in any trade, business or profession. But in case he is in such full or part-time service or employment or is engaged in any trade, business or profession he shall in the declaration disclose full particulars of his service, employment or engagement. He shall also undertake that if, after his admission as an Advocate, he accepts full or part-time service or employment or is engaged in any trade, business or profession disqualifying him from admission, he shall forthwith inform the Bar Council of such service or employment or engagement and shall cease to practise as an Advocate.
 3. No Advocate shall accept any employment which, in the opinion of the Bar Council, is derogatory to the status of an Advocate. And if he does so, he shall be liable to be proceeded against for professional misconduct.
 4. A breach of the above-mentioned rules or any undertaking given in pursuance thereof shall amount to professional misconduct.
 5. The application shall be accompanied by the following:—
 - (a) A diploma or a certificate showing that the applicant has taken a degree in law of a University in India.
 - ^{*}(b) Certificate granted by the Bar Council declaring the candidate to have passed the examination held after his training as an Articled clerk.

* Deleted vide Resolution No. 09/2013 approved by JSBC, Resolution No. 48/2013 dt. 14.09.13.

- (c) Certificate, in the form prescribed, as to his moral character and of his fitness to be an Advocate on the Roll of Advocates of the Bar Council of Bihar from at least two persons of respectability and position (not being his relations) preferably Advocate on the Roll of the Bar Council of Bihar.

Proviso :- Provided that clauses (a), (b) and (c) shall not ordinarily apply in case of practising Pleaders, Vakils, Advocates and Attorneys whether law graduates or not.

- (d) A declaration in writing by the applicant that he will faithfully observe and abide by the rules made by the Bar Council and the Bar Council of India as amended from time to time for regulating the conduct of Advocates on the State Roll and the Common Roll of India.
- (e) A declaration as to whether the applicant has made any previous application for admissions as an Advocate to any High Court and the result thereof.
- (f) A declaration that he is a citizen of India or a national of a country where citizens of India, duly qualified, are permitted to practise in law.
- (g) A receipt from the Secretary of the Bar Council that the applicant has paid the fee prescribed for enrolment under section 24(1)(f).
- (h) A declaration that the applicant has completed 21 years of his age on or before the day of the application.
- (i) A declaration that the applicant is not in full or part time employment or service and is not engaged in any trade, business or profession, except as follows:-
- (i) Any person who is a Law Officer of the Central Government, or the Government of a State.
 - (ii) Any person who is in part-time service as a Professor, Lecturer or Teacher-in-law or as Secretary or Deputy Secretary of the Bar Council.
 - (iii) Any person who by virtue of being a member of a joint Hindu family has interest in a joint Hindu family business provided he does not take part in management thereof, and
 - (iv) Any other person or class of persons as the Bar Council may from time to time exempt.
- (j) Two undertakings shall be given in the following terms :-
- (a) I do hereby undertake that if after my admission as an Advocate. I accept full, part-time service or I am engaged in any trade, business or profession (other than such as is exempted by the State Bar Council from the operation of this undertaking). I shall forthwith inform the council of such employment or engagement and shall cease to practise as an Advocate.

- (b) I do hereby undertake that I shall not accept any employment which, in the opinion of the Bar Council, is derogatory to the status of an Advocate.

Provided that where an application is filed for admission as Advocate under provision of Section 17(i) of the Advocates Act, 1961 by an Advocate on the roll of a High Court under the Bar Council Act, 1926 it shall not be necessary to submit the Diploma Certificate, declaration or receipt required under clauses (a) (b) (c) (e) (f) (g) and (h) as the case may be.

"The above rules framed by the Bar Council of Bihar under Section 28(2) (d) read with Section 17(1) and Section 24(1)(e) of the Advocates Act, 1961 were approved by the Bar Council of India at its meeting on the 24th of November, 1961.

Sd. A.N. Veeraraghavan,
Secretary
 The Bar Council of India, New Delhi.
 3-12-1962

To,

The Secretary,
 Bar Council of Jharkhand,
 Ranchi

Dear Sir,

As per telephonic talk, I am sending herewith the Rules relating to election of Chairman and Vice Chairman of Bihar State Bar Council, Patna for your information and needful.

Sd/-
 Officiating Secretary
 Bihar State Bar Council, Patna

CHAPTER VI

Rules framed under section 15(2)(c) of the Act.

RULES FOR THE ELECTION OF THE CHAIRMAN AND THE VICE CHAIRMAN OF THE BAR COUNCIL

1. The Bar Council shall at its first meeting, or as soon as may be after it is constituted, elect a Chairman and a Vice-Chairman from amongst its members. The election of the Vice Chairman will follow that of the Chairman on the same date.
2. In the event of vacancy during the terms of the Bar Council the office of Chairman or Vice Chairman on account of death or resignation of the incumbent or for any other cause, the rules hereinafter given shall be applicable. The Chairman or Vice Chairman so elected will held office for the rest of the term of the Bar Council.

3. The Chairman, and in the case of casual vacancy in the office of Chairman, the Vice Chairman, shall fix the dates for election of Chairman and vice Chairman, as the case may be, as soon as the vacancy occurs.
4. A nomination of a member for election as Chairman or Vice Chairman shall be made by a member of the Bar Council proposing his candidature and seconded by another member of the Bar Council and consented to by the candidate in writing and the nomination paper shall reach the Secretary at least seven days before the date of the meeting fixed for the purpose of such election.
5. In case a candidate nominated for election to the office of Chairman or Vice Chairman wishes to withdraw his candidature a letter duly signed by him in that behalf should reach the Secretary not less than three days before the date of such election.
6. If there be only one candidate for the office of the Chairman or Vice Chairman, the Secretary shall declare him elected.
7. In case more than one person being nominated for the same office, the Secretary shall prepare voting papers for the election of the Chairman and the Vice Chairman or as the case may be. The ballot paper shall be typed and shall contain the name of the candidate, the date of his enrolment as an Advocate and place of practice besides column for serial no. and marking of vote. The Secretary shall sign every ballot paper with date.
8. The members of the Bar Council shall cast their votes on the date of the meeting and during the time fixed therefor. A voter in recording his vote on the ballot paper mark the figure "X" in the space opposite the name of the candidate whom he chooses for the office of the Chairman and Vice Chairman as the case may be.
9. A voting paper shall be invalid in which the figure "X" is set opposite to the names of more than one candidate or is so placed as to render it doubtful as to which candidate it is intended to apply or there is any other mark or writing by which the voter can be identified.
10. The members of the Council after making the necessary entry in the voting paper given to them by the Secretary shall place the same in a sealed ballot box which will be kept ready for the purpose.
11. **SECOND VOTING PAPER NOT TO BE ISSUED:** When a voting paper has once been handed over to voter, a second voting paper shall not be issued to him unless he satisfied the Presiding Officer that the voting paper has been spoilt or mutilated, in which case a duplicate voting paper may be issued to him.
12. **SCREENED SPACE:** In the polling station there shall be one screened space provided for the voters to mark the ballot paper so that their marking may not be visible to any person. In the screened space only one voter shall be allowed entry at one time.

13. After the recording of votes is completed the Secretary shall open the box in which the ballot papers are deposited in the presence of two members of the Council and count the votes secured by each candidate in their presence. The Secretary shall declare the candidate who secures the largest number of votes duly elected as the Chairman and Vice Chairman, as the case may be.
- In case of equality of votes, the result shall be declared drawing lots on the spot.
14. Immediately after the declaration of the result the Secretary shall put the ballot papers used for voting in the election in a separate cover, have the cover closed and sealed with his signature.
15. The names of the candidates duly elected as Chairman and Vice Chairman shall be published in the Bihar Gazette and local news papers and communicated to the Secretary, Bar Council of India and the State Bar Councils and the President of the Bar Associations of the State and to High Courts in India.
16. In case of a dispute arising out of the election, any of the candidates in the election may challenge the election by a petition duly signed and verified by the candidate challenging the election in the manner provided in the Code of Civil Procedure and also supported by an affidavit which shall be filed with, or dispatched by registered post, to, the Secretary of the Council within ten clear days of the declaration of the result of the election stating therein the grounds on which the election of a member as the Chairman or the Vice Chairman is being questioned.

xxx xxx xxx

CHAPTER VII

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

Rules relating to the powers and duties of the Chairman and the vice-chairman of the State Bar Council.

CHAIRMAN

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

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

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

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

He shall be the authority to sanction the disbursement of salaries of the staff and to order payment of any bills standing against the council.

VICE- CHAIRMAN

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

(Approved by the Bar Council of India under Letter No. BCI/D/632/1971 dated 17th March 1971)

Rules I to XI of Chapter VIII were approved by the Bar Council of India at its meeting held on th 24th and 25th August, 1963.

Sd. A.N. Veeraraghavan,
Secretary

The Bar Council of India, New Delhi.
3-12-1963

CHAPTER VIII

(Rules under Section 15(2)h of the Act.)

MEETINGS.

1. Meetings of the, Bar Council shall be convened by the Secretary On the date and time as directed by the Chairman and in his absence from Patna, by the Vice-Chairman.
2. All meeting shall ordinarily be held in the Meeting Room of the Bar Council.
3. Seven days' notice of the meeting shall be given to the members except in cases of emergent meetings at the instance of the Chairman to decide urgent matters.
4. Meetings may be adjourned to the day following or to any other date by way of continuation of the meeting to dispose of items on the agenda and in such event rule 3 shall not apply.
5. At all meetings seven members shall form a quorum except in an adjourned meeting where no quorum will be necessary.
6. All decisions shall be made by resolutions.
7. The Chairman and in his absence the Vice-Chairman and in the absence of both of them any member so elected at the meeting shall preside in the meeting of the Bar Council.
8. The Chairman or the Vice-Chairman on his arrival in the meeting hall even after the commencement of the meeting shall preside at the meeting, and the Vice-Chairman or any member as the case may be, shall thenceforth cease to preside at the meeting.

A meeting may be continued either under the Vice-Chairman or an elected president for the meeting in the event of the Chairman, Vice-Chairman, or any elected president for the meeting leaving the hall during the progress of the meeting without declaring the meeting closed.

9. The decision of the majority of the members present at the meeting shall prevail and shall be deemed to be the decision of the Bar Council provided that a dissenting member's note, if any, shall be appended to the proceeding where it is handed to the Chairman before the termination of the meeting.
10. In cases of difference of opinion on any issue before the Bar Council the Chairman of the meeting shall take votes of the members by show of their hand except in cases where any member calls for a vote by a secret ballot. Each member present at the meeting shall have one vote except the Chairman of the meeting who shall have a casting vote as second vote in addition to his first vote in the event of votes being equally divided.
11. No matter determined by a resolution of the Bar Council shall be re-opened or re-considered within six months of the date of such resolution except on a motion of two-thirds of the members present and voting.

If a question arises whether a particular motion involves a re-opening or reconsideration of any resolution passed within last six months, the Chairman shall decide the point and his decision shall be final.

The above rules I to XI were approved by the Bar Council of India at its meeting held on 24th and 25th of August, 1963.

Sd. A.N. Veeraraghavan,
Secretary

The Bar Council of India, New Delhi.
3-12-1963

The rules as noted here under were approved by the Bar Council of India at its meeting dated 23/24th November, 1963. (Resolution 456/1963)

Sd. A.N. Veeraraghavan,
Secretary

The Bar Council of India, New Delhi.
29-11-1963

CHAPTER IX

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

COMMITTEES

1. There shall be the following standing and other Committees of the Bar Council for the purposes of carrying out the provisions of the Act:—
 - (a) Standing Committees, namely,—

- (i) an Executive Committee and
 - (ii) an Enrolment Committee;
- (b) Other Committees namely,—
 - (i) Disciplinary Committees;
 - (ii) Finance Committee;
 - (iii) (deleted)*;
 - (iv) Registration Committee; and
 - (c) (v) Committees which may be formed hereafter.
- 2. The Committees shall exercise, subject to the general control and supervision by the Bar Council, the powers, duties and functions conferred or imposed upon or assigned to each of them by the Act, and these rules and other rules made under the Act and by directions or resolutions of the Bar Council.
- 3. (i) The Chairman of the Bar Council and in the event of his not being a member of a Committee, the senior most member of the Bar on the Committee shall be the Convenor of the Committee,
 - (ii) The Secretary shall act as the ex-officio Secretary to all the Committees.
- 4. (i) The Convenor shall if he is present preside at the meetings of the Committees and in his absence the senior most member on the Committee and present at the meeting shall preside.
 - (ii) The member presiding at the meeting shall regulate the proceedings of the meeting and his decision on matters of procedure at the meeting shall be final and binding and the members present shall abide by such decision.
- 5. (i) Three members shall form a quorum for a meeting of a Committee consisting of five or more members and
 - (ii) Two members shall form a quorum for a meeting of a Committee consisting of less than five members.
- 6. The meetings of the Committees shall ordinarily be held in the Meeting Hall or Committee Room of the Bar Council on such date and hour as the Convenor may fix.
- 7. The Secretary shall duly notify the fixtures for the Committee meetings on the Bar Council Notice Board and send due information of the proposed meetings to each member of the Committee.
- 8. (i) The Bar Council shall constitute the Committees by electing members to the Committees at one or more meetings of the Bar Council held for the purpose ordinarily in the month of January every year or at such time as may be considered necessary.

* vide Resolution No. 3/13 of Rules Committee approved by JSBC, Resolution No. 48/2013 dt. 14.09.13.

- (ii) Members of the Bar Council shall be duly proposed and seconded at the meeting for election to each Committee.

Where the number of names duly proposed and seconded be equal to the seats in the Committee the members so proposed and seconded shall be declared to be elected as members of the Committee.

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

9. The term of office of the members of the Committee shall be one year from the date of election.

Provided that the term of office of a member of a Committee shall extend even beyond one year till such time as the elections are held for the next term for the membership of the Committee.

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

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

12. The Bar Council may from time to time appoint other Committees as it may deem necessary for any particular or general purpose with such powers and duties as it may prescribe.

The procedure laid down herein in respect of the Committees shall apply mutatis mutandis to such Committees unless otherwise expressly directed by the Bar Council.

13. The proceedings of the Committees shall be placed before the Bar Council.

Rule 13(A) "Nothing in rules 1 to 13 excepting in so far as they relate to the constitution and functions of the Disciplinary Committee, shall apply to the said Committee".

(See Resolution No. 456/1963)

Sd. A.N. Veeraraghavan,
Secretary

The Bar Council of India, New Delhi
29-11-1963

THE EXECUTIVE COMMITTEE.

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

THE ENROLMENT COMMITTEE.

- 15.** The powers and duties of the Enrolment Committee shall be :—
- (i) to consider and dispose of all applications for enrolment of Advocates;
 - (ii) to maintain or cause to be maintained the Register and Roll of Advocates in such details and form as may be prescribed by the Bar Council;
 - (iii) to scrutinize the Register and Rolls of Advocates from time to time with a view to ensure its correctness up-to-date; and
 - (iv) to discharge other functions prescribed by the Bar Council for the said purposes.

THE EXAMINATION COMMITTEE*

- 16.** *(deleted)*

* deleted vide Resolution No. 3/2013 approved by Jharkhand State Bar Council, Resolution No. 48/2013.

CHAPTER X

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

1. Disciplinary Committee of the Council :-
 - (i) Candidates for election to the Committee shall be proposed and seconded and in case of contest, the election shall be decided by a show of hands and in the case of equality of votes, the Chairman shall exercise his casting vote,
 - (ii) Any casual vacancy shall be filled in by the Council by election from amongst its members or non-members as the case may be.
 - (iii) The Attorney-General shall not be eligible for membership of the Committee,
 - (iv) If the Vice-Chairman is a member of the Committee he shall be the President of the Committee and if he is not, the senior most advocates amongst the members of the Council on the Committee shall be the President.
2. The following procedure shall be followed in enquiries before the Disciplinary Committee:-
 - (1) In any case falling under Section 36(1), when the Council has reason to refer a case of misconduct to the Committee, it shall cause the complaint if any, and all affidavits, documents or records in its possession to be sent to the Committee.
 - (2) If the Disciplinary Committee does not summarily reject the complaint, and in all cases referred to it by the Council suo moto, a date shall be fixed for the hearing of the case as provided for in these rules.
 - (3) At the hearing, the complainant or the person if any, who is aggrieved by the misconduct of the advocate, shall be entitled to appear in person or by Counsel in support of the complaint. Where the complainant or the aggrieved party does not appear in person or by Counsel, the Council may proceed with the matter and in a fit case may appoint a Counsel for assisting the Council on payment of fees if necessary.
 - (4) Notices issued under these Rules shall be served by Registered Post (Acknowledgement Due) or in such other manner as the Committee may direct.
 - (5) The President of the Committee shall fix a date, hour and place of the enquiry which shall not ordinarily be later than sixty days from the receipt of the reference. The Secretary shall give notice of such date, hour and place to the complainant or other person aggrieved, the advocate concerned, and the Attorney-General and shall also serve on them copies

of the complaint and such other documents as the President of the Committee may direct at least 15 days before the date fixed for enquiry.

- (6) The advocate concerned shall submit his statement of defence together with any documents or affidavits in support of his defence within a time which shall be intimated to him in or at the same time as the notice referred to above. The complainant or the person aggrieved shall be entitled to file a reply together with such documents on which he proposes to rely in support thereof within such time as may be allowed by the President of the Committee.
- (7) In any such enquiry, the advocate may appear either in person or by Counsel.
- (8) The Committee shall hear the Attorney-General or his Counsel and the parties or their Counsel, and determine the matter on documents and affidavits unless the Committee is of the opinion that it would be in the interests of justice to permit cross-examination of the deponents or to take oral evidence, in which case, the procedure followed in the trial of a civil suit shall, as far as may be followed.
- (9) The advocate concerned shall be a competent witness on his own behalf.
- (10) The finding of the majority of the members of the Committee shall be the finding of the Committee. The reasons given in support of the finding may be given in the form of a judgment and in the case of a difference of opinion; any dissenting member shall be entitled to record his dissent giving his own reasons. It shall be competent for the Committee to award such costs as it thinks fit. The Committee may make any of the orders which it is entitled to make under Section 36(4) of the Act. The order shall be communicated to the complainant or the aggrieved party and the advocate concerned as soon as may be by the Secretary.
- (11) The parties shall be entitled to obtain copies of documents, affidavits and oral evidence, if any, on payments of such fees as may be prescribed by the Council.
- (12) Any person aggrieved by the order of the Committee under Section 36 or 37 of the Act, may within sixty days of the date on which the order is communicated to him prefer an appeal to the Supreme Court.
- (13) Any order awarding costs shall be executed in the manner provided in the Act.

**PROCEDURE TO BE FOLLOWED BY THE
DISCIPLINARY COMMITTEE OF THE STATE BAR COUNCILS
UNDER SECTION 49(F) OF THE ACT.**

1. The procedure herein before prescribed in these Rules excepting Rule 12 shall be followed 'mutatis mutandis' by the Disciplinary Committees of the State Bar Councils save and except that :-
 - a. A reference to the Attorney-General in the said Rules shall mean :-
 - (i) In the case of a Disciplinary Committee of the Bar Council of Delhi, a reference to the Additional Solicitor-General of India;
 - (ii) In the case of a Disciplinary Committee of any other State Council, reference to the Advocate-General; and
 - (b) Any reference to Section 36(1) shall mean a reference to Section 35(1) for the purpose of these Rules.
2. Any person aggrieved by an order of the Disciplinary Committee of a State Council may within 60 days from the date on which the order is communicated to him, prefer an appeal to the Council by a memorandum in writing which shall be accompanied by a certified copy of the order appealed against and the Council shall pass such order thereon as it may deem fit.
3. The provisions of Sections 5 and 12 of the Indian Limitation Act shall apply to any such appeal.
4. In any such appeal, the parties shall be entitled to be represented by counsel at the time of hearing.
5. The President of the Committee of the Council shall fix the hour, date and place of the enquiry which shall ordinarily be not earlier than 10 days from the filing of the memorandum of appeal. The Secretary shall give notice of such hours, date and place to the parties, to the State Council and to the Advocate-General of State concerned or to the Additional Solicitor-General of India as the case may be.
6. At the hearing of any such appeal, the parties may appear in person or by counsel.
7. Any order for costs made in the appeal shall be executed in the manner provided in the Act.
8. On an appeal being preferred as aforesaid, the State Council concerned shall on receipt of the notice of the filing of the same forward to the Council the entire record of the proceedings in the matter.

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

CHAPTER XI

(Rule under section 15(k) read with Section 11 of the Act.)

**SECRETARY AND OTHER EMPLOYEES OF THE BAR COUNCIL-
THEIR QUALIFICATIONS AND CONDITION OF SERVICE**

1. In addition to the Secretary there shall be an Accountant and the Bar Council may appoint employees categorised hereunder, as and when necessary.
 - (1) The qualifications of the employees shall be as under :-
 - (1) **Secretary**-shall
 - (a) possess a degree in Law and
 - (b) be an Advocate who has put in at least ten years practice at the Bar and
 - (c) be above the age of 35 years.
 - (2) **Deputy Secretary** - shall
 - (a) possess a degree in Law and
 - (b) be an Advocate who has put in at least seven years practice at the Bar and
 - (c) be above the age of 30 years.
 - (3) **Under Secretary** - shall
 - (a) possess a degree in Law and
 - (b) be an Advocate who has put in at least three years practice at the Bar and
 - (4) **Office Superintendent** - shall
 - (a) possess a Bachelor's degree either in Arts, Science or Commerce and
 - (b) have at least ten years experience of office-work and
 - (c) be above the age of 40 years.
 - (5) **Accountant** - shall
 - (a) possess a degree in Commerce or any equivalent qualification and
 - (b) have qualified in Accountancy and
 - (c) have at least ten years experience of accounts work in any office, and
 - (d) be above the age of 30 years.
 - (6) **Office Assistants** - shall
 - (a) possess a Bachelor's degree either Arts, Science or Commerce and
 - (b) be below the age of 30 years and above the age of 25 years.
 - (7) **Stenographers** - shall

- (a) have passed either the Higher Secondary School Examination or any equivalent examination and
 - (b) be a qualified shorthand-writer and typist and
 - (c) be above the age of 25 years and below the age of 40 years.
- (8) **Office Peons** - shall
- (a) possess knowledge of English and Hindi to be able to read fluently and to write efficiently ; and
 - (b) be a competent cyclist; and
 - (c) be above the age of 21 years.
- (9) **Sweeper**
- a. **Be a Competent Sweeper**
 - b. **Be above the age of 21 years**
- (Approved by the Bar Council of India under the Resolution No. 175/1970 dated 10.10.1970)**
- (II) Notwithstanding anything herein before contained any person who had been working in the Office of the bar Council on the date of which the Advocate's Act, 1961 came into force shall be deemed to possess the qualifications for the post held by him.
- (III) Notwithstanding anything hereinbefore contained any person who has held the post of Office-Superintendent, Accountant, Office-assistant or stenographer, as the case may be, in any government Office continuously for a period of ten years shall be deemed to possess the qualifications for the equivalent post.
- (IV) In Chapter XI Rule I(i) the following be added after sub-rule at page 19.**
- (V) The age and other qualifications may be relaxed —
- (a) in the case of the employment of retired Government servants or
 - (b) where no suitable candidate is available in spite of advertisement being made.
- (VI) The conditions of service of the employees of the Bar Council shall be as under:—
- (1) The Secretary, and Deputy Secretary may be employed either as whole-time or part-time officers.
 - (2) The Under-Secretary, Office Superintendent, Accountant, Office-Assistants, Stenographers and Peons shall when appointed be whole-time servants.
 - (3) All employees shall retire from service of the Bar Council on attaining the age of sixty years.

Provided that the Bar Council may extend the period of employment of any employee of the Bar Council upto the age of sixty-five years in suitable cases.

- (4) All employees of the Bar Council shall attend the Office of the Bar Council regularly and punctually on all days in the year except Sundays and Holidays during the Office hours and shall perform their duties diligently and faithfully.
- (5) The persons employed to a permanent post on permanent basis shall be on probation ordinarily for a period of two years which may be extended by one more year.
- (6) The services of any employee may be terminated on one month's notice or in lieu thereof one month's salary if his work is found to be unsatisfactory while he is still on probation.
- (7) On completion of the term of probation the records of the work of the employee concerned shall be considered and he will be confirmed in the post he is holding if his work is found to be satisfactory. In the event of the work of the employee concerned being found unsatisfactory his services shall be terminated by either one month's notice or in lieu thereof one month's salary.
- (8) The service of any employee who has been employed temporarily either to a permanent post or to a temporary post shall be terminated either —
 - (a) on the expiry of the period for which he had been so employed or
 - (b) at any earlier time on one month's notice or in lieu thereof payment of one month's salary.
- (9) The employee who has been confirmed in a permanent post shall not be terminated except under the following circumstances —
 - (i) by resignation of the employee concerned on the expiry of a period of one month or on refund of one month's salary by the officer or servant concerned in lieu thereof if he is so permitted to do ;
 - (ii) by abolition of the post;
 - (iii) on being removed as a result of recommendation made by a Committee of the Bar Council and accepted by the Bar Council that the officer or the servant concerned, as the case may be, has been
 - (a) either guilty of insubordination, or misdemeanor, or gross negligence, or misconduct, or inefficiency, or

Jharkhand State Bar Council

- (b) found physically or mentally in-capacitated to perform his duties. In all such cases the employee shall be called upon to explain in writing the charges leveled against him and shall be heard in respect thereof by the Committee and the Committee may examine witnesses, if any, and consider all other relevant records, documents and matter pertinent to the charges.

The Bar Council may suspend the employee against whom charge has been leveled under sub-clause (a) to sub-rule (iii) to Rule 9 of this Chapter till such time as the proceeding against him is concluded.

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

SALARY

- (12) The scale of pay of the employee of the Bar Council shall be as hereinafter provided :-

(i) Secretary :-

- (a) Employed whole-time will receive initial salary of Rupees six hundred and shall be given increments of Rupees fifty after every two years rising up to Rupees one thousand. Thus the scale shall be Rs. 600-5002-100.
- (b) Employed part-time will receive a fixed salary of Rupees Five hundred.

(ii) Deputy Secretary :-

- (a) Employed whole time shall be paid initial salary of Rupees Three hundred and fifty and on confirmation increment of Rupees Thirty shall be given and an increments of Rupees Thirty every two years rising up to Rupees Five hundred and thereafter he shall be given increments of Rupees Twenty five every years rising up to a maximum salary of Rupees Seven hundred and fifty. Thus the scale shall be Rs.350 confirmation 30/2-500-25/1-750.

- b. Employed part-time will receive a fixed salary of Rupees 300/-.

(iii) **Under-Secretary :-**

Employed whole-time shall be paid an initial salary of Rupees Two hundred and fifty and on confirmation will Receive an increment of Rupees Twenty every two years rising up to Rupees Three hundred and fifty and thereafter an increment of Rupees Twenty every year up to a maximum salary of Rupees Five hundred and fifty. Thus the scale of pay shall be Rs.250 Confirmation 20/2-350-20/1-550.

(iv) **Office-Superintendent or Accountant :-**

Shall be paid on initial salary of Rupees One hundred and fifty and on confirmation will receive an increment of Rupees Fifteen and thereafter will receive increments of Rupees Fifteen every two years rising up to Rupees Three hundred and then there shall be an efficiency bar. On being allowed to cross the efficiency bar shall be allowed annual increments of Rupees five rising up to maximum salary of Rupees Two hundred and fifty. Thus the scale shall be Rs.110 - Confirmation - 120-10/2-150 E.B.-250.

(v) **Office Assistants :-**

Shall be paid an initial salary of Rupees One hundred and ten and on confirmation be allowed an increment of Rupees Ten and thereafter shall be allowed an increment of Rupees Ten every two years rising up to Rupees One hundred and fifty and then there shall be an efficiency bar. On being allowed to cross up to a maximum salary of Rupees Two hundred and fifty. Thus the scale shall be Rs.110 Confirmation 120-10/2-150 F.B. 5/1-250.

(vi) **Stenographers :-**

Shall be paid the salary in the same scale as an office-assistant and in addition he will receive an allowance of Rupees Fifty every month.

(vii) **Office Peons :-**

Shall be paid an initial salary of Rupees Sixty and on confirmation be allowed an increment of Rupees Five and thereafter annual increments of Rupees Two shall be allowed rising upto Rupees Seventy five and then there shall be an efficiency bar. On being allowed to cross the efficiency bar

Jharkhand State Bar Council

increments of Rupees Five bi-annually shall be given rising up to a maximum salary of Rupees One hundred. Thus the scale shall be Rs. 60 Confirmation 65-2/1-75 E.B. 5/2-100.

(N.B.:— See New scales introduced replacing present one).

ALLOWANCES

- (13) The employees shall be paid such allowances and for such time as may be sanctioned by the Bar Council after considering the recommendation of the Executive Committee and the Finance Committee, either from time to time or for any particular occasion such as over-time work, special deputation or the like.
- (14) Travelling allowance shall be paid to the —
- (a) Secretary, Deputy Secretary and Under-Secretary as may be admissible for Class I officers of the Government of Bihar at the time and
 - (b) Other employees as may be admissible for ministerial staff drawing similar salary in the employ of the Government of Bihar at the time.

LEAVE

- (15) Employees may be allowed :-
- (a) Ten days casual leave in any one Calendar year.
 - (b) Thirty days privilege leave on full average pay on the basis of completed one year's service, subject to an accrual of four months.
 - (c) Thirty days leave on account of continued illness on half average pay in any one calendar year.
 - (d) Leave without pay either on grounds of illness or other important contingencies.
- (16) Leave shall not be claimed as of right by the employees. Leave shall not be granted unless the authority sanctioning the leave is satisfied that the leave is being asked for on genuine and reasonable grounds and that the absence of the employee will not unduly disturb the working of the office.

PROVIDENT FUND

- (17) A fund called the "Provident Fund" shall be created by an initial sum of Rupees one thousand donated by the Bar Council.
- (18) The fund shall be administered by the Executive Committee of the Bar Council.

- (19) Every employee of the Bar Council except those employed temporarily, after confirmation to his post shall be a subscriber to the Fund.
- (20) The amount of subscription shall not be less than ten percent, of the salary of the subscriber. The amount of subscription shall be calculated on complete rupees of the salary and the contribution shall be in whole rupees nearest to the calculated amount.
- (21) The Bar Council shall make a monthly contribution of a sum as nearly as ten percent, of the salary of the employee.
- (22) An account for each subscriber shall be maintained separately which shall be named as "THE PROVIDENT FUND ACCOUNT" of the subscriber concerned in which shall be credited from month to month —
- (i) The subscriber's subscription ;
 - (ii) Contribution made by the Bar Council under Rule 21 of the Chapter;
 - (iii) Interest earned on the total sum of (i) and (ii) above.
- (23) (a) Every subscriber shall subscribe monthly to the Fund when on duty ;
- (b) A subscriber while on earned leave shall continue to contribute to the Fund. A subscriber on any other leave with pay may, at his option, contribute to the Fund while he is on leave. A subscriber on leave without pay shall not be permitted to contribute to the Fund while he is on leave;
- (c) No contribution shall be made out of the Bar Council Funds for any period during which a subscriber does not, or is not, permitted to subscribe to the Fund;
- (d) Subscription by a subscriber shall be deducted every month from the salary payable to the subscriber and the amount so deducted shall be deposited in the Provident Fund Account.
- (24) When a subscriber leaves the service of the Bar Council either by retirement, resignation; or removal the amount standing to his credit in his Provident Fund Account subject to any deduction prescribed by these rules or any enactment in that regard, shall be paid to him in one lump.
- (25) Every subscriber shall nominate one or more persons in order of preference to whom his Provident Fund money shall be paid in the event of the subscriber's death before he leaves the service of the Bar Council.

- (26) In the event of the death of the subscriber before leaving the service of the Bar Council the money standing to his credit in his Provident Fund Account shall be paid to his nominee or nominees placed first in order of preference in the list submitted by him in accordance with Rule 25 of this Chapter. On the first preferred nominees having predeceased the subscriber the sum shall be paid to next in the list in order of preference who may be alive at the time. Provided that in the event of all the nominees having predeceased the subscriber and the subscriber having omitted to submit further name of nominee or nominees, the Bar Council shall decide who amongst the claimants should be paid the amount and payment shall be made accordingly. The decision of the Bar Council shall be final and binding on all concerned.
- (27) If the person to whom the Provident Fund money is to be paid is either a lunatic or a minor the sum shall be paid to the Estate Manager appointed in this behalf under Indian Lunacy Act, 1912 or to the guardian of the minor as the case may be.
- (28) Any person including the subscriber claiming payment of the money in the Provident Fund Account shall present an application in writing to the Secretary, Bar Council.
- The Secretary shall place the application for the consideration and the decision of the Executive Committee of the Bar Council.
- (29) A subscriber may, at the discretion of the Executive Committee of the Bar Council, be allowed a loan on his application in writing on the security of the money to his credit in his Provident Fund Account, on such terms as it may consider proper for either —
- (i) Building or purchasing a house for his residence or for repairing a house owned by him; or
 - (ii) Marriage of his daughter ; or
 - (iii) Expenditure over his own long continued illness ; or
 - (iv) Any other reason considered sufficient by the Executive Committee.
- An account of the sum advanced as loan shall be maintained.
- (30) The subscriber shall repay the amount according to the terms settled. In the event of his failure to do so part of his salary not exceeding fifty percent shall be liable to be deducted every month till such time as the sum loaned is fully covered by such collection.

GRATUITY

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

- (32) The powers and duties of the Secretary and the other employees shall be as under:-

I. The Secretary:-

- (a) Shall be Chief Administrative Officer of the Bar Council and all the other employees of the Bar Council shall work under him and shall be subordinate to him;
- (b) Shall -
- (i) attend the general meetings and the meeting of the Committees;
 - (ii) keep Minutes of proceedings ;
 - (iii) cause to be maintained complete and accurate accounts together with all receipts, vouchers and documents ;
 - (iv) conduct all correspondence, excepting that with the High Court and the Government in matters other than formal, which shall be approved and signed by the Chairman, and supply informations to the members;
 - (v) prepare the Annual Reports and Balance-Sheets;
 - (vi) assign duties to the Ministerial staff of the Bar Council and supervise their work;
 - (vii) receive and grant receipt for moneys on behalf of the Bar Council;
 - (viii) be responsible for the proper custody and maintenance of the property of the Bar Council;
 - (ix) deposit the moneys received on behalf of the Bar Council into the Bank;

Jharkhand State Bar Council

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

- (33) The Bar Council may in suitable cases appoint a person to a post initially on a higher salary than the initial salary provided for the post.

Explanation :- Higher start in initial Salary will not affect the pay-scale.

- (34) Notwithstanding anything herein before contained the Bar Council may in suitable cases promote any of its employees to a higher post. The above rules were approved by the Bar Council of India at its meeting dated 23/24-11-1963.

Sd. A.N. Veeraraghavan,
Secretary
The Bar Council of India, New Delhi.

APPENDIX**FORM NO. I***Application for Registration as an Articled Clerk.*

To

The Bihar State Bar Council, Patna

Through

Sri.....

ADVOCATE

Residing at.....

Sir,

I have obtained the degree of Bachelor of Law and desire to be registered as an Articled Clerk for qualifying myself to be admitted as an Advocate within the jurisdiction of the Bihar State Bar Council, Sri.....Advocate named above has been pleased to agree to take me in as an Articled Clerk in his office.

I beg to furnish below particulars about myself.

I hereby undertake to abide by the rules regarding Articled Clerks.

I request that I may be registered as an Articled Clerk.

Yours faithfully,

Signature

1. (a) Name of the applicant :—
(in Block Letters)
- (b) Father's name and address : —
- (c) Nationality :—
- (d) Date of Birth : —
- (e) Date of passing the Bachelor o Law Examination :—
- (f) University from which he passed :—
- (g) Name of two Referees who can testify about his character and antecedent:—
- (h) Present Address : —
2. Endorsement of the Advocate forwarding the application :—

FORM NO. II
Certificate of Registration to Articled Clerk,
THE BIHAR STATE BAR COUNCIL.

This is to CERTIFY that Sri.....son of residing at District has this day the..... day of the month ofin the year..... been registered as an ARTICLED CLERK to receive training under Sri Advocate ordinarily practicing at within the Jurisdiction of the Bihar State Bar Council.

Secretary
THE BIHAR STATE BAR COUNCIL.

FORM NO. III

Statement relating to Articled Clerk to be submitted by Advocate under whom he is so employed.

For the month of in the year

Name of the Articled Clerk

Registration No.

Name of the master

Place of the practice of the master

Date of the Statement	Date on which the Article Clerk was absent		Total number of case attended during the month	Date on which diaries submitted to master	REMARKS
	From Court	From Chambers			

- (1) Brief statement of the details of the training during the month in Court and in Chambers.
- (2) General Report about the articled Clerk and his progress during the month.
- (3) Total number of days of absence during the month.
- (4) Any other important fact to be mentioned—

Signature of the Articled Clerk

Signature of the Master

FORM NO. VIII*Certificate of Enrolment as Advocate.***THE BIHAR STATE BAR COUNCIL, PATNA
CERTIFICATE OF ADMISSION OF ADVOCATE**

Roll No. _____ of 19....

This is to CERTIFY that has this day been admitted as an advocate on the Roll of the Bihar State Bar Council.

Dated this day of..... One thousand nine hundred.

SECRETARY

CHAIRMAN

Dated Patna, the

FORM NO. IX

Application under Section 17(1)(a) of the Advocates Act, 1961 by Advocates enrolled under the Bar Councils Act, -1926 for admission on the Roll of the Bihar State Bar Council.

To

**The Bihar State Bar Council,
PATNA.**

Dear Sirs,

1. I am an Advocate on the roll of the High Court of Judicature at being so enrolled under the Bar Councils Act, 1926.
2. I intend to practice as an Advocate within the Jurisdiction of the Bihar State Bar Council and have therefore to request you to enter my name and address on the roll of the Bar Council.
3. I have not expressed an intention to practice as an Advocate within the Jurisdiction of any other Bar Council.
4. I give below the necessary particulars :—
 - (i) Name
(in Block Letters as on the rolls under the Indian Bar Councils Act, 1926).
 - (ii) Father's Name
 - (iii) Address
 - (iv) Date of birth
 - (v) Date of enrolment as Advocate under the Indian Bar Councils Act, 1926 on the rolls of
 - (a) High Court of Judicature at Patna
 - (b) Any other High Court

(vi) Whether enrolled as Advocate of the Supreme Court and if so.

(a) As a Senior Advocate or Advocate

(b) Date of enrolment.

(vii) Whether enrolled as Pleader, Vakil or Attorney and if so,

(a) Date of entry in the register of

(1) Pleader.....

(2) Vakil.....

(3) Attorney.....

(viii) Propose to practice ordinarily at.....

(ix) I do hereby undertake that :—

I shall not accept any employment which, in the opinion of the Bar Council is derogatory to the states of an Advocate.

I declare that the above statements are true to my own knowledge except as to date of my birth which is stated on information and belief which I believe to be true.

Place:

Yours faithfully,

Date :

(Signature of the Advocate)

The above form in the rules of the Bar Council of Bihar was approved in the meeting Of the Bar Council of India dated 26th & 27th January, 1963.

Sd. A. N. Veeraraghavan,

Secretary

The Bar Council of India, New Delhi.

2-2-1963

Secretary

Bar Council of Bihar

Ref. Your letter no. 3301 dt. 13.11.69.

Sub : Amendment of Rules under Section 28(2)(d) read as Section 24(1) (e)

Sir,

I am to communicate to you the following resolution passed by the Council at its meeting on 13.12.1969 on the above matter.

RESOLUTION NO. 156/1969

Resolved that the Rules made under section (28)(2)(d) read with section 24(1) (e) made by the Bar Council of Bihar as set out in its letter No. 3301/1969 d/13.11.69 be and hereby approved.

Lkmpd/

9/2/1972

Yours faithfully

Sd. A.N. Venaraghvan

Secretary

Bar Council of India

BIHAR STATE BAR COUNCIL

No. 3301/1969

Patna 13/11/1969

Sri Pandey Hari Krishna Sahay, B.A.B.L.
Secretary,
Bihar State Bar Council.

To,
The Secretary,
The Bar Council of India,
A/B Mathura Road,
Facing Supreme Court Building,
New Delhi-1.

Sub.: Your letter ST/BC/5/1969 dated 30th January, 1969.

I am herewith sending you a copy of the Resolution NO. 18 of 1969 adopted on the agenda no. 2 of the Meeting of this Council held on 5th October, 1969. I may also request you to place the same before the Bar Council of India for their consideration and approval.

Thanking you.

Yours faithfully,
Sd. P.H.K. Sahay
Secretary
Bihar State Bar Council.

XXXXXXXX

RESOLUTION NO. 1 OF 1969

Considered item no. of the agenda and resolved unanimously that on a consideration of letter no. ST/BC/5/1969 dated 10.1.1969 from the Bar Council of India, the following amendments may be made in Chapter V of the Rules of the Bihar State Bar Council:-

In (1)(i) after the words "or the Govt. of State" add the words "or any public Corporation or body constituted by State"; and thereafter add

"For the purpose of this clause a "Law Officer" shall mean a person who is so designated by the terms of his appointment and who by the said terms is required to act and or plead in Courts on behalf of his employers".

In (1) (ii) Omit the words "or as Secretary or Deputy Secretary of the Bar Council" after the words "Lecturer or Teacher in Law".

2. Resolved further unanimously that if is not necessary for the Bar Council to have in its Rules, Rule (1) (ii) of the Model Enrolment Rules as there is system of Attorney in this State; and this committee is not in favour of adding the words "after the approval of the Bar Council of India" in the Model Enrolment Rules, Rule 1(v) after the words "Any other persons or class of persons as the Bar Council from time to time exempt", which exists as its Rule (iv). This Committee feels that the Enrolment Committee is commitment to decide in which case such exemption should be allowed.

It may be mentioned here that the existing rules of the Bihar State Bar Council contain the remaining rules mentioned in the letter of the Bar Council of India.

THE BAR COUNCIL OF INDIA

ST/BC/5/1969

Dated the 30th January' 1969

From :- Sri A.N.Veeraraghavan, B.A.B.L. Secretary, Bar Council of India,
New Delhi-1.

To,

The Secretaries of all the State Bar Councils.

Sub : - Model Enrolment Rules made under section 28(2)(d) read with section 24(1)(e) amendment of Resolution No. 65/1968 and 124/1968.

On a consideration of the letters and other mentioned received from the State Bar Councils and the Government of several states and the recommendations of the committee of the Council constituted for the purpose, the council has amended under its resolution No. 65/1968 and 124/1968 its rule 1 of Model Enrolment Rules. As amended the rule will read as follows:-

1. A person who is otherwise qualified to be admitted as an Advocate but is either in full or part time service or employee shall not be admitted as an Advocate.

PROVIDED, however that this rule shall not apply to:-

- (i) Any person who is a Law Officer of the Central Government or of the Government of State or of any Public Corporation or body constituted by statute. For the purpose of this clause "Law Officer" shall mean a person who is so designated by the terms of his appointment and who by the said terms is required to act and or plead in courts on behalf of his employer.
 - (ii) Any person who is an Articled Clerk of an Attorney.
 - (iii) Any person who is in part-time service as Professor, Lecturer or Teacher in Law;
 - (iv) Any person who by virtue of being a member of a Hindu Joint family has an interest in a joint Hindu family business provided he does not take part in the management thereof; and
 - (v) Any other person or class of persons as the Bar Council may from time to time exempt after the approval of the Bar Council of India.
- 2.** The State Bar Councils are requested as directed by the Council to amend their existing rules made under section 28(2)(d) read with section 24(1)(e) incorporating the amendments herein before made in the Model Rules.

Sd. A.N.Veeraraghavan
Secretary
Bar Council of India.

(ANNEXURE TO ST.BC 2/1964 DT. 8.1.64)
THE BAR COUNCIL OF INDIA

BCI/D/37/1964

Dated 7th January, 1964

From,

Sri A.N. Veeraraghvan, B.A. B.L.,
Secretary, The Bar Council of India, Supreme Court Building, New Delhi-1.

To,

The Secretary, The Bar Council of Madhya Pradesh, Jabalpur.

Sir,

Rules 143 of the rules framed by your council under section 28(2)(d) read with section 24(1) (e) of the Advocates Act, 1961, has already been approved by our council -Vide Resolution No. 180/1963 of February' 1963.

3. Rules 143 is as follows:-

"143. A person who is otherwise qualified to be admitted as an Advocate but is either in full or part-time service or employment or is engaged in any trade, business of profession shall but not be admitted as an Advocate. Provided, however, that this rule shall not apply to —

- (i) Any person who is a Law Officer of the Central Government or the Government of a State or a Law Officer of a Municipal Corporation or any other Local Body or any Industrial concerned including Co-operative Bodies and Limited Companies who are allowed to practise under the contract of service.
- (ii) Any person who is an Assistant to an Advocate or to an Attorney who is an Advocate,
- (iii) Any person who is in part-time service as a Professor, Lecturer or Teacher-in-Law.
- (iv) Any person who by vitrue of being a member of a Hindu joint family has an ' interest in a joint Hindu family business, provided he does not take part in the management thereof; and
- (v) Any other person or class of persons as the State Bar Council may from time to time exempt."

At the meeting of the Bar Council of India held at Calcutta on the 27th and 28th December, 1963, the council declared that your State Bar Council should be requested to consider the desirability of omitting the words, "or a Law Officer of a Municipal Corporation or any other Local Body or any Industrial Concerned including co-operative Bodies and Limited Companies who are allowed to practise under the contract of service" in pragraph i) of the proviso and; (a) deleting the words, "other

person or" and (b) adding, the, words, "With the approval of the Bar Council of India "After the words, "from time to time exempt" in paragraph v) of the proviso.

I request you to write to me after the matter has been considered by your Bar Council.

B. Kumar/
29/4/68

Yours faithfully
A.N. VEERARAGHAVAN
Secretary.

Considered item no. 2 of the Agenda and resolved that in Chapter V of the Rules of the Bihar State Bar Council the following may be added after Rule 4 :-

- 4A.** A candidate seeking enrolment as an Advocate and coming from Universities or Law Colleges which have switched over to Hindi or regional language shall have to pass a preliminary examination in English conducted by the Bar Council.
- 1.** There shall be two papers, each carrying 100 marks and have 3 hours duration. The first paper will be English literature and the second paper will be English composition, Essay etc. The standard will be as at the B.A. Part II. The Examination Committee may from time to time prescribed the courses of studies etc.

The following shall be added in Chapter V of the Rules after 5(b) :-

"5(bb) Certificate granted by the Bar Council declaring the candidates to have passed the preliminary examination in English held by the Bar Council."

"Provided that a candidate who has taken his low degree with English as an optional subject shall not be required to pass such preliminary test examination in English or the Bar Council as prescribed in Rule 4A.

M. Aslam/
15.4.71



vf/k uk
4 Qjoh 2013

संख्या—एल0जी0—15/2012—06/लेज0, झारखण्ड विधान मंडल द्वारा यथा पारित और राज्यपाल द्वारा दिनांक 28 फरवरी, 2013 को अनुमत झारखण्ड अधिवक्ता कल्याण निधि अधिनियम, 2012 का निम्नांकित अंग्रेजी अनुवाद झारखण्ड राज्यपाल के प्राधिकार से इसके द्वारा प्रकाशित किया जाता है, जिसे भारतीय संविधान के अनुच्छेद 348 के खंड (3) के अधीन उक्त अधिनियम भाषा में प्राधिकृत पाठ समझा जाएगा।



JHARKHAND GAZETTE

EXTRA ORDINARY
TO BE PUBLISHED BY JHARKHAND GOVT.

No. 132

17, Falgun, 1934 Shakabd
Ranchi, Friday 8 March, 2013

THE JHARKHAND ADVOCATES' WELFARE FUND ACT,
2012
AN
ACT

To provide for the constitution of a welfare fund for the benefit of advocates in the State of Jharkhand for death, permanent disablement, retirement, illness etc. and for matters connected therewith or incidental thereto.

Be it enacted by the State Legislature of Jharkhand in the Sixty-third Year of Republic of India as follows:-

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement:—

- (1) This Act may be called the Jharkhand Advocates' Welfare Fund Act, 2012.
- (2) It extends to the State of Jharkhand.

- (3) It shall come into force with immediate effect.
- (4) It shall not apply to persons who have retired from service **or profession** and have been paid or are entitled payment of retirement benefits from his employer or **from Trustee Committee**.

2. Definitions:—

1. In this Act, unless the context otherwise requires:
 - (a). "*advocate*" means an advocate whose name has been entered in the State roll prepared and maintained by the State Bar Council under Section 17 of the Advocates Act, 1961 (25 of 1961) and who is a member of the Bar Association or Advocate Association of the State;
 - (b). "*Advocate Association*" means an association of advocates in Jharkhand recognized by the Jharkhand State Bar Council under Section 14;
 - (c). "*Bar Association*" means an association of advocates recognized by the Jharkhand State Bar Council under Section 14;
 - (d). "*Bar Council*" means the Jharkhand State Bar Council constituted under section 3 of the Advocates' Act 1961 (25 of 1961);
 - (e). "*cessation of practice*" means removal of the name of an advocate from the State roll prepared under section 26A of the Advocates' Act, 1961 (25 of 1961);
 - (f). "*Chairperson*" means the Chairperson of the Trustee Committee referred to in clause (a) of Sub-Section (4) of Section 4;
 - (g). "*Chartered Accountant*" means a chartered accountant as defined in clause (b) of sub-section (1) of Section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of Section 6 of that Act.
 - (h). "*Court*" includes any Tribunal or Authority before whom an advocate is by or under any law for the time being in force entitled to practice;
 - (i). "*Dependants*" means the spouse, parents, or minor children including illegitimate children of a member of the Fund;
 - (j). "*Fund*" means the Advocates' Welfare Fund constituted under sub section (1) of Section 3;
 - (k). "*Insurer*" shall have the meaning assigned to it in clause (9) of Section 2 of the Insurance Act, 1938(4 of 1938);
 - (l). "*Member of the Fund*" means an advocate admitted to the benefits of the Fund and who continues to be a member thereof under the provisions of this Act;

- (m) "*Notification*" means a notification published in the Official Gazette of the State Government.
 - (n) "*Prescribed*" means prescribed by rules made under this Act.
 - (o) "*retirement*" means stoppage of practice as an advocate communicated to and recorded by the Bar Council;
 - (p) "*Schedule*" means Schedules to this Act;
 - (q) "*Schedule bank*" shall have the meaning assigned to it in clause (e) of Section 2 of the Reserve Bank of India Act, 1934 (2 of 1934);
 - (r) "*Stamp*" means the Advocates Welfare Fund Stamp printed and distributed under section 24;
 - (s) "*State*" means the State Government of Jharkhand;
 - (t) "*Suspension of practice*" means voluntary suspension of practice as an advocate or suspension of an advocate by the Bar Council of Jharkhand for misconduct.
 - (u) "*Trustee Committee*" means the Advocates' Welfare Fund Trustee Committee established under sub-section (1) of Section 4;
 - (v) "*Vakalatnama*" includes memorandum of appearance of any other document by which an advocate is empowered to appear or plead before any court, tribunal or other authority;
2. Words and expressions used and not defined in this Act but defined in the Advocates' Act, 1961 (25 of 1961), shall have the meanings respectively assigned to them in that Act.

CHAPTER II

CONSTITUTION OF ADVOCATES' WELFARE FUND

3. Advocates' Welfare Fund:—

- (1) The State Government shall constitute a fund to be called the "Advocates' Welfare Fund"
- (2) There shall be credited to the Fund:-
 - a. all amounts paid by State Bar Council under Section 13;
 - b. any other contribution made by the State Bar Council;
 - c. any voluntary donation or contribution made to the Fund by the Bar Council of India, any Bar Association or Advocates Association of the State or other association or institution, or any advocate or other person;
 - d. any grant which may be made by the Central Government or the State Government to the Fund;
 - e. any sums borrowed under section 10;

- f. all sums collected under section 16;
 - g. all sums received from the Life Insurance Corporation of India or any other insurer on the death of any member of the Fund under any Group Insurance Policy.
 - h. any profit or dividend or refund, received from the Life Insurance Corporation of India or any other insurer in respect of policies of Group Insurance of the members of the Fund;
 - i. any interest or dividend or other return on any investment made out of any part of the Fund;
 - j. all sums collected by way of sale of stamps under section 24.
 - k. all sums collected under Section 16 by way of application fee and annual subscription and interest thereon.
- (3) The sums specified in sub-Section (2) shall be paid to, or collected by, such agencies, at such intervals and in such manner, as may be prescribed.
- (4) The Law Department of the State Government shall be the Administrative Department in respect of the Jharkhand Advocates' Welfare Fund and shall have powers to give instructions from time to time.

CHAPTER III

ESTABLISHMENT OF TRUSTEE COMMITTEE

4. Establishment of Trustee Committee:—

1. The State Government may, by notification in the Official Gazette shall establish, with effect from such date as may be prescribed therein, a Trustee Committee to be called Advocates' Welfare Fund Trustee Committee.
2. The Trustee Committee shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and shall, by the said name, sue and be sued.
3. The Trustee Committee shall have its head quarters at Ranchi or in any other place as may be notified.
4. The Trustee Committee shall consist of:-
 - a. the Advocate-General of the State who shall be the Chairperson, ex-officio;
 - b. The Secretary to State Government in its Law Department or Ministry, Member, ex-officio
 - c. The Chairman of the State Bar Council, Member, ex-officio
 - d. A Member nominated by Govt. of, Jharkhand.

e. Two Members of the Bar Council to be nominated by the State Bar Council, Member.

f. The Secretary of the Welfare Trustee Committee, Secretary, Ex-officio

5. Every Member of the Trustee Committee nominated under clause (d) or clause (e) of sub-section (4) shall hold office for a period not exceeding five years from the date on which he enters upon his office.

Provided that members nominated under clause (e) may continue to hold office exceeding five years till his successor is nominated by next duly constituted State Bar Council.

5. Disqualifications and removal of Chairperson or member of Trustee Committee:—

- (1) The State Government shall remove from office the Chairperson or any Member of the Trustee Committee, who

(a) is, or at any time has been, adjudged as an insolvent; or

(b) has become physically or mentally incapable of acting as the Chairperson or a Member of the Trustee Committee.

(c) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or a Member of the Trustee Committee; or

(e) has so abused his position as to render his continuation in office detrimental to the public interest; or

(f) is, or at any time has been, absent without leave of the Trustee Committee for more than three consecutive meetings of the Trustee Committee.

Provided that the Trustee Committee may, on sufficient ground, condone the absence of such Chairperson or Member.

- (2) No such Chairperson or Member of the Trustee Committee shall be removed under clause (d) or clause (e) of Sub-Section (1) unless he has been given a reasonable opportunity of being heard.

6. Resignation by nominated Chairperson and Members of Trustee Committee and filling up of casual vacancy:—

- (1) The Chairperson referred to in sub-section (4) of Section 4 or a Member nominated under clause (d) of Sub-Section (4) of that Section may resign his office by giving three months notice in writing to the State Government and on such resignation being accepted by the State Government such Chairperson or member shall vacate his office.

- (2) A Member nominated under clause (e) of Sub-Section (4) of Section 4 may resign his office by giving three months notice in writing to the State Bar Council and on such resignation being accepted by the State Bar Council such Member shall vacate his office.
 - (3) A casual vacancy in the office of the Chairperson or a Member referred to in sub-section (1) who has resigned may be filled up within six months by the State Government and the Chairperson or a Member so nominated shall hold office only so long as the Chairperson or the Member in whose place he is nominated would have been entitled to hold office if the vacancy did not occur.
 - (4) A casual vacancy in the office of a Member referred to in sub-section (2) who has resigned may be filled up, within six months, by the State Bar Council and a member so nominated shall hold office only so long as the Member in whose place he is nominated would have been entitled to hold office if the vacancy did not occur.
- 7. Vacancies, etc. not to invalidate proceedings of Trustee Committee:—**
No act or proceeding of the Trustee Committee shall be invalid merely by reason of:—
- (a) any vacancy in, or any defect in the constitution of, the Trustee Committee or.
 - (b) any defect or irregularity in the nomination of a person acting as the Chairpersons or a Member of the Trustee Committee; or
 - (c) any irregularity in the procedure of the Trustee Committee not affecting the merits of the case.
- 8. Vesting and application of Fund :—**
The Fund shall vest in and be held and applied by, the Trustee Committee subject to the provisions, and for the purposes of this Act.
- 9. Functions of Trustee Committee:—**
- (1) Subject to the provisions of this Act and any other law for the time being in force, the Trustee Committee shall administer the Fund.
 - (2) Without prejudice to the generality of the provisions contained in Sub-Section (1), the Trustee Committee shall
 - (a) hold the amounts and assets belonging to the Fund in trust;
 - (b) receive applications for admission or re-admission as members to the Fund, and dispose of such applications within ninety days from the date of receipt thereof.
 - (c) receive applications from the members of the Fund their nominees or legal heirs, as the case may be, for payment out of the Fund,

conduct such enquiry as it deems necessary and dispose of the applications within three months from the date of receipt thereof.

- (d) record in the minute's book of the Trustee Committee, its decisions on the applications;
- (e) Subject to the availability of the amount in the Fund pay the members of the Fund or their nominees or legal heirs, as the case may be, the amounts at the rates specified in Schedule-1;
- (f) Send such periodical and annual reports as may be prescribed to the State Government and the State Bar Council;
- (g) communicate to the applicants, by registered post with acknowledgement due or through electronic mode, the decisions of the Trustee Committee in respect of applications for admission or re-admission as members to the Fund or claims to the benefit of the Fund;
- (h) do such other acts are or may be required to be done under this Act and the rules made thereunder.
- (i) Frame and implement all such welfare schemes **or amend its Schedule I** which it may deem proper in the larger interest of the members and on availability of sufficient fund after approval of the State Bar Council and review its all welfare schemes for requisite enhancement at least once in each five years.

10. Borrowing and investment:—

- (1) The Trustee Committee may with the prior approval of the State Government and the State Bar Council, borrow, from time to time, any sum required for carrying out the purposes of this Act.
- (2) The Trustee Committee shall deposit all monies and receipts forming part of the Fund in any scheduled bank or invest the same in debt instruments of any corporation owned or controlled by the State Government or in loan floated by the State Government or in any other manner as the State Bar Council may, from time to time, direct with the prior approval of the State Government.
- (3) All amounts due and payable under this Act and all expenditure relating to the management and administration of the Fund shall be paid out of the Fund.

11. Accounts and audit:—

- (1) The Trustee Committee shall maintain proper accounts and other relevant records and prepare an annual statement of accounts and annual report in such form and in such manner as may be prescribed.

- (2) The accounts of the Trustee Committee shall be audited annually by a chartered accountant appointed by the State Bar Council.
- (3) The accounts of the Trustee Committee as audited by the chartered accountant together with his audit report shall be forwarded to the State Bar Council by that Committee and the State Bar Council may issue such directions, as it deem fit, to the Trustee Committee in respect thereof.
- (4) The Trustee Committee shall comply with the directions issued by the State Bar Council under sub-Section (3)
- (5) The Trustee Committee shall pay from the Fund the Charges for the audit as may be fixed by the State Bar Council.

12. Powers and duties of Secretary:—

The Secretary of the Trustee Committee shall,

- (a) be the Chief Executive authority of the Trustee Committee and responsible for carrying out its decisions;
- (b) represent the Trustee Committee in all suits and proceedings for and against the Trustee Committee;
- (c) authenticate by his signature all decisions and instruments of the Trustee Committee.
- (d) operate bank account of the Trustee Committee jointly with the chairpersons;
- (e) convene meetings of the Trustee Committee and prepare minutes of such meetings;
- (f) attend meetings of the Trustee Committee with all the necessary records and information;
- (g) maintain such forms, registers and other records as may be prescribed from time to time and do all correspondence relating to the Trustee Committee.
- (h) prepare an annual statement of business transacted by the Trustee Committee during a financial year.
- (i) do such other acts as are or may be directed by the Trustee Committee and the State Bar Council.

13. Payment of certain monies to Fund by the State Bar Council:—

The State Bar Council shall pay to the Fund annually an amount equal to twenty percent of the enrollment fee received by its under clause (f) of Section 24 of the Advocates Act, 1961 (25 of 1961).

*CHAPTER IV***RECOGNITION OF ANY ASSOCIATION OF ADVOCATES****14. Recognition by the State Bar Council of any association of advocates:—**

- (1) Any association of advocates known by any name which is registered as an association before the date of commencement of this Act may, (before the date to be notified by the State Bar Council in this behalf), apply for recognition to the State Bar Council in such form as may be prescribed.
- (2) Any association of advocates known by any name which is registered as an association on or after the date of commencement of this Act may within three months from the date of its registration as an association, apply for recognition to the State Bar Council in such form as may be prescribed.
- (3) Every application for recognition under this sub-section (1) or sub-section(2) shall be accompanied by
 - (a) a copy of the rules or bye-laws of the association.
 - (b) names and addresses of office bearers of the association,
 - (c) a list of members of the association containing the name, address, age, enrollment number and date of enrollment with the state Bar Council and the ordinary place of practice of each member.
- (4) The State Bar Council may, after such enquiry as it deems necessary, recognize the association and issue a certificate of recognition in such form as may be prescribed.
- (5) The decision of the State Bar Council on any matter regarding recognition of an association under sub-section (4) shall be final.

Explanation: in this section, registered means recognized/affiliated by the State Bar Council.

15. Duties of Bar Associations and Advocate's Associations of the States:—

- (1) Every Bar Association and Advocates Association in the State shall, on or before the 15th day of April of every year, furnish to the State Bar Council a list of its members as on the 31st day of March of that year.
- (2) Every Bar Association and Advocates' Association in the State shall inform the State Bar Council of:
 - (a) any change in the membership including admissions and re-admissions within thirty days of such change;
 - (b) the death or other cessation of practice or voluntary suspensions of practice of any of its members within thirty days from the date of occurrence thereof;

- (c) such other matters as may be required by the State Bar Council from time to time.

CHAPTER V
**MEMBERSHIPS AND PAYMENT OUT OF
ADVOCATES' WELFARE FUND**

16. Membership in Fund:—

- (1) Every advocate practicing, before the commencement of this Act, in any court, tribunal or other authority in the State and being a member of a Bar Association or an Advocates' Association in the State shall apply, to the Trustee Committee for admission as a Member of the Fund, in such form as may be prescribed.
- (2) Every person:-
- (a) admitted as an advocate, on the roll of the State Bar Council, after the commencement of this Act.
- (b) Practicing in any court, tribunal or other authority in the State and being a member of a Bar Association or an Advocates' Association in the State shall apply to the Trustee Committee for admission as a member of the Fund in such form as may be prescribed.
- (3) on receipt of an application under sub-section (1) or sub-section (2), the Trustee Committee shall make such enquiry as it deems fit and either admit the applicant to the Fund or, for reasons to be recorded in writing, reject the application;

Provided that no order rejecting an application shall be passed unless the applicant has been given an opportunity of being heard.

- (4) Every applicant shall pay an application fee of five hundred rupees along with the application to the account of the Trustee Committee and shall thereafter pay a sum of Rs 200/- per year toward contribution of his membership.
- (5) **Every advocate, being a member of the Fund, may pay his life subscription of Two thousand five hundred.**
- (6) Any member of the Fund, who fails to pay the annual subscription for any year before the 31st day of March of that year, shall be liable to be removed from the membership in the Fund.
- (7) A member of the Fund removed from the Membership in the Fund under sub-section (6) may be re-admitted to the Fund, on payment of arrears along with re-admission fee of one hundred rupees, within six months from the date of such removal.

- (8) Every member of the Fund shall, at the time of admission to the membership in the Fund, make nomination conferring on one or more of his dependants the right to receive, in the event of his death, any amount payable to the member under this Act.
- (9) If a member of the Fund nominates more than one person under subsection (8), he shall specify in the nomination, the amount or share payable to each of the nominees.
- (10) A member of the Fund may, at any time, cancel a nomination by sending a notice in writing to the Trustee Committee.
- (11) Every member of the Fund, who cancels his nomination under subsection 10 shall make a fresh nomination along with registration fee of one hundred rupees.
- (12) Every member of the Fund, whose name has been removed from the State roll under Section 26 A of the Advocates ac 1961 (25 of 1961) or who voluntarily suspend practice, shall within fifteen days of such removal or suspension, intimate such removal or suspension to the Trustee Committee and if any member of the Fund fails to do so without sufficient reason, the Trustee Committee may reduce, in accordance with such principles as may be prescribed, the amount payable to that member under this Act.
- (13) Every applicant desires to be the member of the fund shall pay a lump sum of Rupees **two thousand five hundred** as life membership fee

17. Exgratia grant to a member of Fund:—

The Trustee Committee on an application made to it by a member of the Fund, and after being satisfied about the genuineness of the claim, may allow ex-gratia grant to such member from the Fund involving major surgical operation or he is suffering from tuberculosis, leprosy, paralysis, cancer, or from such other serious disease or disability; provided that such payment shall not exceed fifty thousand rupees and shall be subject to the availability of money in the Fund.

18. Review:—

The Trustee Committee may, on its own motion or on an application received from any person interested, within ninety days of the passing of any order by it under the provisions of this Act, review such order. If it was passed under any mistake, whether of fact or of law or in ignorance of any material fact.

Provided that the Trustee Committee shall not pass any order under this section adversely affecting any person unless such person has been given an opportunity of being heard.

19. Payment of amount on cessation of practice:—

- (1) Every advocate who has been a member of the Fund shall, on his cessation of practice, be paid an amount at the rate specified in Schedule-1

Provided that where the Trustee Committee is satisfied that a member of the Fund ceases to practice within a period of five years from the date of his admission as a member of such Fund as a result of any permanent disability, the Trustee Committee may pay to such member an amount at the rate specified in Schedule 1

- (2) For calculating the period of completed years of practice for the purpose of payment from the fund under this act, every four years of practice at the Bar, if any, before the admission of a member to the Fund shall be computed as one year of practice and added on to the number of years of practice after such admission.
- (3) Where a member of the Fund dies before receiving the amount payable under sub-Section (1), his nominee or legal heir, as the Case may be, shall be paid the amount payable to the deceased member of the Fund.

20. Restriction on alienation, attachment, etc of interest of member in Fund:—

- (1) The interest of any member in the Fund, or the right of a member of the Fund or his nominee or legal heir to receive any amount from the Fund, shall not assigned, alienated, or charged and shall not be liable to attachment under any decree or order of any court, tribunal or other authority.

- (2). No creditor shall be entitled to proceed against the Fund or the interest therein of any member of the Fund or his nominee or legal heir.

Explanation:- for the purposes of this section, creditor includes the State or an official assignee or official receiver appointed under the law relating to insolvency for the time being in force.

21. Group Life Insurance for members of Fund and other benefits:—

The Trustee Committee may, for the welfare of the members of the Fund.

- (a) Obtain, from the Life Insurance Co-operation of India or any other insurer, policies of Group Insurance on the life of the Members of the Fund.
- (b) Provide, in such manner as may be prescribed, for medical and educational facilities for the members of the Fund for purchase and their dependants; or
- (c) Provide monies to the members of the Fund for purchase of books; or
- (d) Provide monies to construct or maintain common facilities for the members of the Fund.

Provided that the Trustee Committee shall spend ten percent of the total annual subscription received under sub-section (5) of Section 16 on the

construction or maintenance of common facilities for the member of the Fund practicing in the subordinate courts, or

- (e) Provide fund for any other purpose which the Trustee Committee may specify ; or
- (f) Provide for such other benefits as may be prescribed.

22. Appeal against decision or order of Trustee Committee:—

- (1) An appeal against any decision or order of the Trustee Committee shall lie to the State Bar Council.
- (2) The appeal shall be in the prescribed form and shall be accompanied by
 - (a) a copy of the decision or order appealed against;
 - (b) a receipt evidencing payment of one hundred rupees to the credit of the account of the State Bar Council.
- (3) The appeal shall be filed within thirty days from the date of receipt of the decision or order appealed against.
- (4) The decision of the State Bar Council on such appeal shall be final.

CHAPTER VI

PRINTING, DISTRIBUTION AND CANCELLATION OF STAMPS

23. Printing or to set up Franking Machines to ensure the availability of Advocates Welfare Stamps and distribution of Advocates' Welfare Fund Stamps by State Bar Council.

- (1) The State Government shall, on a request made by the State Bar Council in this behalf, shall cause to be printed and distributed **Advocates' Welfare Fund Stamps of the value of fifteen rupees or such other value**, which may be prescribed, inscribing therein the Bar Council Emblem and its value inscribed therein.
- (2) Every stamp referred to in sub-section (1) shall be of the size 1 inch x 2 inch.
- (3) The custody of the stamps shall be with the State Government.
- (4) The State Government shall control the distribution and sale of the stamps through the stamp vendors appointed for the sale of court fees stamps.
- (5) The State Government shall keep proper accounts of the stamps in such form and manner as may be prescribed and the sale proceeds of such stamp shall be transferred to the fund after deduction of commission charges and the cost incurred by the state government on the printing of these stamps on closing of every financial year along with statement showing details of number of welfare stamps printed and sold during last financial year and the commissions paid and amount credited to the fund to be furnished before Trustee Committee.

- (6) The system of printing of the welfare stamps should be gradually replaced by Franking Machines over a period of two years.

24. Vakalatnama and Affidavits to bear stamps:—

1. Every advocate shall affix **above referred Welfare Stamps (or through franking machine)** of a value of fifteen **rupees** on every **Vakalatnama and affidavits**.

Explanation:— Affidavits means any and every affidavit including affidavits made by Notary or for the purpose of filing in any Court, Tribunal or any other authority or High Court.

2. The value of the stamp shall neither be cost in a case nor be collected in any event from the client.
3. Any contravention of the provisions of sub-section (1) or sub-section (2) by any advocate shall disentitle him either in whole or in part to the benefits of the Fund and the Trustee Committee shall report such contravention to the State Bar Council for appropriate action.
4. Every stamp affixed on every vakalatnama filed before any court or a tribunal or other authority or the High Court shall be canceled in such manner as may be prescribed.
5. No vakalatnama or affidavit shall be valid or filed before or received by any court, tribunal or other authority unless it has the welfare stamps as mentioned in sub-section(1) above.

CHAPTER VII **MISCELLANEOUS**

25. Protection of action taken in good faith:—

No suit prosecution or other legal proceedings shall lie against the Trustee Committee or the Trustee Committee or the Chairperson or a Member or the Secretary of the Trustee Committee or the State Bar Council or any person or anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

26. Bar of jurisdiction of civil court:—

No civil court shall have jurisdiction to settle , decided or deal with any question or to determine any matter which is by or under this act required to be settled, decided or dealt with or to be determined by the Trustee Committee or the State Bar Council or the Administrative Department.

27. Power to summon witnesses and take evidence:—

The Trustee Committee and the State Bar Council shall, for the purpose of any enquiry under this Act, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely.

- (a) enforcing the attendance of any person or examining him on oath.
- (b) requiring the discovery and production of documents.
- (c) receiving evidence on affidavit.
- (d) issuing commissions for the examination of witnesses;
- (e) any other matter which may be prescribed.

28. Power to amend Schedules:—

The Trustee Committee may after approval of the Bar Council may, by notification, and having due regard to the availability of the amount in the Fund, amend the rates specified in Schedule -1 or may notify any other welfare schemes prepared under section(9)(2)(i).

29. Power of the State Government to issue directions:—

- (1) without prejudice to the generality of the foregoing provisions of this Act, the Trustee Committee shall, in exercise of the powers or the performance of its functions under this Act, be bound by such directions on question of policy, other than those relating to professional and administrative matters, as the State Government may give in writing to it from time to time.

Provided that the Trustee Committee shall, as far as practicable, be given an opportunity to express its view before any direction is given under this sub-section;

- (2) The decision of the State Government, whether a question is one of policy or not, shall be final.

30. Power to State Government to supersede Trustee Committee:—

- (1) If at any time the State Government is of the opinion
 - (a) that, on account of circumstances beyond the control of the Trustee Committee, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or
 - (b) that the Trustee Committee has persistently defaulted in complying with any direction given by the State Government under this Act or in the discharge of the functions or performance of the duties imposed on it or under the provisions of this Act; or
 - (c) that circumstances exist which render it necessary in the public interest so to do, the State Government may, by notification and for reasons to be specified therein, supersede the Trustee Committee for such period, not exceeding six months , as may be specified in the notification and appoint, in consultation with the Chief Justice of the High Court, a judge of the High Court to be the controller of the Trustee Committee: -

Provided that before issuing any such notification, the State Government shall give a reasonable opportunity to the Trustee Committee to make representations against the proposed suppression and shall consider the representations, if any, of the Trustee Committee.

- (2) Upon the publication of a notification under sub-section (1) superseding the Trustee Committee,
 - (a) the Chairperson, Members and the Secretary of the Trustee Committee shall, as from the date of suppression, vacate their offices as such;
 - (b) all powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Trustee Committee shall, until the Trustee Committee is reconstituted under sub-section (3), be exercised and discharged by the controller of the Trustee Committee; and
 - (c) all properties and fund owned or controlled the by the Trustee Committee shall, until the Trustee Committee is reconstituted under sub-section (3) vest in the State Government.
- (3) On or before the expiration of the period of suppression specified in the notification issued under sub-section (1), the State Government shall reconstitute the Trustee Committee by a fresh appointment of its Chairperson, Members and Secretary of such committee and in such case a person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for re-appointment.
- (4) The State Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before the State Legislature, at the earliest.

31. Power of the State Government to make rules:—

- (1) The State Government without prejudice to the generality of the foregoing power may, by notification, make rules for carrying out the provisions of this Act not inconsistent with the rules, if any, made by the Central Government.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely.
 - (a) the periodical and annual reports to be sent under clause (h) of Section 12;
 - (b) the form and the manner in which the annual statement of accounts and annual report shall be prepared under clause (h) of Section 12;

- (c) the forms, registers and other records to be maintained under clause (g) of Section 12;
- (d) the form in which an association of advocates may apply for recognition to the State Bar Council under sub-section (1) or sub-section (2) of Section 14;
- (e) the form in which a certificate of recognition shall be issued by the State Bar Council under sub-section (4) of Section 14;
- (f) the form in which an advocate shall apply for admission as a member of the Fund under sub-section (1) or sub-section (2) of Section 16;
- (g) the principles in accordance with which the amount payable to a member of the Fund be reduced under sub-section (12) of Section 16;
- (h) the manner of providing medical and educational facilities for the members of the Fund and their dependants under clause (b) of Section 21;
- (i) the other benefits to be provided under clause (f) of Section 21;
- (j) the form of appeal under sub-section (2) of Section 22.
- (k) the value and design of stamps to be printed and distributed under sub-section (1) of Section 23;
- (1) the form and the manner in which accounts of the stamps shall be kept under sub-section (1) of Section 23;
- (m) the value of stamps to be affixed on every vakalatnama under sub-section (1) of Section 24;
- (n) the manner of cancellation of stamps under sub-section (4) of Section 24;
- (p) any other matter which is to be, or may be, prescribed.

32. Rules and Notifications to be laid before State Legislature:—

- (1) Every rule made under this Act by the State Government and every notification issued under Section 30 shall be laid, as soon as may be after it is made, before the State Legislature.

33. Saving:—

All acts done in pursuance with the provisions of the Bihar State Advocates' Welfare Fund Act, 1983 (16 of 1983) and its amendments therein, in good faith, since coming into existence of the State of Jharkhand and immediately before coming into force of this Act, shall not be invalidated by reasons of the fact that this Act was not in force at that material point of time.

SCHEDULE-I
(See section 9, 10 & 17 (I))

Completed years as Member of Trustee Committee	Benefit (in rupees) in case of Death	Benefit on voluntary retirement (in rupees)
1	2	3
1 year	2,60,000/-	-
2 year	2,60,000/-	-
3 year	2,60,000/-	-
4 year	2,60,000/-	-
5 year	2,60,000/-	-
6 year	2,65,000/-	11,000/-
7 year	2,70,000/-	12,000/-
8 year	2,80,000/-	13,000/-
9 year	2,90,000/-	14,000/-
10 year	3,00,000/-	15,000/-
11 year	3,10,000/-	18,000/-
12 year	3,20,000/-	21,000/-
13 year	3,30,000/-	24,000/-
14 year	3,40,000/-	27,000/-
15 year	3,50,000/-	30,000/-
16 year	3,60,000/-	35,000/-
17 year	3,70,000/-	40,000/-
18 year	3,80,000/-	45,000/-
19 year	3,90,000/-	50,000/-
20 year	4,00,000/-	55,000/-
21 year	4,10,000/-	62,000/-
22 year	4,20,000/-	69,000/-
23 year	4,30,000/-	76,000/-
24 year	4,40,000/-	83,000/-
25 year	4,50,000/-	90,000/-
26 year	4,60,000/-	1,00,000/-
27 year	4,70,000/-	1,10,000/-
28 year	4,80,000/-	1,20,000/-
29 year	4,90,000/-	1,30,000/-
30 year	5,00,000/-	2,00,000/-

31 year	5,10,000/-	2,10,000/-
32 year	5,20,000/-	2,20,000/-
33 year	5,30,000/-	2,30,000/-
34 year	5,40,000/-	2,40,000/-
35 year	5,50,000/-	2,50,000/-
36 year	5,60,000/-	2,60,000/-
37 year	5,70,000/-	2,70,000/-
38 year	5,80,000/-	2,80,000/-
39 year	5,90,000/-	2,90,000/-
40 year	6,00,000/-	3,00,000/-
41 year	6,10,000/-	3,15,000/-
42 year	6,20,000/-	3,30,000/-
43 year	6,30,000/-	3,45,000/-
44 year	6,40,000/-	3,60,000/-
45 year	6,50,000/-	3,75,000/-
46 year	6,60,000/-	3,90,000/-
47 year	6,70,000/-	4,05,000/-
48 year	6,80,000/-	4,20,000/-
49 year	6,90,000/-	4,35,000/-
50 years & above	7,00,000/-	4,50,000/-

Authorised signatory

Statement of financial implications regarding this enactment there will be no financial burden to the State Exchequer due to this enactment save and except its publication cost.

Authorized Signatory

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सरकार के सचिव-सह-विधि परामर्शी
विधि (विधान) विभाग, झारखण्ड, राँची।



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असाधारण अंक

झारखण्ड सरकार द्वारा प्रकाशित

संख्या 132

17 फाल्गुन, 1934 शकाब्द
राँची, शुक्रवार 8 मार्च, 2013

विधि (विधान) विभाग

अधिसूचना

4 फरवरी, 2013

संख्या—एल0जी0—15/2012—06/लेज0, झारखण्ड विधान मंडल का निम्नलिखित अधिनियम, जिस पर राज्यपाल दिनांक 28 फरवरी, 2013 को अनुमति दे चुके हैं, इसके द्वारा सर्वसाधारण की सूचना के लिए प्रकाशित किया जाता है।

झारखण्ड अधिवक्ता कल्याण निधि अधिनियम, 2012

झारखण्ड राज्य के अधिवक्ताओं की मृत्यु, स्थायी निःशक्तता, सेवानिवृत्ति, बीमारी आदि में उन्हें लाभ पहुँचाने के लिए कल्याण निधि के गठन और इससे संबंधित या आनुषंगिक विषयों का उपबंध करने हेतु एक अधिनियम।

झारखण्ड के राज्य विधान मंडल द्वारा भारत गणराज्य के तिरसठवें वर्ष में निम्नलिखित रूप में यह अधिनियमित हो —

vè; k &1

i kj fEHd

1. l {kr uke} foLrkj vl\$ i kj EHk &

1. यह अधिनियम झारखण्ड अधिवक्ता कल्याण निधि अधिनियम, 2012 कहा जा सकेगा।
2. इसका विस्तार सम्पूर्ण झारखण्ड में होगा।
3. यह तत्काल प्रभाव से प्रवृत्त होगा।

4. यह उन व्यक्तियों पर लागू नहीं होगा जो नौकरी या व्यवसाय से सेवानिवृत्त हुए हैं तथा न्यासी समिति (ट्रस्टी कमिटी) या अपने नियोक्ता से सेवानिवृत्ति लाभ पा रहे हैं या उसके हकदार हैं।

2- ifjHk'kk ; &

1. इस अधिनियम में, जबतक कि संदर्भ से अन्यथा अपेक्षित न हो –
- (क) “अधिवक्ता” से अभिप्रेत है, वह अधिवक्ता जिसका नाम अधिवक्ता अधिनियम, 1961 (1961 का अधिनियम संख्यांक 25) की धारा 17 के अधीन राज्य विधिज्ञ परिषद् (बार काउंसिल) द्वारा तैयार और अनुरक्षित राज्य नामावली में प्रविष्ट हो तथा वह जो राज्य के बार एसोसिएशन अथवा विधिज्ञ परिषद् (बार काउंसिल) का सदस्य हो;
- (ख) “अधिवक्ता संघ (एडवोकेट एसोसिएशन)” से अभिप्रेत है, झारखण्ड राज्य विधिज्ञ परिषद् की धारा 14 द्वारा मान्यता प्राप्त अधिवक्ताओं का संघ;
- (ग) “बार एसोसिएशन” से अभिप्रेत है, झारखण्ड राज्य में अधिवक्ताओं का वह संघ, जो झारखण्ड राज्य विधिज्ञ परिषद् की धारा 14 द्वारा मान्यता प्राप्त हो;
- (घ) “विधिज्ञ परिषद् (बार काउंसिल)” से अभिप्रेत है, अधिवक्ता अधिनियम, 1961 (1961 का 25) की धारा 3 के अधीन गठित झारखण्ड राज्य विधिज्ञ परिषद्;
- (ङ) “वकालत की समाप्ति” से आशय है, अधिवक्ता अधिनियम, 1961 (1961 का 25) की धारा 26 'अ' / 26। के अधीन तैयार राज्य नामावली में से अधिवक्ता का नाम हटाया जाना;
- (च) “अध्यक्ष” से अभिप्रेत है, धारा-4 की उपधारा (4) के खंड (अ) में वर्णित न्यासी समिति के अध्यक्ष;
- (छ) “चार्टर्ड एकाउंटेड” से अभिप्रेत है, चार्टर्ड एकाउंटेड अधिनियम, 1949 (1949 का अधिनियम संख्यांक 38) की धारा-2 की उपधारा-(1) के खंड (ख) यथा परिभाषित चार्टर्ड एकाउंटेड तथा जो उसी अधिनियम की धारा-6 की उपधारा (1) के अधीन व्यवसाय करने (प्रैक्टिस) का प्रमाण-पत्र प्राप्त करने वाले व्यक्ति;
- (ज) “न्यायालय” के अन्तर्गत कोई भी न्यायाधिकरण अथवा प्राधिकारी जिसके समक्ष एक अधिवक्ता किसी तत्समय प्रवृत्त विधि के अधीन या द्वारा, वकालत करने के हकदार हो, शामिल हैं;
- (झ) “आश्रित” से अभिप्रेत है, निधि के सदस्य का पत्नी, माता-पिता अथवा अवैध संतान समेत अवयस्क बच्चे।
- (ञ) “निधि” से अभिप्रेत है, धारा-3 की उपधारा (1) के अधीन गठित अधिवक्ता कल्याण निधि;
- (ट) “बीमाकर्ता” का वही अर्थ है जो बीमा अधिनियम, 1938 (1938 का 4) की धारा-2 की खंड-9 में हैं;

- (ठ) "निधि का सदस्य" से अभिप्रेत है, निधि की प्रसुविधि प्राप्त करने को अनुमत तथा इस अधिनियम के प्रावधानों के अधीन उसका सदस्य बना रहने वाला अधिवक्ता;
- (ड) "अधिसूचना" से अभिप्रेत है, राज्य सरकार के सरकारी गजट में प्रकाशित अधिसूचना;
- (ढ) "विहित" से इस अधिनियम के अधीन बनाए गए नियमों द्वारा विहित अभिप्रेत हैं;
- (ण) "सेवानिवृत्ति" से अभिप्रेत है, अधिवक्ता के रूप में विधि व्यवसाय/वकालत बंद किया जाना जिसकी सूचना विधिज्ञ परिषद् को दे दी गई हो और जिसे परिषद् ने दर्ज कर लिया हो;
- (त) "अधिसूची" से तात्पर्य है, इस अधिनियम की अधिसूची;
- (थ) "अनुसूचित बैंक" का वही अर्थ है जो भारतीय रिजर्व बैंक अधिनियम, 1934 (1934 का 2) की धारा-2 के खंड (ई0) में है;
- (द) "स्टाम्प" से अभिप्रेत है, धारा 24 के अधीन मुद्रित तथा वितरित अधिवक्ता कल्याण निधि स्टाम्प;
- (ध) "वकालत का निलंबन" से आशय है, अधिवक्ता के रूप में विधि व्यवसाय का स्वैच्छिक निलंबन अथवा दुराचरण के कारण झारखण्ड विधिज्ञ परिषद् द्वारा निलम्बन;
- (न) "न्यासी समिति" से अभिप्रेत है, धारा-4 की उपधारा (1) के अधीन गठित अधिवक्ता कल्याण निधि न्यासी समिति;
- (प) "वकालतनामा" के अन्तर्गत हाजिरी ज्ञापन या कोई अन्य दस्तावेज जिसके द्वारा एक अधिवक्ता को किसी न्यायालय, न्यायाधिकरण अथवा अन्य प्राधिकारी के समक्ष हाजिर होने या वकालत करने की शक्ति प्रदान की जाती है;
2. उन शब्दों और पदों के जो इस अधिनियम में प्रयुक्त हैं और परिभाषित नहीं हैं, किन्तु अधिवक्ता अधिनियम, 1961 (1961 का 25) में परिभाषित हैं, वही अर्थ है जो उस अधिनियम में है।

v/; k &2

vf/koDrk dY; k k fuf/k dk xBu

3- vf/koDrk dY; k k fuf/k &

1. राज्य सरकार एक निधि गठित करेगी जिसे अधिवक्ता कल्याण निधि कहा जाएगा।
2. निधि में निम्नलिखित रकमें जमा की जाएगी।
 - (क) राज्य विधिज्ञ परिषद् (बार काउंसिल) द्वारा धारा 13 के अधीन दी गई सभी रकम;
 - (ख) राज्य विधिज्ञ परिषद् द्वारा किया गया कोई अन्य अंशदान;

- (ग) 'भारतीय विधिज्ञ परिषद्' राज्य के किसी विधिज्ञ संघ (बार एसोसिएशन) या अधिवक्ता संघ (एडवोकेट एसोसिएशन) या अन्य संघ या संस्था, या किसी अधिवक्ता या अन्य व्यक्ति द्वारा निधि में किया गया स्वैच्छिक दान या अंशदान;
- (घ) केन्द्र सरकार या राज्य सरकार द्वारा निधि में दिया गया कोई अनुदान;
- (ङ) धारा 10 के अधीन उधार ली गई कोई राशि;
- (च) धारा 16 के अधीन एकत्रित सभी राशि, निधि;
- (छ) सामूहिक बीमा पॉलिसी के अधीन निधि के किसी सदस्य की मृत्यु पर भारतीय जीवन बीमा निगम या किसी अन्य बीमाकर्ता से प्राप्त सभी राशि;
- (ज) निधि के सदस्यों की सामूहिक बीमा पॉलिसी के संबंध में भारतीय जीवन बीमा निगम या किसी अन्य बीमाकर्ता से प्राप्त कोई लाभ या लाभांश या वापसी;
- (झ) निधि के किसी भाग के विनिधान पर प्राप्त कोई ब्याज या लाभांश या अन्य प्रत्यागम;
- (ञ) धारा 24 के अधीन स्टाम्प की बिक्री से एकत्रित सभी राशि;
- (ट) धारा 16 के अधीन आवेदन शुल्क, वार्षिक अंशदान और उस पर प्राप्त ब्याज के रूप में एकत्रित राशि;
3. उपधारा (2) में विनिर्दिष्ट राशि ऐसी एजेंसियों को ऐसे अंतराल पर और ऐसी रीति से दी जायेगी या एकत्रित की जायेगी जैसा कि विहित किया जाए।
4. झारखण्ड अधिवक्ता कल्याण निधि का प्रशासी विभाग राज्य सरकार का विधि विभाग होगा, जिसे समय-समय पर अनुदेश देने की शक्तियाँ होंगी।

v/; k & 3

U; kl h l fefr dk LFkki uk

4- U; kl h l fefr dk LFkki uk

- सरकारी गजट में अधिसूचना निकालकर, ऐसी तारीख से, जो उसमें विहित करें, राज्य सरकार एक न्यासी समिति की स्थापना करेगी जो अधिवक्ता कल्याण निधि न्यासी समिति (एडवोकेट्स वेलफेयर फंड ट्रस्टी कमिटी) कहलाएगी।
- न्यासी समिति एक नियमित निकाय होगी जिसे शाश्वत उतराधिकार तथा जिसका सामान्य मुहर होगी, जिसे संपत्ति का अर्जन, धारण और व्ययन करने की शक्ति होगी तथा उक्त नाम से वह वाद लाएगा और उस पर वाद लाया जा सकेगा।
- न्यास समिति का मुख्यालय राँची में होगा या किसी अन्य स्थानों पर जैसा कि अधिसूचित होगा।
- न्यासी समिति निम्नलिखित से मिलकर बनेगा –
 - राज्य के महाअधिवक्ता अध्यक्ष होंगे, पदेन;
 - राज्य सरकार के विधि विभाग या मंत्रालय के सचिव होंगे, सदस्य, पदेन;
 - राज्य विधिज्ञ परिषद् के अध्यक्ष होंगे, पदेन सदस्य;

- (घ) झारखण्ड सरकार द्वारा नाम निर्देशित एक सदस्य;
 (ङ) राज्य विधिज्ञ परिषद् द्वारा नाम निर्देशित विधिज्ञ परिषद् के दो सदस्य;
 (च) कल्याण न्यासी समिति के सचिव होंगे, सचिव, पदेन;
5. उपधारा (4) के खंड (घ) या (ङ) के अधीन नाम निर्देशित न्यासी समिति के प्रत्येक सदस्य का कार्यकाल उनके पद ग्रहण करने की तारीख से, पाँच वर्ष से अधिक नहीं होगा।

परन्तु खंड (ङ) के अधीन नाम निर्देशित सदस्य पाँच वर्ष से अधिक की अवधि तक अपने पद पर बने रहेंगे जब तक कि उनके उत्तराधिकारी, उचित तरीके से गठित अगले राज्य विधिज्ञ परिषद् का नाम निर्देशित नहीं हो जाता।

5- U; kl h l fefr ds v/; {k ; k l nL; dk v; k; rk v; fu"dkl u &

1. राज्य सरकार न्यासी समिति के अध्यक्ष या किसी सदस्य को पद से हटा देगी, यदि—
- (क) वह दिवालिया न्यायनिर्णीत किया जाता है या किसी समय न्यायनिर्णीत किया जाता है;
- (ख) वह न्यासी समिति के अध्यक्ष या सदस्य के रूप में कार्य करने में शारीरिक या मानसिक रूप से अक्षम हो गया हो;
- (ग) वह किसी ऐसी अपराध के लिए सिद्धदोष ठहराया गया है जिसमें, राज्य सरकार की राय में, नैतिक अधमता अंतर्ग्रस्त है;
- (घ) वह ऐसी वित्तीय या अन्य हित अर्जित किए हैं जिनसे न्यासी समिति के अध्यक्ष या सदस्य के रूप में कृत्यों पर प्रतिकूल प्रभाव पड़ने की संभावना है;
- (ङ) उसने अपने पद का इस प्रकार दुरुपयोग किया है जिसके कारण उसका पद पर बने रहना लोक हित में हानिकारक है;
- (च) वह न्यासी समिति को लगातार तीन से अधिक बैठकों में न्यासी समिति से बिना छुट्टी लिए अनुपस्थित हैं या रहें हो।

परन्तु न्यासी समिति, पर्याप्त आधार पर ऐसे अध्यक्ष या सदस्य की अनुपस्थिति नजरअंदाज कर सकता है।

2. न्यासी समिति का कोई भी अध्यक्ष या सदस्य उपधारा (1) के खंड (घ) या खंड (ङ) के अधीन तब तक नहीं हटाया जाएगा जब तक कि उसे मामले में सुनवाई का युक्तियुक्त अवसर न दे दिया गया हो।

6- U; kl h l fefr ds uke funs' kr v/; {k rFlk l nL; k dk R; kxi = v; vldfled fjfDr; k dk Hjk t kuk &

1. धारा 4 की उपधारा (4) में निर्दिष्ट अध्यक्ष या उसी धारा की उपधारा (4) के खंड (घ) के अधीन नाम निर्देशित सदस्य, राज्य सरकार की तीन महीने की लिखित सूचना देकर अपने पद से त्याग-पत्र दे सकता है तथा उस त्याग-पत्र का राज्य सरकार द्वारा स्वीकृत होने पर वह अध्यक्ष या सदस्य अपना पद खाली कर देगा।

2. धारा 4 की उपधारा (4) के खंड (ड) के अधीन नामनिर्देशित सदस्य, राज्य विधिज्ञ परिषद् को तीन महीने की लिखित सूचना देकर अपने पद से त्याग-पत्र दे सकते हैं तथा उस त्याग-पत्र का राज्य विधिज्ञ परिषद् द्वारा स्वीकृत होने पर, वह सदस्य अपना पद खाली कर देगा।
3. उपधारा (1) में निर्दिष्ट अध्यक्ष या किसी सदस्य जिन्होंने त्याग-पत्र दे दिया है, के पद की आकस्मिक रिक्ति राज्य सरकार द्वारा छह माह के अन्दर भरी जा सकेगी तथा इस प्रकार नाम निदेशित अध्यक्ष या सदस्य तब तक ही पद धारण करेंगे, जब तक वह अध्यक्ष या सदस्य, जिनके पद पर वे नाम निदेशित हुए हैं, पद पर बने रहने के हकदार होते, यदि यह रिक्ति नहीं होती।
4. उपधारा (2) में निर्दिष्ट सदस्य, जिन्होंने त्याग-पत्र दे दिया है, के पद की आकस्मिक रिक्ति राज्य विधिज्ञ परिषद् द्वारा छह माह के अन्दर भरी जा सकेगी तथा इस प्रकार नाम निदेशित सदस्य तब तक ही यह पद धारण कर सकेंगे, जब तक वह सदस्य, जिनके पद पर वे नाम निदेशित हुए हैं, पद पर बने रहने के हकदार होते, यदि वह रिक्ति नहीं होती।

7- **fjDr; h vkn l s U; kl h l fefr dh dk; Zkf; ldk vfof/lek; u gluk &**

न्यास समिति का कोई कार्य या कार्यवाही केवल इस आधार पर अविधिमान्य नहीं होगा कि—

- (क) न्यासी समिति में कोई रिक्ति है या उसके गठन में कोई त्रुटि है; या
- (ख) न्यासी समिति के अध्यक्ष या सदस्य के रूप में कार्य करने वाले किसी व्यक्ति के नाम निदेशन में कोई त्रुटि है; या
- (ग) न्यासी समिति की प्रक्रिया में ऐसी अनियमितता है जिससे मामले के गुणागुण पर कोई प्रभाव नहीं पड़ता है।

8- **fuf/k dk fufgr gluk rFlk ml dk mi ; kt uk &**

निधि, इस अधिनियम के प्रावधानों के अध्यक्षीन और इसके प्रयोजनार्थ, न्यास समिति में निहित होगी और वही उसे धारित और उपयोजित करेगी।

9- **U; kl h l fefr ds dR; l &**

1. इस अधिनियम के प्रावधानों तथा तत्सम प्रवृत्त किसी अन्य विधि के अध्यक्षीन, न्यासी समिति, निधि का प्रशासन करेगी।
2. उपधारा (1) के प्रावधानों की व्यापकता पर प्रतिकूल प्रभाव डाले बिना, न्यासी समिति
 - (क) न्यास निधि की राशियों और अस्तियों को धारण करेगी;
 - (ख) निधि के सदस्य के रूप में प्रवेश या पुनः प्रवेश के लिए आवेदन प्राप्त करेगी तथा ऐसे आवेदन प्राप्त होने की तारीख से नब्बे दिनों के भीतर उनका निपटारा करेगी;
 - (ग) निधि से भुगतान के लिए निधि के सदस्यों, उनके नाम निदेशितियों या कानूनी उतराधिकारियों, जैसा मामला हो, से आवेदन प्राप्त करेगी, ऐसे आवेदनों के

निपटारे के लिए यथावश्यक जाँच करायेगी और आवेदनों के प्राप्त होने की तारीख से तीन महीनों के भीतर उनका निपटारा करेगी;

- (घ) न्यासी समिति की कार्यवृत्त बही में आवेदन पर लिए गए निर्णय अभिलिखित करेगी;
- (ङ) निधि में राशि की उपलब्धता के अध्यक्षीन, निधि के सदस्यों या उनके नाम निदेशितियों या कानूनी उतराधिकारियों, जैसा मामला हो, को अनुसूची – अ/A में विनिर्दिष्ट दर से राशियों का भुगतान करेगी;
- (च) राज्य सरकार तथा राज्य विधिज्ञ परिषद् को यथाविहित आवधिक और वार्षिक प्रतिवेदन भेजेगी।
- (छ) निधि में प्रवेश या पुनः प्रवेश के लिए दिए गए आवेदनों या निधि से फायदा प्राप्त करने संबंधी दावों के संबंध में, न्यासी समिति के निर्णयों की सूचना आवेदकों की पावती सहित निबंधित डाक या इलेक्ट्रॉनिक माध्यम से भेजेगी;
- (ज) ऐसे अन्य कार्य करेगी जिनका किया जाना इस अधिनियम और इसके अधीन बनाए गए नियमों के अधीन अपेक्षित हो या अपेक्षित हो सकता है।
- पर्याप्त निधि की उपलब्धता पर राज्य विधिज्ञ परिषद् के अनुमोदन के बाद,
- (झ) सदस्यों के व्यापक हितों में ऐसे सभी कल्याण कार्ययोजना (स्कीम) बनाएगी और लागू करेगी या अपने अनुसूची-1 में संशोधन करेगी, जो यह उचित समझे तथा प्रत्येक पाँच वर्ष में कम-से-कम एक बार 'अपेक्षित वृद्धि' के लिए अपने सभी कल्याण कार्ययोजनाओं (स्कीम) की समीक्षा करेगी।

10- m/kj vls fofu/ku@fuos k&

1. न्यासी समिति, राज्य सरकार तथा राज्य विधिज्ञ परिषद् के पूर्व अनुमोदन से, इस अधिनियम के प्रयोजनों को कार्यान्वित करने के लिए समय-समय पर कोई भी राशि उधार ले सकेगी।
2. न्यासी समिति, निधि के भाग के रूप में सभी धन और प्राप्तियाँ किसी अनुसूचित बैंक में जमा करेगी अथवा उसे राज्य सरकार द्वारा स्वाधिकृत या निमंत्रित कोई निगम को दिये जानेवाले ऋण प्रपत्रों में निवेश करेगी अथवा राज्य सरकार द्वारा लिये जाने वाले ऋणों या किसी अन्य रीति से जैसा कि राज्य विधिज्ञ परिषद्, समय समय पर, राज्य सरकार की पूर्व अनुमोदन से, निदेशित करें।
3. इस अधिनियम के अधीन शोध्य और भुगतये सभी राशियों का तथा निधि के प्रबंध और प्रशासन संबंधी सभी खर्च का भुगतान निधि से किया जाएगा।

11- yslk vls yslk ijhlk &

1. न्यासी समिति, उचित लेखा तथा अन्य सुसंगत अभिलेख रखेगा तथा लेखाओं का वार्षिक विवरण तथा वार्षिक प्रतिवेदन ऐसे प्रारूप तथा ऐसी रीति से तैयार करेगा जो, विहित हो।

2. न्यासी समिति के लेखाओं की संपरीक्षा राज्य विधिज्ञ परिषद् द्वारा नियुक्त चार्टर्ड अकाउंटेंट द्वारा प्रत्येक वर्ष की जाएगी।
3. चार्टर्ड अकाउंटेंट द्वारा संपरीक्षित न्यासी समिति के लेखों, तद्विषयक संपरीक्षा रिपोर्ट सहित राज्य विधिज्ञ परिषद् को उस समिति द्वारा भेजे जाएंगे और राज्य विधिज्ञ परिषद्, न्यास समिति को इस संबंध में, जैसा वह उचित समझें, ऐसे निदेश जारी करेगा।
4. उपधारा (3) के अधीन राज्य विधिज्ञ परिषद् द्वारा जारी निर्देशों का अनुपालन न्यासी समिति द्वारा किया जाएगा।
5. ऐसे संपरीक्षा के संबंध में उपगत शुल्क न्यासी समिति द्वारा निधि से दिया जाएगा जैसा कि राज्य विधिज्ञ परिषद् द्वारा निर्धारित हो।

12- l fpo dh 'kDr; k vks drD

U; kl h l fefr ds l fpo &

- (क) न्यासी समिति का मुख्य कार्यपालक प्राधिकारी होगा और उसके निर्णयों को कार्यान्वित करने के लिए जिम्मेवार होगा;
- (ख) न्यासी समिति के निमित्त और उसके विरुद्ध सभी वादों और कार्यवाहियों में न्यासी समिति का प्रतिनिधित्व करेगा;
- (ग) न्यासी समिति के सभी निर्णयों और अनुदेशों को अपने हस्ताक्षर से अधिप्रमाणित करेगा;
- (घ) अध्यक्ष के साथ संयुक्त रूप से न्यासी समिति का बैंक लेखा परिचालित करेगा;
- (ङ) न्यासी समिति का बैठक आयोजित करेगा और उसका कार्यवृत्त तैयार करेगा;
- (च) सभी आवश्यक अभिलेखों एवं सूचना के साथ न्यासी समिति की बैठकों में भाग लेना;
- (छ) समय-समय पर यथाविहित प्रपत्र, रजिस्टर और अन्य अभिलेख रखेगा तथा न्यासी समिति से संबंधित सभी पत्राचार करेगा;
- (ज) प्रत्येक वित्त वर्ष के दौरान न्यासी समिति द्वारा सम्पादित कार्य का वार्षिक विवरण तैयार करेगा;
- (झ) ऐसे अन्य कार्य करेगा जैसा कि न्यासी समिति या उसके अध्यक्ष तथा राज्य विधिज्ञ परिषद् द्वारा निदेशित किया जाए।

13- jkT; fof/kK i fj "kn~} jk k fuf/k eadN /ku dk Hqrku &

राज्य विधिज्ञ परिषद्, अधिवक्ता अधिनियम, 1961 (1961 का 25) की धारा 24 के खंड (च) के अधीन इसको प्राप्त नामांकन शुल्क के 20 प्रतिशत (के बराबर) की राशि प्रत्येक वर्ष निधि में जमा कर देगी।

v/; k &4

vf/koDrkvks ds fdl h l ak dk eku; rk

14- jkT; fof/kK i fj "kn~} jk k vf/koDrkvks ds fdl h l ak dk eku; rk &

1. इस अधिनियम के प्रारम्भ होने की तिथि से पूर्व, अधिवक्ताओं का कोई संघ जो किसी भी नाम से, एक संघ के रूप में पंजीकृत है, राज्य विधिज्ञ परिषद् से, ऐसे प्रपत्र में, जैसा कि विहित हो, मान्यता प्राप्त करने के लिए आवेदन कर सकेगी।
2. इस अधिनियम के प्रारम्भ होने की तिथि के बाद या तिथि को, अधिवक्ताओं का कोई संघ, जो किसी भी नाम से, एक संघ के रूप में पंजीकृत है, इसे एक संघ के रूप में पंजीकरण की तिथि से तीन माह के भीतर, राज्य विधिज्ञ परिषद् को यथाविहित प्रपत्र में, मान्यता प्राप्त करने के लिए आवेदन कर सकेगी।
3. उपधारा (2) अथवा धारा (1) के अधीन मान्यता प्राप्त करने के प्रत्येक आवेदन के साथ—
 - (क) संघ के नियमों अथवा उप-विधियों की प्रति होगी।
 - (ख) संघ के पदाधिकारियों का नाम तथा पता होगा।
 - (ग) संघ के सदस्यों की सूची जिसमें नाम, पता, उम्र, राज्य विधिज्ञ परिषद् में नामांकन संख्या तथा नामांकन की तिथि का उल्लेख और प्रत्येक सदस्य के वकालत करने का सामान्य स्थान दिया रहेगा।
4. राज्य विधिज्ञ परिषद्, ऐसे जाँच-पड़ताल, जैसा यह उचित समझे, के बाद संघ को मान्यता प्रदान करेगी तथा यथा-विहित प्रपत्र में मान्यता प्रमाण-पत्र निर्गत कर सकेगी।
5. उपधारा (4) के अधीन किसी संघ के मान्यता से संबंधित किसी मामले पर राज्य विधिज्ञ परिषद् का निर्णय अंतिम होगा।

स्पष्टीकरण – इस धारा में, पंजीकृत से अभिप्रेत है, राज्य विधिज्ञ परिषद् द्वारा मान्यता प्राप्त / संबद्धता।

15- jkT; ds fof/kK l 2ka 1/2kj , l kfl , 'ku1 1/2 vS vf/koDrk l 2ka 1/4MokdV1 , l kfl , 'ku1 1/2ds drD &

1. राज्य के प्रत्येक विधिज्ञ संघ और अधिवक्ता संघ प्रत्येक वर्ष के 15 अप्रैल अथवा उससे पूर्व, राज्य विधिज्ञ परिषद् को उस वर्ष 31 मार्च तक यथाविधमान अपने सदस्यों की सूची उपलब्ध करायेगा।
2. राज्य के प्रत्येक विधिज्ञ संघ तथा अधिवक्ता संघ, राज्य विधिज्ञ परिषद् को निम्न के बारे में सूचित करेगा –
 - (क) सदस्यता में कोई परिवर्तन, जिसमें प्रवेश एवं पुनर्प्रवेश भी शामिल है, ऐसे परिवर्तन 30 दिनों के भीतर;
 - (ख) किसी सदस्य के मृत्यु, वकालत की समाप्ति अथवा वकालत की स्वैच्छिक निलम्बन, ऐसी घटना के 30 दिनों के भीतर;
 - (ग) ऐसे अन्य मामले, जो राज्य विधिज्ञ परिषद् द्वारा समय-समय पर अपेक्षित हो;

v/; k; &5

vf/koDrk dY; k k fuf/k dh l nL; rk , oaml l s Hqrku

16- fuf/k dh l nL; rk &

1. इस अधिनियम के प्रारम्भ होने के पूर्व, किसी न्यायालय, न्यायाधिकरण अथवा अन्य प्राधिकारी के समक्ष वकालत करने वाला प्रत्येक अधिवक्ता, राज्य में विधिज्ञ संघ अथवा अधिवक्ता संघ के सदस्य होने के नाते, न्यासी समिति में, निधि के सदस्य के रूप में स्वीकृति के लिए, ऐसे प्रपत्र में, जैसा कि विहित हो, में आवेदन कर सकेगा।
2. प्रत्येक व्यक्ति –
 - (क) इस अधिनियम के प्रारम्भ होने के बाद, राज्य विधिज्ञ परिषद् के नामावली में एक अधिवक्ता के रूप में स्वीकृत हो;
 - (ख) राज्य में किसी न्यायालय, न्यायाधिकरण अथवा अन्य प्राधिकारी के समक्ष वकालत करने तथा राज्य के विधिज्ञ संघ अथवा अधिवक्ता संघ के सदस्य होने के नाते, न्यासी समिति में, निधि के सदस्य के रूप में स्वीकृति के लिए यथाविहित प्रपत्र में आवेदन कर सकेगा।
3. उपधारा (1) अथवा उपधारा (2) के अधीन आवेदन प्राप्त होने पर, न्यासी समिति यथावश्यक जाँच-पड़ताल करेगी तथा या तो आवेदक को निधि में सम्मिलित कर लेगी या ऐसे कारणों से आवेदन रद्द कर देगी, जो अभिलिखित किये जायेंगे।
4. प्रत्येक आवेदक, आवेदन-पत्र के साथ पाँच सौ रुपये का आवेदन शुल्क न्यासी समिति के खाता में जमा करेगा और उसके बाद अपनी सदस्यता बरकरार रखने के लिए प्रति वर्ष 200 रुपये अदा करेगा।
5. प्रत्येक अधिवक्ता, निधि के सदस्य होने के नाते, दो हजार पाँच सौ रुपये का आजीवन चंदा (सब्सक्रिप्शन) दे सकता है।
6. निधि के वे सदस्य, जो उस वर्ष के 31 मार्च तक, वार्षिक चंदा नहीं दे पाते हैं, उनकी निधि से सदस्यता समाप्त कर दी जाएगी।
7. उपधारा 6 के अधीन निधि के वे सदस्य जिसकी सदस्यता निधि से समाप्त कर दी गयी है, उन्हें सदस्यता समाप्ति की तिथि से छह महीने के भीतर एक सौ रुपये नामांकन शुल्क सहित बकाया भुगतान करने पर पुनः निधि में शामिल कर लिया जाएगा।
8. निधि के प्रत्येक सदस्य, निधि की सदस्यता प्राप्ति के समय अपनी उस रकम को प्राप्त करने का अधिकार देने के लिए एक या एक से अधिक आश्रितों का नाम निदेशित करेगा, जो इस अधिनियम के अधीन सदस्य को देय कोई राशि, उसकी मृत्यु हो जाने की स्थिति में निधि से देय हो सकेगी।
9. यदि कोई सदस्य उपधारा 8 के अधीन एक से अधिक व्यक्तियों का नाम निदेशित करे, तो वह नाम निदेशन में, प्रत्येक नाम निदेशित व्यक्ति को देय राशि या शेयर का उल्लेख करेगा।
10. निधि का कोई सदस्य, किसी भी समय, न्यासी समिति को लिखित सूचना भेजकर नाम निर्देशन रद्द कर सकेगा।
11. निधि का प्रत्येक सदस्य, जो उपधारा 10 के अधीन अपना नाम निदेशन रद्द करता है, वह एक सौ रुपये निबंधन शुल्क के साथ नया नाम निदेशन कर सकेगा।

12. निधि का प्रत्येक सदस्य जिसका नाम अधिवक्ता अधिनियम, 1961 (1961 का 25) की धारा 26 'ए' के अधीन राज्य नामावली से हटा दिया गया है अथवा वह अपनी इच्छा से वकालत निलंबित कर दे, ऐसे निलम्बन अथवा निष्कासन के पन्द्रह दिनों के भीतर, इस आशय की सूचना न्यासी समिति को देगा और यदि कोई सदस्य बिना किसी उपयुक्त कारण के, ऐसा करने में चूक करे तो न्यासी समिति, यथाविहित सिद्धान्तों के अनुरूप, इस अधिनियम के अधीन उस को देय राशि घटा सकेगा।
13. प्रत्येक आवेदक जो निधि का सदस्य बनने को इच्छुक है, वह दो हजार पाँच सौ रुपये एकमुश्त चंदा, आजीवन सदस्यता शुल्क अथवा धारा 16(4) के अधीन वार्षिक फीस के रूप में अदा करेगा।

17- fuf/k ds l nL; dls vuqꣳg vuqꣳku &

निधि के सदस्य द्वारा इसे किये गए आवेदन पर न्यासी समिति, दावा की प्रमाणिकता के बारे में संतुष्ट होने के बाद, ऐसे सदस्य, जिसमें वृहत् शल्यक्रिया संबंधी ऑपरेशन, शामिल है या क्षयरोग, कोढ़, लकवा, कैंसर या ऐसे अन्य बीमारी या असमर्थता से ग्रस्त हैं, को निधि से अनुग्रह अनुदान दी जा सकेगी।

परन्तु ऐसे भुगतान पचास हजार रुपये से अधिक नहीं होगी तथा यह निधि में धन की उपलब्धता पर निर्भर करेगी।

18- l ehkk &

न्यासी समिति, अपने प्रस्ताव पर अथवा किसी व्यक्ति जो हितबद्ध हो, से प्राप्त आवेदन पर, इस अधिनियम के प्रावधानों के अधीन 90 दिनों के भीतर अपने द्वारा पारित किसी आदेश की समीक्षा कर सकता है यदि यह भूल जो कि चाहे तथ्यों की हो अथवा विधि की अथवा किसी महत्वपूर्ण तथ्य के अनभिज्ञता में, पारित की गई हो।

बशर्ते न्यासी समिति इस धारा के अधीन कोई ऐसा आदेश, जो किसी व्यक्ति को प्रतिकूल रूप से प्रभावित करे, तब तक नहीं पारित करेगा, जब तक कि उसे उस मामले में सुनवाई का अवसर न दे दिया गया हो।

19- odkyr clh djust ij jk'k dk Hqꣳrku &

1. प्रत्येक अधिवक्ता को, जो निधि का सदस्य रहा हो, वकालत/व्यवसाय बन्द करने पर, अनुसूची-1 में विनिर्दिष्ट दर से राशि भुगतान की जाएगी।
बशर्ते जब न्यासी समिति को यह समाधान हो जाता है कि किसी स्थायी निःशक्तता के वजह से, सदस्य के ऐसे निधि में स्वीकृति की तिथि से पाँच वर्षों के भीतर वह वकालत करना छोड़ देता है, न्यासी समिति, ऐसे सदस्य को अनुसूची-1 में उल्लेखित दर से राशि भुगतान कर सकेगा।
2. इस अधिनियम के अधीन निधि से भुगतान के प्रयोजनार्थ वकालत के पूरे वर्ष की गणना के लिए निधि के सदस्य बनने के पूर्व, यदि कोई हो, प्रत्येक चार वर्षों की वकालत का एकर्ष गिना जाएगा और उसमें सदस्य बनने के बाद वकालत का प्रत्येक वर्ष जोड़ा जाएगा।

3. जब निधि का कोई सदस्य की मृत्यु, उपधारा (1) के अधीन देय राशि प्राप्त करने के पहले हो जाती है, तो उसके नाम-निर्देशित अथवा विधिक उत्तराधिकारी, जैसा मामला हो, को निधि के मृत सदस्य की देय राशि भुगतान की जाएगी।

20- fuf/k eal nL; dsfgr dk vU; l Øe.k ¼fyvusku¼ dqlZvkn ij jkd &

1. निधि में किसी सदस्य का हित, या निधि से कोई राशि प्राप्त करने का किसी सदस्य या उसके नाम निदेशित या विधिक उत्तराधिकारी का अधिकार, नियतन, अन्य संक्रमण या भारित नहीं होगा और ना ही किसी न्यायालय, न्यायाधिकरण या अन्य प्राधिकारी के किसी डिक्री या आदेश के अधीन कुर्की की जा सकेगी।
2. कोई भी ऋणदाता को निधि या निधि के किसी सदस्य अथवा उसके नाम निदेशित अथवा विधिक उत्तराधिकारी के हित के विरुद्ध, कार्यवाही चलाने का हक नहीं होगा। स्पष्टीकरण – इस धारा के प्रयोजनार्थ ऋणदाता के अन्तर्गत राज्य या दिवालियापन से संबंधित तत्समय प्रवृत्त विधि के अधीन नियुक्त सरकारी आदाता (रिसिवर) अथवा सरकारी समनुदेशिनी शामिल है।

21- fuf/k ds l nL; kdsfy, l lefgd t hou chek rFlk vU; ykk &

न्यासी समिति (ट्रस्टी कमिटी), निधि के सदस्यों के कल्याण के लिए कर सकेगी –

- (क) निधि के सदस्यों के लिए भारतीय जीवन बीमा या किसी अन्य बीमाकर्ता से सामूहिक बीमा पॉलिसी प्राप्त करना;
- (ख) निधि के सदस्यों एवं उनके आश्रितों के लिए चिकित्सा एवं शैक्षिक सुविधाएँ, यथाविहित रीति से, प्रदान करना; अथवा
- (ग) पुस्तकें खरीदने के लिए निधि के सदस्यों को धन उपबंधित करना; अथवा
- (घ) निधि के सदस्यों के लिए सामान्य सुविधाएँ बनाने एवं उसे अनुरक्षित करने हेतु धन उपबंधित करना;

बशर्ते न्यासी समिति (ट्रस्टी कमिटी) धारा 16 की उपधारा (5) के अधीन प्राप्त कुल वार्षिक चंदा का दस प्रतिशत अधीनस्थ न्यायालयों में वकालत कर रहे निधि के सदस्य के लिए सामान्य सुविधाएँ बनाने अथवा उसके अनुरक्षण पर खर्च करेगी, अथवा

- (ङ) किसी अन्य प्रयोजन के लिए, जो न्यासी समिति (ट्रस्टी कमिटी) उल्लेख करें, निधि उपबंधित करना, अथवा
- (च) ऐसे अन्य लाभ के लिए, यथाविहित, उपबंध करना।

22- U; kd h l fefr ¼LVh dfefV½ds vkn's k vFlk fu. kZ ds fo:) vihy &

1. न्यासी समिति के किसी निर्णय या आदेश के विरुद्ध अपील राज्य विधिज्ञ परिषद् में की जाएगी।
2. अपील यथा विहित प्रपत्र में की जाएगी तथा जिसमें संलग्न होंगे –
- (क) जिस आदेश या निर्णय के विरुद्ध अपील की गई है उसकी प्रति;
- (ख) राज्य विधिज्ञ परिषद् के खाते के साख (क्रेडिट) में की गई एक सौ रुपये भुगतान दिखाने वाले साक्ष्य का रसीद।

3. निर्णय या आदेश जिसके विरुद्ध अपील की गई है, के प्राप्ति की तिथि के 30 दिनों के भीतर अपील दाखिल किया जाएगा।
4. ऐसे अपील पर राज्य विधिज्ञ परिषद् का निर्णय अंतिम होगा।

v/; k &6

LVKĒi dk eġ. k forj. k vġ j nħdj. k

23- jkġ; fof/kk i fj "k~} kjk vf/koDrk dY; k k LVKĒi dh mi yC/krk , oa vf/koDrk dY; k k fuf/k LVKĒi dk forj. k l ġuf' pr djus ds fy, eqzk ; k Ý\$da e'ku LFKĒi r fd; k t k xk

1. राज्य सरकार, राज्य विधिज्ञ परिषद् द्वारा इस आशय का आवेदन का आवेदन करने पर यथाविहित, पन्द्रह रूपये या ऐसे अन्य मूल्य के अधिवक्ता कल्याण निधि स्टाम्प मुद्रित और वितरित करवाएगा, जिसमें विधिज्ञ परिषद् का प्रतीक तथा उस पर उसका मूल्य अंकित रहेगा।
2. उपधारा (1) में विनिर्दिष्ट प्रत्येक स्टाम्प 1" ग 2" आकार का होगा।
3. स्टाम्प राज्य सरकार की अभिरक्षा में रखे जाएंगे।
4. राज्य सरकार स्टाम्पों के वितरण तथा बिक्री का नियंत्रण ऐसे स्टाम्प विक्रेताओं द्वारा करेगी जो न्यायालय फीस स्टाम्प की बिक्री के लिए नियुक्त किए गए हैं।
5. राज्य सरकार ऐसे प्रपत्र में तथा यथाविहित रीति से स्टाम्पों का उपयुक्त लेखा रखेगा और प्रत्येक वित्तीय वर्ष के अन्त में कमीशन तथा इन स्टाम्पों के मुद्रण में राज्य सरकार द्वारा उपगत खर्च काट लेने के बाद ऐसे स्टाम्प की बिक्री—आगम को निधि में अंतरित कर देगी जिसमें गत वित्तीय वर्ष के दौरान मुद्रित तथा बेचे गए कल्याण स्टाम्पों की संख्या एवं भुगतान किए गए कमीशन एवं निधि में जमा की गई राशि का विस्तृत विवरण दर्शाए हुए हों, जिसे न्यासी समिति (ट्रस्टी कमिटी) के समक्ष रखा जाएगा।
6. कल्याण स्टाम्प के मुद्रण की प्रणाली दो वर्षों की अवधि पर धीरे-धीरे फ्रैंकिंग मशीन द्वारा प्रतिस्थापित कर दी जायेगी।

24- odkyrulek rFlk 'ki Fl&i=ħij LVKĒi yxkjguk &

1. प्रत्येक अधिवक्ता हर वकालतनामा तथा शपथ-पत्रों पर पन्द्रह रूपये मूल्य का उपरोक्त विनिर्दिष्ट कल्याण स्टाम्प (अथवा फ्रैंकिंग मशीन द्वारा) चिपकाएगा।
स्पष्टीकरण – शपथ-पत्रों से अभिप्रेत है कि कोई तथा प्रत्येक शपथ पत्र जिसमें लेख्य प्रमाणक द्वारा बनाए गए शपथ-पत्र या किसी न्यायालय, न्यायाधिकरण अथवा किसी अन्य प्राधिकारी अथवा उच्च न्यायालय में दाखिल करने हेतु शपथ-पत्र शामिल है।
2. स्टाम्प का मूल्य ना ही किसी वाद का खर्च होगा और ना ही यह किसी भी स्थिति में मुवकिल से एकत्रित किया जाएगा।
3. किसी अधिवक्ता द्वारा उपधारा (1) या उपधारा (2) के प्रावधानों का कोई भी उल्लंघन करने पर उसे निधि के प्रसुविधाओं से पूर्ण रूप से या अंशतः बेदखल कर दिया जाएगा

और न्यासी समिति ऐसे उल्लंघन को राज्य विधिज्ञ परिषद् को समुचित कार्रवाई हेतु रिपोर्ट करेगा।

4. हर वकालतनामा पर चिपकाए गए प्रत्येक स्टाम्प जो किसी न्यायालय, न्यायाधिकरण या अन्य प्राधिकारी या उच्च न्यायालय के समक्ष दाखिल किया गया है, यथाविहित रीति से रद्द किया जाएगा।
5. किसी न्यायालय, न्यायाधिकरण या अन्य प्राधिकारी—द्वारा प्राप्त या उक्त के समक्ष दाखिल वकालतनामा अथवा शपथ—पत्र तब तक वैध नहीं होगा जबतक कि इसके उपरोक्त उपधारा (1) में वर्णित कल्याण स्टाम्प न हो।

v/; k &7
i z h k

25- l n h k o i w z l d h x b z d k j z k b z d s f y, l j { k k &

इस अधिनियम या इसके अधीन बनाए गए किन्हीं नियमों के अधीन सद्भावपूर्वक की गई या की जाने के लिए आशयित किसी बात के लिए कोई भी वाद, अभियोजन या अन्य विधिक कार्यवाही न्यासी समिति (ट्रस्टी कमिटी) अथवा अध्यक्ष अथवा सदस्य अथवा न्यासी समिति के सचिव अथवा राज्य विधिज्ञ परिषद् अथवा किसी व्यक्ति या किसी वस्तु के विरुद्ध नहीं लाया जा सकेगा।

26- l k { k k d k s l f e u d j u s v k j m u c k l k ; y s u s d h ' k f D r &

न्यासी समिति (ट्रस्टी कमिटी) और राज्य विधिज्ञ परिषद् को, इस अधिनियम के अधीन जाँच के प्रयोजन के लिए निम्नलिखित विषयों के बाबत वही शक्तियाँ होंगी, जो सिविल प्रक्रिया संहिता, 1908 (1908 का 5) के अधीन वाद का विचारण करते समय सिविल व्यवहार न्यायालय में विहित होती है, अर्थात्

- (क) किसी व्यक्ति को हाजिर होने के लिए बाध्य करना या शपथ पर उसकी परीक्षण करना;
- (ख) दस्तावेजों के प्रकटीकरण और पेश किए जाने की अपेक्षा करना;
- (ग) शपथ—पत्र पर साक्ष्य ग्रहण करना;
- (घ) साक्षियों के परीक्षण के लिए कमीशन जारी करना;
- (ङ) कोई अन्य विषय, जो विहित किया जाए।

27- v u d f p ; k d k s l a k k / k r d j u s d h ' k f D r &

न्यासी समिति (ट्रस्टी कमिटी), विधिज्ञ परिषद् के पूर्व अनुमोदन से, अधिसूचना निकालकर तथा निधि में राशि की उपलब्धता का उचित ध्यान रखते हुए, अनुसूची—1 में विनिर्दिष्ट दरों में संशोधन कर सकते हैं अथवा धारा (9)(2)(प) के अधीन तैयार कोई अन्य कल्याण स्कीम्स को अधिसूचित कर सकता है।

28- f u n s ' k n s u s d h j k f ; l j d k j d h ' k f D r &

1. इस अधिनियम के पूर्वगामी उपबंधों की व्यापकता पर प्रतिकूल प्रभाव डाले बिना, न्यासी समिति (ट्रस्टी कमिटी), इस अधिनियम के अधीन शक्तियों के प्रयोग या अपने कृत्यों के निष्पादन में, पेशेवर और प्रशासनिक मामलों से संबंधित उन बातों से भिन्न, इसे

नीति के प्रश्नों पर ऐसे निदेशों से आबद्ध होगा, जो राज्य सरकार समय-समय पर इसे लिखित रूप में दे।

परन्तु जहाँ तक साध्य हो, इस उपधारा के अधीन कोई निदेश दिए जाने के पूर्व न्यासी समिति को अपने विचार अभिव्यक्त करने का अवसर दिया जाएगा।

29- U, kl h l fefr WLVh dfefV½dk vf/0e. k djus dh jkl; l jdkj dh 'kDr &

1. यदि किसी समय राज्य सरकार की यह राय है कि –
 - (क) नियंत्रण से बाहर हुए परिस्थितियों के कारण, न्यासी समिति इस अधिनियम के उपबंधों द्वारा या उनके अधीन उस पर अधिरोपित कृत्यों और कर्तव्यों का निर्वहन करने में असमर्थ है; या
 - (ख) न्यासी समिति के इस अधिनियम के अधीन राज्य सरकार द्वारा जारी किए गए किसी आदेश के उपबंधों द्वारा या उनके अधीन उस पर अधिरोपित कृत्यों और कर्तव्यों के निर्वहन में बार-बार व्यतिक्रम किया है; या
 - (ग) ऐसी परिस्थितियाँ विद्यमान हैं जिनके कारण लोकहित में ऐसा करना आवश्यक हो गया है, तो राज्य सरकार, अधिसूचना द्वारा, न्यासी समिति का, छह माह से अनाधिक ऐसी अवधि के लिए, जो अधिसूचना में विनिर्दिष्ट की जाए, अधिक्रमण कर सकेगी और उच्च न्यायालय के मुख्य न्यायाधीश के परामर्श से, उच्च न्यायालय के एक न्यायाधीश को न्यासी समिति का नियंत्रक नियुक्त करें।

परन्तु ऐसे किसी अधिसूचना जारी करने के पूर्व राज्य सरकार, न्यासी समिति को प्रस्तावित अधिक्रमण के विरुद्ध प्रतिनिधित्व (आवेदन) देने का और न्यासी समिति के प्रतिनिधित्व (आवेदन), यदि कोई हो, पर विचार करने, का युक्तियुक्त अवसर प्रदान किया जाएगा।
2. उपधारा (1) के अधीन न्यासी समिति का अधिक्रमण करने वाली किसी सूचना के प्रकाशन पर—
 - (क) न्यासी समिति के अध्यक्ष, सभी सदस्य और सचिव, अधिक्रमण की तारीख से उस रूप में अपना पद रिक्त कर देंगे।
 - (ख) ऐसी सभी शक्तियों, कृत्यों और कर्तव्यों का प्रयोग और निर्वहन, जिनका इस अधिनियम के उपबंधों के अधीन प्रयोग या निर्वहन न्यासी समिति द्वारा या उसकी ओर से किया जा सकता है, जब तक उपधारा (3) के अधीन न्यासी समिति का पुनर्गठन नहीं किया जाता है, तब तक न्यासी समिति के नियंत्रक द्वारा प्रयोग तथा निर्वहन किया जाएगा।
 - (ग) न्यासी समिति के स्वामित्व या नियंत्रक के अधीन सभी संपत्ति और निधि, जब तक उपधारा (3) के अधीन न्यासी समिति का पुनर्गठन नहीं किया जाता है, राज्य सरकार में निहित होगी।
3. उपधारा (1) के अधीन निकाली गई अधिसूचना में विनिर्दिष्ट अधिक्रमण की अवधि की समाप्ति पर राज्य सरकार ऐसे समिति के (अपने) अध्यक्ष, सभी सदस्यों और सचिव की नई नियुक्ति द्वारा न्यासी समिति का पुनर्गठन कर सकेगी और ऐसी दशा में ऐसा

व्यक्ति जिन्होंने उपधारा (2) के खंड (क) के अधीन अपना पद रिक्त किया है, नियुक्ति के लिए निरहित नहीं समझे जाएंगे।

4. राज्य सरकार, उपधारा (1) के अधीन जारी की गई अधिसूचना तथा इस धारा के अधीन की गई किसी कार्रवाई और उन परिस्थितियों की, जिनके कारण ऐसी कार्रवाई की गई है, पूरी रिपोर्ट यथाशीघ्र राज्य विधान मंडल के समक्ष रखवाएगी।

30- fu; e cukus dh jkT; l jdkj dh 'kDr &

1. इस शक्ति के पूर्वगामी उपबंधों की व्यापकता पर प्रतिकूल प्रभाव डाले बिना, इस अधिनियम के उपबंधों को कार्यान्वित करने के लिए नियम, जो केन्द्र सरकार द्वारा बनाए गए नियमों, यदि कोई हो, के असंगत नहीं हो, अधिसूचना द्वारा, बना सकेगी।
2. विशिष्टतया और पूर्वगामी शक्ति की व्यापकता पर प्रतिकूल प्रभाव डाले बिना, ऐसे नियमों में निम्नलिखित या किन्हीं विषयों के लिए उपबंध किया जा सकेगा, अर्थात् –
 - (क) धारा 12 की खंड (ज) के अधीन नियतकालिक और वार्षिक रिपोर्ट भेजा जाएगा;
 - (ख) वह प्ररूप जिसमें और वह रीति, जिससे लेखा का वार्षिक विवरणी और वार्षिक रिपोर्ट धारा 12 के खंड (ज) के अधीन तैयार किया जाएगा।
 - (ग) प्ररूप, रजिस्टर और अभिलेख जिसे धारा 12 के खंड (छ) के अधीन अनुरक्षित किया जाएगा।
 - (घ) वह प्ररूप जिसमें धारा 14 की उपधारा (4) के अधीन राज्य विधिज्ञ परिषद् द्वारा मान्यता प्रमाण-पत्र जारी किया जाएगा।
 - (ङ) वह प्ररूप जिसमें धारा 16 की उपधारा (2) या उपधारा (1) के अधीन एक अधिवक्ता निधि के सदस्य के रूप में नामांकन के लिए आवेदन देंगे।
 - (च) वह सिद्धान्त जिसके अनुरूप धारा 16 की उपधारा (12) के अधीन निधि के सदस्य को देय राशि घटा दी जाएगी।
 - (छ) वह रीति जिससे धारा 22 की खंड (ख) के अधीन निधि के सदस्यों एवं उनके आश्रितों के चिकित्सा और शैक्षिक सुविधाएँ का उपबंध किया जाएगा।
 - (ज) धारा 22 की खंड (च) के अधीन उपबंधित अन्य प्रसुविधाएँ।
 - (झ) धारा 23 की उपधारा (2) के अधीन अपील का प्ररूप।
 - (ञ) धारा 24 की उपधारा (1) के अधीन मुद्रित और वितरित स्टाम्पों का मूल्य एवं परिकल्पना।
 - (ट) वह प्ररूप जिसमें और यह रीति जिससे धारा 24 की उपधारा (1) के अधीन स्टाम्पों का लेखा रखा जाएगा।
 - (ठ) धारा 25 की उपधारा (1) के अधीन प्रत्येक वकालतनामा पर चिपकाए गए स्टाम्पों का मूल्य।
 - (ड) धारा 25 की उपधारा (4) के अधीन स्टाम्पों की रद्द करने की रीति।
 - (ढ) कोई अन्य विषय जो विहित किया जाना है या किया जाए।

31- fu; elavk vf/kl pukvldk jkt; fo/kuemy dsl e{k j [lk t kuk &

1. राज्य सरकार द्वारा इस अधिनियम के अधीन बनाया गया प्रत्येक नियम और धारा 30 के अधीन जारी प्रत्येक अधिसूचना, बनाए जाने के पश्चात् यथाशीघ्र, राज्य विधानमंडल के समक्ष, रखा जाएगा।

32- Q kofuk

बिहार राज्य अधिवक्ता कल्याण निधि अधिनियम, 1983 (1983 का 16) तथा उसमें किया गया संशोधन, झारखण्ड राज्य के अस्तित्व में आने के बाद और इस अधिनियम के प्रवृत्त होने के ठीक पहले, बिहार राज्य अधिवक्ता कल्याण निधि अधिनियम, 1983 (1983 का 16) तथा उसमें किया गया संशोधन, के प्रावधानों के अनुपालन में, सद्भावपूर्वक, किया गया सभी कार्य, इस तथ्य के कारण अमान्य नहीं होगा कि वह अधिनियम तत्समय प्रवृत्त नहीं था।

vud pl&1

1/4k k 9] 10 , oa17 1/2 nq k 2

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1	2	3
1 वर्ष	2,60,000 /—	—
2 वर्ष	2,60,000 /—	—
3 वर्ष	2,60,000 /—	—
4 वर्ष	2,60,000 /—	—
5 वर्ष	2,60,000 /—	—
6 वर्ष	2,65,000 /—	11,000 /—
7 वर्ष	2,70,000 /—	12,000 /—
8 वर्ष	2,80,000 /—	13,000 /—
9 वर्ष	2,90,000 /—	14,000 /—
10 वर्ष	3,00,000 /—	15,000 /—
11 वर्ष	3,10,000 /—	18,000 /—
12 वर्ष	3,20,000 /—	21,000 /—
13 वर्ष	3,30,000 /—	24,000 /—
14 वर्ष	3,40,000 /—	27,000 /—
15 वर्ष	3,50,000 /—	30,000 /—
16 वर्ष	3,60,000 /—	35,000 /—

14 वर्ष	3,40,000 /—	27,000 /—
15 वर्ष	3,50,000 /—	30,000 /—
16 वर्ष	3,60,000 /—	35,000 /—
17 वर्ष	3,70,000 /—	40,000 /—
18 वर्ष	3,80,000 /—	45,000 /—
19 वर्ष	3,90,000 /—	50,000 /—
20 वर्ष	4,00,000 /—	55,000 /—
21 वर्ष	4,10,000 /—	62,000 /—
22 वर्ष	4,20,000 /—	69,000 /—
23 वर्ष	4,30,000 /—	76,000 /—
24 वर्ष	4,40,000 /—	83,000 /—
25 वर्ष	4,50,000 /—	90,000 /—
26 वर्ष	4,60,000 /—	1,00,000 /—
27 वर्ष	4,70,000 /—	1,10,000 /—
28 वर्ष	4,80,000 /—	1,20,000 /—
29 वर्ष	4,90,000 /—	1,30,000 /—
30 वर्ष	5,00,000 /—	2,00,000 /—
31 वर्ष	5,10,000 /—	2,10,000 /—
32 वर्ष	5,20,000 /—	2,20,000 /—
33 वर्ष	5,30,000 /—	2,30,000 /—
34 वर्ष	5,40,000 /—	2,40,000 /—
35 वर्ष	5,50,000 /—	2,50,000 /—
36 वर्ष	5,60,000 /—	2,60,000 /—
37 वर्ष	5,70,000 /—	2,70,000 /—
38 वर्ष	5,80,000 /—	2,80,000 /—
39 वर्ष	5,90,000 /—	2,90,000 /—
40 वर्ष	6,00,000 /—	3,00,000 /—
41 वर्ष	6,10,000 /—	3,15,000 /—
42 वर्ष	6,20,000 /—	3,30,000 /—
43 वर्ष	6,30,000 /—	3,45,000 /—

44 वर्ष	6,40,000 /—	3,60,000 /—
45 वर्ष	6,50,000 /—	3,75,000 /—
46 वर्ष	6,60,000 /—	3,90,000 /—
47 वर्ष	6,70,000 /—	4,05,000 /—
48 वर्ष	6,80,000 /—	4,20,000 /—
49 वर्ष	6,90,000 /—	4,35,000 /—
50 वर्ष	7,00,000 /—	4,50,000 /—

अधिकृत हस्ताक्षरकर्ता

वित्तीय प्रभाव/निहितार्थ का विवरण – इस अधिनियम के बनने से राज्य के खजाने पर कोई वित्तीय बोझ नहीं पड़ेगा सिवाय इसके प्रकाशन की लागत का।

अधिकृत हस्ताक्षरकर्ता

झारखण्ड राज्यपाल के आदेश से,

vferkk dękj xlr]

सरकार के सचिव-सह-विधि परामर्शी
विधि (विधान) विभाग, झारखण्ड, राँची।

□□□

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Website : www.barcouncilofindia.nic.in



बार कौंसिल ऑफ इन्डिया BAR COUNCIL OF INDIA

21, राउस एवेन्यू इन्स्टीटयूशनल
नई दिल्ली - 110 002
21, Rouse Avenue Institutional
New Delhi - 110 002

BCI: D: ⁴⁴²³ : 2007(3C/07, June,07)

Dated: 17.9.2007

The Secretary
Bar Council of Jharkhand
Old T.A. Division
H.E.C. Building
Dhurwa,
Ranchi, Jharkhand

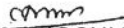
Sir,

This is with reference to your letter No. BCR/ 1485/2007 dated 2007 for approval of Model Rules of Jharkhand. The said letter was considered by the Council at its meeting held on 30th June & 1st July, 2007 and following Resolution was passed :

RESOLUTION :

"RESOLVED that the model rules of Jharkhand Bar Council Viz. Model Rules of the Advocates Bar Associations within the State of Jharkhand forwarded by the Secretary of the State Bar Council vide his letter No.1485/2007 dated 1.5.2007 be and are hereby approved."

Yours faithfully,


(M.D.JOSHI)
JOINT SECRETARY

Grams : ALINDIABAR, New Delhi
 E-mail : info@barcouncilofindia.org
 Website : www.barcouncilofindia.org



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Tel. : (91) 011-4922 500
 Fax : (91) 011-4922 500

भारतीय विधिज्ञ परिषद् BAR COUNCIL OF INDIA

(Statutory Body Constituted under the Advocates Act, 1961)

21, Rouse Avenue Institutional Area, New Delhi - 110 002

BCI:D : 2356 /2013 (Council Mtg. 31.3.13)

22.05.2013

✓ The Secretary,
 Bar Council Of Jharkhand
 High Court Compound
 Ranchi , Jharkhand – 834 001

Sir,

1369/13
 07.06.13
 The General House of the Council at its meeting held on 31st March, 2013 under Item No.93 /2013 has considered the Letter No. 613/13 dated 14.3.13 received from: Chairman, Mr. Rajiv Ranjan, Jharkhand State Bar Council in regard to proposed amendment in the Model Rule of Jharkhand State Bar Council. After consideration the Council has passed the following Resolution:-

“Resolution No. 44 /2013

The Council has considered the Letter No. 613/13 dated 14.3.13 received from Chairman, Mr. Rajiv Ranjan; Jharkhand State Bar Council and after consideration approves the proposed amendment in the Model Rule of Jharkhand State Bar Council.”

This is for your information and necessary action.

Yours sincerely,


 [J.R. SHARMA]
 SECRETARY

MODEL RULE OF THE ADVOCATE/BAR ASSOCIATIONS WITHIN THE STATE OF JHARKHAND FRAMED BY JHARKHAND STATE BAR COUNCIL

NAME AND COMMENCEMENT

1. (i) These Rules shall be called the Rules of the Bar Association (High Court, District Court, & Sub Division)
- (ii) This rules with respect to associations shall come into force from a date notified by the Bar Council.

REGISTRATION

2. (i) The Bar Association, hereinafter called "The Association" shall consist of all those persons who have signed the Memorandum of Association and all others who become members of Association by or under these Rules and continue to be member.
- (ii) The Association shall have perpetual succession and shall sue and be sued by its name , through its Secretary or through such other person as may be authorized by Executive Body of this Association, and ratified by the General Body.
- (iii) The Association shall be duly registered/affiliated with the Jharkhand State Bar Council, under the relevant rules.

OBJECTS

3. The objects of the Association are:

- a. To promote the development of legal science and studies and to watch legislation for the purpose of assisting in the progress of sound legislation;
- b. To safeguard and promote the interest of the legal profession and its members in general and of the members of the Association in particular;
- c. To promote a high professional tone, standard and conduct amongst the members of the legal profession and to check unprofessional practices;
- d. To maintain a library of legal literature and of other subjects likely to be useful to the members of the Association;
- e. To provide a meeting place and sitting a accommodation for the members of the Association particularly for study and discussion of law;
- f. To bring to the notice of the Bar Council, the High Court, the Supreme Court or the Central or State Government's matters affecting the legal profession in general and the members of the Association in particular;
- g. To prepare and implement schemes for giving assistance to members of their families in distressed circumstances;

- h. To protect the independence unity and autonomy of the Bar, so provided under the Advocates Act.
- i. To safeguard the rights, privileges and interests of Advocates on its Roll.
- j. To promote the growth of Bar Association for the purpose of effective implementation of the Welfare Scheme framed by the Bar Association as well as the Bar Council.
- k. To promote and support law reform to conduct seminars and organize talks on legal topics by eminent jurists and public journals and papers of legal interests.
- l. To organize legal aid to the poor in the prescribed manner to manage and invest the funds of the Bar Association.
- m. To protect constitution and law of the land.
- n. To do all such acts or take such steps as might be necessary for the well being of the Association, or for the fulfillment of these objects.

CLASSES OF MEMBERSHIP

4. The Association shall have the following classes of members;

- a. HONORARY MEMBERS:- Being or having been a member of the legal profession who, because of distinguished achievement or service to the cause of law or the legal profession, has been admitted, by the Association as an honorary member.
- b. LIFE MEMBER: - An Advocate on the roll of the Advocates regularly practicing in that court by payment of an amount to be fixed by the General Body, which will provide income by way of interest equivalent to the membership fee payable by ordinary member, may become life member of that Association.
- c. Non - resident member :- Being an Advocate not ordinarily practicing in that court, who has been admitted by the Governing Council/Executive Committee under Rule- 8 as a non-resident member, or is such a member under these Rules.
- d. Ordinary Member: Being an Advocate on the Rolls of the concerned court regularly practicing in that court and who has been admitted by the Governing Council under Rule 8 or is such member under these Rules.

Note: - All the applicants shall have to declare that they are the members of the Bar Council of India Advocates Welfare Fund Rule 40.

REGISTER OF MEMBERS

5. The Governing Council/Executive Committee shall cause to be prepared and maintain a Register of members of the Association and shall for the purposes of Rule 4 classify all those who have become members under such Rule.

ADMISSION OF MEMBERS

6. (a) Any person enrolled as an Advocate with the Bar Council of Jharkhand wishing to become an ordinary/non- resident/life member may apply in writing to the Secretary of the Association for admission by an application signed by him and bearing the signature of at least two ordinary members of the Association as proposer and Seconder having at least five years of ordinary membership of that Associations.
- (b) Such persons shall be entitled to hold the ordinary membership/life membership of only one Association i.e the Association of the Court wherein he is actively and regularly practicing however, he can become non-resident and honorary member of other Associations.
- (c) Such Advocates shall file an affidavit bearing his photograph mentioning his Registration number and Photostat copy of the Registration Certificate declaring on oath that he is neither at present or in future intend to become ordinary member/life member of any other Association in the State of Jharkhand.
- (d) The Secretary of the Bar Association shall prepare the Roll of the Advocates regularly practicing in that Court duly approved by the Executive Committee, who alone will be entitled to be the ordinary member of that Association.
- (e) The Secretary shall finalize the Roll of Advocates and place it before the Executive Committee after displaying the same on the notice Board for ten days and inviting objections.
- (f) In case more than fifty members object on any name included in the Roll of Advocate the same be placed for consideration before the General Body and its decision shall be final.
- (g) No person other than the one who is on the State Roll of Bar Council will be eligible to become ordinary/life member of that Association.
- (h) A non-residents member for the purposes of obtaining the ordinary or life membership of the Association shall have to adhere the procedure prescribed for enrolment of ordinary member.
- (i) The Advocate applying for membership will have to pay the admission fee as well as the membership fee as decided by the respective Association. The Association shall inform the Bar Council for maintaining record the membership fee fixed by each Association.

(J)^{1*} The Association shall furnish the list of members to Bar Council every two year for maintaining its records. **Every change in the roll of the association shall be communicated to the Bar Council within 30 days.**

7^{2*}. (*****)

ORDER OF THE APPLICATION

8. The secretary of the Association shall place the application on the notice board for 10 days inviting objections of other ordinary/life members of the Association and shall place the application as well as the objections, if received any, before the Executive Committee who will approve or reject the application form in the light of provision in the rule. Once application for memberships is having been rejected, he shall not be entitled to apply again for the membership for a period of 2 years from the date of rejection of the application.

Provided that when an ordinary members wishes to become a non-resident member or vice versa, it shall not be necessary for his application to be proposed or seconded or for its being placed on the notice Board.

APPLICATION FOR ORDINARY MEMBERSHIP

9. Any person, who has been admitted as ordinary member by the Executive Committee shall from the date of admission be entitled to all the privileges of membership, but he shall have no right of vote at meetings of the Associations until he has paid admission fee in full and has further continued as such for 2 years.

FORFEITURE OF ADMISSION FEE

10. If the admission fee has not been paid within the period of prescribed by Rule 9 or within such further period as the Governing Council might allow the person in such arrears shall cease to be a member of the Association and the portion of admission fee paid by him shall be forfeited to the Association and shall in no case be refundable.

SUBSCRIPTION BY RESIDENT MEMBERS

11. Every ordinary/Life member shall pay a monthly/consolidate subscription of Rs..... to the Association. A rebate of Rs.....shall be allowed if the yearly subscription paid in advance on or before the 15th day of the January of each year and if there are no arrears due to the Association on any account from him outstanding. The subscription shall be fixed by general body of the Association.

1* Amended vide Resolution No. 06/2013 of Jharkhand State Bar Council dated 9.3.2013 **approved by BCI vide resolution no. 44/2013 dt. 22.5.2013**

2* Deleted vide Resolution No. 06/2013 of Jharkhand State Bar Council dated 9.3.2013 **approved by BCI vide resolution no. 44/2013 dt. 22.5.2013**

SUBSCRIPTION BY NON-RESIDENT MEMBERS

- 12.** Every non-resident member shall pay a monthly subscription of Rs..... to the Association. The amount shall be fixed by General body of the respective Association.

ARREARS OF SUBSCRIPTION

- 13.** Any member whose subscription is in arrears for three months, his name shall be notified in notice board, by the Secretary of the Association, to same within one (1) month from the date of notice issued. If such member fails to pay the arrears within that time, he shall forthwith cease to be a member of the Association on the conclusion of 4th Months. On payment of the amount of arrears and on his applying for re-admission within one month from the date of his ceasing to be a member, the governing Council may admit him to membership without his memberships being forfeited. The names of such defaulting member shall be intimated to the Bar Council forthwith by Secretary of the Association.

REMISSION OF SUBSCRIPTION DURING ABSENCE FROM DISTRICT.

- 14.** An ordinary member who intends to be absent from practice in the court concerned for a continuous period of not less than six calendar months shall on giving an advance notice in writing to the Secretary, be permitted during the period of such continuous absence, to pay the monthly subscription prescribed for a non-resident member. However, such privileges will be available to an ordinary member only once in five years.

OFFICE BEARERS

- 15^{3*}.** The Association shall have the following office bearers who shall be elected every two years in the Annual General Meeting.
- i. A President**
 - ii. One Vice-President**
 - iii. An Honorary General Secretary.**
 - iv. A Treasurer**
 - v. Assistant Treasurer**
 - vi. Joint Secretary (Admn.), Joint Secretary – Library.**
 - vii. 9 members Governing Committee /Executive Committee (5 Member committee in Advocate Association up to 300 members)**

^{3*} Amended vide Resolution No. 06/2013 of Jharkhand State Bar Council dated 9.3.2013 **approved by BCI vide resolution no. 44/2013 dt. 22.5.2013**

GOVERNING/EXECUTIVE COUNCIL

16^{4*}. Governing/Executive Council/Committee of the Association shall consists of office bearers elected under rule 15.

QUALIFICATION OF OFFICE BEARERS

17^{5*}. (i) *President :- An ordinary member having rendered at least 25 years of regular and active practice.*

(ii) *Vice -President:- 15 years of regular & active practice.*

(iii) *General Secretary, Treasurer, Assistant Treasurer, two Joint Secretary (One Administration & one Library)*

Note:- All the office bearers should be registered under the Advocates Act and enrolled in the State Roll of Jharkhand State Bar Council.

TERMS OF OFFICE

18. The office bearers of the Association and Members of the Governing Council/ Executive Committee shall hold the office till the completion of two years from the date of their Election result declaration. However, in extraordinary circumstances, they may continue for a further period of one month with the prior approval of **Bar Council*** for the reason to be recorded within which they will get the election completed failing which the administration of the Association will vest in the **Election committee***, who will hold the Election at the earliest as per bye-laws preferably within another one month.

FUNCTIONS OF THE EXECUTIVE/GOVERNING COUNCIL

19. The Governing Council shall, subject to the provisions of Rule-20

- i. Be responsible for the safe custody of the property and assets of the Association and the proper investment of the funds.
- ii. Make arrangements for the maintenance and up-keen of the library and its proper use by the members.
- iii. Control of the use of the accommodation available to the Association;
- iv. Frame the Annual Budget of the Association and control expenditure in accordance with the Budget.
- v. Call the Annual General meeting and other meeting of the Association;
- vi. Frame bye-laws for the carrying out of objects and activities of the Association and
- vii. Do all other acts necessary for the fulfillment of the objects of the Association.

^{4*} Amended vide Resolution No. 06/2013 of Jharkhand State Bar Council dated 9.3.2013 **approved by BCI vide resolution no. 44/2013 dt. 22.5.2013**

^{5*} Amended vide Resolution No. 06/2013 of Jharkhand State Bar Council dated 9.3.2013 **approved by BCI vide resolution no. 44/2013 dt. 22.5.2013**

* Corrected in meeting dated 9.3.2013 approved by BCI vide resolution no. 44/2013 dt. 22.5.2013

- viii. Appointment, promotion, leave and dismissal of the servant of the Association and deciding disciplinary and other matters effecting them on the recommendation of the Secretary.

Provided that the Governing Council may delegate any of its function, or any specific work to any sub- Committee appointed by it, or by the Association, or to any other members.

LIMITATION ON THE POWER OF THE EXECUTIVE COUNCIL

20^{6*}. The Governing Council shall not have the power, without the

- a. previous sanction of the Association:-
- b. To spend within one year any sum not exceeding Rs..... out of the fixed deposits of the Association. The amount shall be determined by General body of respective association.
- c. To express any opinion on behalf of the Association on any controversial matters affecting the interest of the legal profession, and
- d. To decide any matter which should be referred for the decision of the Association.

FUNCTIONS OF THE PRESIDENT

21. The President of the Association shall:

- a) Preside and conduct at all meetings of Association and Governing Council.
- b) The President shall be responsible for the proper functioning of the various office bearers of the Association.
- c) Give the casting vote in case of equality of Votes at any meeting of the Association or the Governing Council.
- d) Represent the Association whenever a formal representation is necessary ; and
- e) Perform such other functions as might be required by the rules or the bye- laws of the Association.

FUNCTIONS OF THE VICE -PRESIDENT

22^{7*}. The Vice president of the Association shall;

- a) Perform the functions of the President, when the President is absent from District or is not available. Provided that the right to preside at meeting of the Association or the Governing Council shall belong to the senior most Vice-president present.

6 Amended vide Resolution No. 06/2013 of Jharkhand State Bar Council dated 9.3.2013 **approved by BCI vide resolution no. 44/2013 dt. 22.5.2013**

7 Amended vide Resolution No. 06/2013 of Jharkhand State Bar Council dated 9.3.2013 **approved by BCI vide resolution no. 44/2013 dt. 22.5.2013**

- b) Perform such other functions as may be required to perform by these Rules or the bye-laws of the Association.

FUNCTIONS OF THE SECRETARY

- 23.** The Secretary shall be the Chief Executive Officer of the Association and it shall be his duty to give effect to the resolutions of the Association and of the Governing Council.

Subject to such directions or limitations as may be contained in these Rules or in the resolutions of the Association or of the Governing Council, he shall have the power of:

- (a) Spending the funds of the Association in accordance with the Budget, in paying the salaries of the servants, in purchasing books, furniture and materials for the printing press and for other purposes connected with the management of the association, the cause list and the library, in accordance with the directions of Governing Council and for this purpose to operate upon the Bank Accounts of the Association alongwith president/Treasurer.
- (b) Spending a sum not exceeding Rs. 15,000/- in case of High Court and Rs. 10000/- in case of Subordinate Courts Association in any year for extraordinary and emergent purpose of the Association without the previous sanction of the Governing Council.
- (c) Keeping and maintenance of the accounts and minutes of the meetings of the Association and of the Governing Council.
- (d) Investment of funds of the Association in current or in fixed deposit in any Scheduled Bank, approved by the Governing Council, withdrawal of the deposits from time to time and to utilize and spend them for the purposes of the Association and to deal with Government and other securities on behalf of the Association in accordance with the directions of the Governing Council;
- (e) To generally supervise the working of the various activities of the Association, and
- (f) To perform such other functions as he might be required to perform by these Rules or the bye-laws of the Association.

FUNCTIONS OF THE JOINT SECRETARY

- 24.** The Joint Secretary, in-charge of administration, shall assist the Secretary in discharge of his duties. In the absence of the Secretary, the Joint Secretary (Administration) shall act for him in all matter that calls for an immediate disposal.
- 25.** The Joint Secretary in charge of the library shall, under the general supervision of the Secretary, be responsible;
- a. For the maintenance of the Library of the Association;

- b. For the purchase of books for the library.
- c. For seeing to the proper use and preservation of the library and the use and the return of books ; and
- d. For performing such other functions as might be delegated to him by the Secretary.

26^{8*}. (****).

FUNCTIONS OF THE TREASURER

27. The Treasurer shall be responsible for:

- a. Checking the income and expenditure of the Association.
- b. Preparing the annual Budget of the Association for its being placed before the Governing Council.
- c. For seeing that all expenditure is in accordance with Budget, the Rules and the bye-laws:
- d. For advising the Governing Council on all matters relating to financial policy;
- e. For performing such other functions as might be assigned to him by the Governing Council.
- f. The treasurer shall operate Banks and other financial accounts alongwith the President and the Secretary , and
- g. Shall publish on the notice board the quarterly expenditure by the end of third month.
- h. In absence of Treasurer, the Assistant Treasurer shall take charge of the function of Treasurer.

ANNUAL GENERAL MEETING

- 28.** The Annual General meeting of the ordinary members of the Association shall be held every year on a date fixed by the Governing Council as soon at least a month before expiry of the term of the office bearers.

BUSINESS AT THE ANNUAL GENERAL MEETING

29. The Annual General Meetings of the Association shall;

- a. Fix a date for electing office bearers, and other members of the Governing Council from amongst its ordinary/life Members.
- b. Pass the audited annual accounts, the annual report and sanction the Budget for the year from the 1st of August , to the 31st July.
- c. Adopt such resolutions as might be brought forward for guiding the activities of the Association or its bodies.

8* Amended vide Resolution No. 06/2013 of Jharkhand State Bar Council dated 9.3.2013 **approved by BCI vide resolution no. 44/2013 dt. 22.5.2013**

OTHER GENERAL MEETINGS

30. The Governing Council may, at any time, convene a meeting of the ordinary members of the Association, and in case of emergency, the President or the Secretary may also convene such a General meeting.

EXTRA -ORDINARY MEETING

31. An extra-ordinary General meeting of the ordinary members of the Association shall be convened by the President/Secretary at the requisition of 1/4 ordinary members. Such requisition shall be in writing; addressed to the Secretary and accompanied by a Statement of fact.
- a. In case the extraordinary general meeting of the Association is not convened as per the requisition and same is also not ruled out by the Governing Council, the requisition shall be entitled to convene the meeting to be presided over by one of the senior member of the Association .
- b. No decision will be taken to strike/abstain from professional work in the Court by the Bar Association beyond one day. However if the aforesaid decision is to be taken by majority of members present and voting by Secret Ballot in a General Body Meeting of Association. Only life/ordinary members will participate in voting who are entitled to vote on that day according to rules of the Association. Prior notice of such meeting shall be given to Bar Council. On getting written approval of Executive Committee of Bar Council the Association can abstain for one day only.

NOTICE OF MEETINGS

32. Notice of meetings of the Association shall be given, in manner provided by Rule 33, at least 7 clear days before the date fixed for the meeting. In case of emergency relating to subject which cannot be postponed for 7 days, a meeting other than Annual General Meeting may be called, in like manner but at such short notice as may be considered sufficient by the Secretary, which will not be in any case less than 24 hours.
33. Notice of meeting shall be given by fixing up a notice alongwith the agenda on the notice boards of the Association and by circulating it in the High Court on a working day to such members as are present or can be found and after such fixation and circulation, no meeting shall be cancelled in question on the ground of improper service or non-service of notice by any member or the in sufficiency or impropriety of the time allowed or fixed by the notice.

QUORUM OF MEETINGS OF THE ASSOCIATION

34. Fifty ordinary members (including the office bearers) shall form a quorum for the Annual General meeting or Extra-ordinary General Meeting of the Association, and 100 for a meeting under Rule 52.

QUORUM FALLING SHORT DURING A MEETING

35. If at any time during the course of a meeting, the attention of the person presiding is drawn to the fact that number of members present has fallen short of the quorum required, the person presiding, after ascertaining the truth of the facts, shall forthwith dissolve the meeting but any business already transacted shall be deemed to be validly transacted.

ADJOURNED MEETING

36. If a meeting has been adjourned for want of a quorum, no quorum shall be necessary for the next meeting held after the issue of the usual notice and with the same agenda provided that an extra ordinary meeting of the Association called at the requisition of the members under Rule 32 above, shall not on the same requisition, be called a second time if it has been adjourned once for want of quorum.

Senior Most member of the Governing Council/Executive Committee available may preside in the absence of the President and the Vice President.

37. In the absence of the President or the Vice-President or Senior Member or the Governing Council/Executive Committee of the Association, any member present may be elected to preside at a meeting of the Association.

QUESTIONS TO BE DECIDED BY A MAJORITY OF VOTES

38. Except, as here in after provided, all questions at the meetings of the Association shall be decided by a majority of the Votes of members present and voting by raising of hand or by secret ballot as decided by Chairman. The participation of ordinary members will be recorded on the register in their eligible signature. The person presiding shall have a second or casting vote in case of tie. No voting by proxy shall be allowed.

PROCEEDINGS TO BE RECORDED

39. The decisions arrived at a meeting shall be binding on all members of the Association. The Secretary and the Joint Secretary shall keep a record of the proceedings of all the meetings held under the provisions herein contained. Such record shall be open to inspection by members of the Association only.

QUORUM OF THE GOVERNING COUNCIL

40. Ten members, of whom at least three shall be those not holding an office, shall from the quorum of meeting of the Governing Council.

MEETINGS OF THE GOVERNING COUNCIL

41. The Governing Council shall meet as often as may be necessary and all the provisions in these Rules relating to the meetings of the Association shall apply mutatis mutandis to such meetings of the Governing Council.

FUNDS OF THE ASSOCIATION

42. The fund of the Association shall consist of :

- a.* All sums received by or on behalf of the Association.

PROPERTY OF THE ASSOCIATION

43. The property of the Association shall consist:

- a.* All property received or acquired by or on behalf of the Association. Acquisition Custody or Disposal of Funds and property of the Association.

44. All funds and properties of the Association shall be under the direct control and management of the Association and shall be acquired, maintained and disposal of in accordance with these Rules or bye-laws, in furtherance of the objects of the Association.

45. No member of the Association shall on ceasing to be a member of the Association, have any right to or claim upon any fund or property of the Association, or to the use of such property.

ACCOUNT OF THE ASSOCIATION

46. (1). The Treasurer shall cause to be kept an account of all receipts and disbursement made by or on behalf of the Association, during the year.

- (2).* The Accounts of the Association shall be audited, once every year, by a qualified Auditors, appointed by the Bar Council. The fee of the Auditor and his stay expenses shall be fixed by the Executive Committee of the Bar Council and shall be paid by each Association immediately after Audit is made and report is submitted.

- (3).* Audited Annual Accounts report shall be handed over to Secretary/ Secretary General of concerned Association and a copy of report shall also be sent to Bar Council for information and necessary action. If any defalcation is indicated in the report, the Bar Council shall take suitable action in accordance with law.

- (4).* All Associations shall co-operate with the auditor and supply all papers needed in auditing account of association.

47. The Account kept and audited in accordance with Rule 46(2) shall be submitted, alongwith the Audited Report and the Budget, to the Annual General Meeting of the Association, by the Secretary/Secretary General of Association.

EXPULSION OF MEMBERS

48^{9*}. The Association may at a General Meeting specially convene for the purpose, of which 14 day's notice has been given, by a resolution adopted by a majority of not less than two-thirds of the ordinary members of the Association present

⁹ Amended vide Resolution No. 06/2013 of Jharkhand State Bar Council dated 9.3.2013 **approved by BCI vide resolution no. 44/2013 dt. 22.5.2013**

and voting by secret ballot expel an ordinary member/life member on any following grounds.

- (i). Professional misconduct,
- (ii). Conviction for an offence involving moral turpitude, or
- (iii). Gross misconduct unbecoming of a member of the Bar. Provided that notice of the meeting shall be given to the member concerned and he shall be entitled to be heard before any decision is taken by the Association.

However, any such decision under clause 48 shall become effective only upon being confirmed by the State Bar Council.

BREACH OF RULES

- 49.** Any member of the Association who shall be guilty of continued infraction of the rule herein contained or of any bye-laws made there under, shall be liable to expulsion by a vote of the majority of the members present at a General Meeting of the Association.

BYE-LAWS

- 50.** Subject to these Rules, the Executive Council, may from time to time, frame its own bye-laws if so required, for the purpose of carrying out the objects or regulating day to day affairs of the Association which shall not be in consistent with this Rule.

Such bye-law shall not be given effect till they have been approved by the Bar Council.

AMENDMENT OF RULES

- 51.** None of these Rules shall be altered or modified or rescinded nor any new rule shall be framed and given effect unless they have received the assent two-thirds of the members present and voting, secret ballot, at General Meeting convened for the purpose and be subject to approval by " Bar Council".

PROCEDURE OF ELECTION

- 52^{10*}. (1)** *General Body in its meeting as hereinabove mentioned shall constitute a three member Election Committee to conduct election and the association shall immediately inform the State Bar Council of the above decision.*
- (2)** *The State Bar Council shall thereafter appoint two Election Observers from amongst its member or otherwise and the Election Observers shall supervise the conduct of Election and all the work under taken by the Election Committee of the Association.*
- (3)** *The Election Observers appointed by the State Bar Council shall in consultation with the Election Committee fix a date of election and*

^{10*} substituted vide Resolution No.06/2013 dated 9/3/2013 of Jharkhand State Bar Council

the election shall be completed within one month of appointment of Election Observers by the State Bar Council.

- (4) *The Election Observers shall declare the result and submit a report to the State Bar Council.*
- (5) *All disputes relating to the Election Process shall be filed before the Election Committee which shall refer the same to the Election Observers whose decision shall be final and shall not be called into question before any court of law.*
- (6) *The Election Committee under the supervision and direction of Election Observer shall initiate the process of election such as preparation of voter list, invitation , nomination printing of ballot papers and all such acts that may be necessary to conduct the Election and complete the same within 30 days.*
53. Any resolution passed by any Bar Association in contravention to the provisions of the Bye-Laws, without the approval of the Jharkhand State Bar Council will deemed to be void.
54. All such Bar Associations, who have not adopted the Model Rule within the period of 3 months from the receipt of the Model Rule will stand disaffiliated and its members would be disqualified and its members would be disentitled to Welfare' Scheme.
55. All those Advocates, who are not members of the Bar Association affiliated to Bar Council of Jharkhand shall lose their right of availing the various beneficial/welfare schemes sponsored by the Bar Council of Jharkhand/Bar Council of India.

56^{11*} (*****)

PAIRVI

- 57^{12*}. (1) Such work shall be done by Advocates and their registered clerks only on the prescribed format available with the Association at least one such format must be used in each case/each pairvi each day. No advocate shall sign any other paper than the prescribed format for the purpose in making pairvi in Civil/Criminal/Tribunal/Authority. The price of format shall be fixed by each Association subject to intimation to Bar Council.
- (2) As regards High Court , each affiliated Association shall be at liberty to charge between Rs. 10/- to Rs. 15/- only as per the decision of the Association, by way of embossing in the vakalatnama. 5% of the amount so collected under Rule (2) shall be given to concerned registered clerk of

11* Amended vide Resolution No. 06/2013 of Jharkhand State Bar Council dated 9.3.2013 **approved by BCI vide resolution no. 44/2013 dt. 22.5.2013**

12 Amended vide Resolution No. 06/2013 of Jharkhand State Bar Council dated 9.3.2013 **approved by BCI vide resolution no. 44/2013 dt. 22.5.2013**

the concerned Advocate or to clerk Association in their welfare fund as it is decided by General Body of the respective Association.

- (3) The Bar Association shall keep proper account of the format printed which shall be numbered and shall maintain register noting down the date of issue and the name of advocate and his registered clerk concerned.
- (4) The Amount so collected shall be distributed among advocates and/or shall be disbursed in the manner the Governing body of the respective Association by a resolution decide and the same shall be incorporated in the respective bye-laws of the Association. An intimation of which shall be given to Bar Council.
- (5) All Bar Association shall keep proper account of sale proceeds of the prescribed format. The amount collected and spent/dispursed shall be subject matter of Audit each year.
- (6) ***Out of total amount collected by different Association in the District, as well as sub divisional court or High Court 10% of it shall be transmitted to Bar Council within one month after the end of Financial Year which shall be used for Welfare of Advocates or for development work. The amount shall be transmitted by Bank draft in the name of Jharkhand State Bar Council. The Bar Council shall keep separate Register maintain account of amount so received from each association which shall be subject to audit.***

In the event, the concerned Association does not remit the aforesaid amount under this clause , the association shall be liable to be disaffiliated and further the members of the association shall not be entitled to any welfare scheme/benefit under this Model Rule or of the Bar Council

Provided that any such action shall not be taken against the association without show cause and opportunity.

- (7) ***The Bar Association shall if need be constitute a separate Committee to supervise the maintenance of register, account allocation and distribution of the amount received from the sale of prescribed format.***
- (8) ***Each Bar Association shall send copy of Statement of account to Jharkhand State Bar Council by 30th April of each year***
- (9) In case of physical disability, medical sickness, respective Bar Association shall be entitled to take their own decision for providing financial assistance to deserving advocates and taking up other welfare work out of the fund available in the welfare fund.
- (10) The President/Secretary of the respective Bar Association shall have the right to immediately pay reasonable amount as laid down in performance of last rituals. On such payment being made, the Secretary/President

shall obtain receipt, kept it on record and place it before welfare Fund Committee of its Association.

- (11) The Bar Association shall be entitled to take their own decision in respect of the attendance of member advocates in Bar Association for the purpose of grant of benefit of Welfare Fund.
- (12) An employee of Association shall be deputed to sell pairvi form/ vakalatnama/other form at the premises of the Association. The pairvi form will be attached with a counter foil.
- (13) The members must sign pairvi on the form issued by the Association alone.
- (14) A member signing pairvi on a plain paper or a form supplied by any other Association or agency shall be liable to pay penalty as decided by the respective Association. In case, the member of the Association refusing to use prescribed format shall make himself disqualify to get the benefit of the scheme of the Association except in the case of Government/ Government under taking. Violation of these rules will result in its disaffiliation of the Association by Bar Council and concerned lawyer may be held to be guilty of misconduct.
- (15). Each member of the Association while making pairvi filing petition, plaint, written statement, complaint or any document and/or petition of any type shall not put his initial but write his full name and shall also put his enrolment number over the same. Non compliance of it shall be treated as misconduct.
- (16) Advocate who is member of more than one Association shall not be entitled to take advantage of welfare scheme from more than one Association even if contribution are made by him in different Association, while drawing benefit from welfare fund such Advocates must file affidavit that he has not withdrawn any amount nor has availed facility of welfare Scheme from any other Association,
Any Advocate who was enjoying such facility from more than one Association prior to adaptation of this Model Rule must give affidavit as to from which Association he would keep his tie up for the purpose of welfare scheme. Violation of this provision may make him liable for criminal prosecution and also be treated as misconduct.

(17^{13*}) [****]

VOTING RIGHT

- 58. An Advocate may become member of as many as Association, he may like but he has to indicate that in one financial year, he shall vote in only one Association.

13 Amended vide Resolution No. 06/2013 of Jharkhand State Bar Council dated 9.3.2013 **approved by BCI vide resolution no. 44/2013 dt. 22.5.2013**

If he is member of more than one Association before exercising his vote he has to file an affidavit/declaration that in that particular financial year he has not exercised his vote in any other Association of Advocates. In case it is found that the information supplied was wrong then it would be treated as "misconduct" and may lose his membership and disciplinary action may be taken against him.

ADVOCATE CLERK

- 59.** Every Advocate clerk shall get himself registered with their respective Advocate Association on making application accompanied with RS. 100/- only to the Secretary of the Association duly forwarded by the advocate with whom he is attached. The secretary of the respective Advocate's Association shall maintain a separate register and enter names of such Advocate clerks with details i.e name, address, Advocate with whom he is attached etc. in case of non compliance of this provision the concerned clerk shall be disentitled for benefit under rule 57(2).

Every year such Advocates Clerk shall renew his/her registration by making application. The renewal fee would be RS. 10/- . Secretary of Association shall grant receipt to clerk for all deposit so made. Secretary shall also issue identity card to such clerk by charging proper cost.

TRANSFER OF BRIEF

- 60.** If any advocate is working in any brief from before and if the litigant wants to engage some other advocate and wants to make him in-charge of the case, the subsequent lawyer shall not accept the brief unless the account/due of former lawyers are cleared and "no objection" is granted to him by the lawyer working from before. Violation of this provision shall be treated as misconduct under Section 35 of the Advocate Act.

VIGILANCE COMMITTEE

- 61.** There shall be a vigilance committee in every association to identify those persons who are thought enrolled with Bar Council as an Advocate and are member of different district/subdivisional Advocate Association but are actually not practicing and are involved in different trade/business yet they are taking advantage of welfare schemes. The job of vigilance Committee would be to locate such enrolled Advocate and to inform respective Association and Bar Council.

(ii) This vigilance Committee will consist of five Advocates of respective Bar. Three of which would be nominated by respective executive council of Advocate Association and two members shall be nominated by the State Bar Council.

- 62.** All members of the Bar shall maintain decorum and decency of the profession and shall not attend court unless they are properly dressed.

- 63.** If any Advocate is involved in any criminal case and is convicted it shall be the duty of the Secretary of the Association to immediately intimate the same to Bar Council to take appropriate step.
- 64.** In case of any ambiguity and/or for clarification of any clause the Secretary of the Association shall refer the matter to Bar Council to issue guide line. In case of emergency the Executive Committee of Bar Council shall issue necessary instruction but subsequently the matter shall be placed in the meeting of council for information to all members.

Resolved and approved by Jharkhand State Bar Council in its meeting dated 10th Feb. 2007 Transmit a copy to Secretary of all BAR/ADVOCATE Association for adopting and implementing.

□□□

THE BAR COUNCIL OF BIHAR (JHARKHAND) ELECTION RULES, 1968

[Rules made by the Bar Council of Bihar under Section 15 (2) (a) and (d) of the Advocates Act, 1961. These rules are revised and approved by the Bar Council of India vide Resolution No.38/85]

1. **SHORT TITLE AND COMMENCEMENT :—**

These Rules shall be called the "Bar Council of Bihar Election Rules, 1968" and they shall come into force from the date of their approval.

2. These Rules shall be subject to the rules made by the Bar Council of India under the powers vested in it by the Act

3. **INTERPRETATION:—**

In these Rules, unless the context otherwise requires

- (a) "Act" means the Advocates Act, 1961.
- (b) "Advocate-General" means the Advocate-General for the State of Bihar.
- (c) "Bar Association" means a Bar Association included in the list kept by the Bar Council for the purposes of these Rules.
- (d) "Bar Council" means the Bar Council for the State of Bihar.
- (e) "Casula Vacancy" means a Vacancy that has been caused otherwise than by the expiry of the terms of office of a member.
- (f) "Chairman" means the Chairman of the Bar Council of the State.
- (g) "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 Bar Council is fixed for the 15th January, 1965. Under the rules of the Bar 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.

- (h) "Continuing Candidate" means any candidate not elected and not excluded from the poll at any given time.
- (i) "Count" means:-
 - (a) all the operations involved in the counting of the first preference recorded for candidates; or
 - (b) all the operations involved in the transfer of the surplus of an elected candidate; or
 - (c) all the operations involved in the transfer of the total value of votes of an excluded candidate;

- (d) all other operations involved in, incidental to, or necessary for the entire process of ascertainment of votes.
- (j) "*Electoral Roll*" means and includes the Roll containing the names of the Advocates prepared in accordance with the rules of the Bar Council of India in Part III, Chapter I.
(The names of Advocates who on the date of nomination have been on the State Roll for at least 10 years should be indicated by an asterisk mark against their name.)
- (k) "*Exhausted Paper*" means a Ballot paper on which no further preference is recorded for a continuing candidate, and includes a Ballot Paper on which.
- (a) the name of two or more candidates, whether continuing or not, are marked with same figure and next in order of preference, or,
- (b) the name of the candidate next in order of preference, whether continuing or not, is marked by a figure not following consecutively after some other figure on the Ballot Paper or by two or more figures.
- (c) there is such erasure, obliteration, erasure, or mutilation as to make any preferences other than the first preference ambiguous. In such cases only the preference which has become ambiguous and other preference thereafter would be treated as exhausted paper.
- (l) "*First Preference*" means the figure "1" set opposite the name of a candidate. "*Second preference*" means, the figure "2" set opposite the name of a candidate. "*Third preference*" means the figure "3" set opposite the name of a candidate, and so on.
- (m) '*Form*' mean a form prescribed under these rules, (n) '*Nomination paper*' means the paper prescribed in Form A of the Rules.
- (o) '*Original vote*' in relation to any candidate, means a vote derived from a Ballot Paper on which a first preference is recorded for such candidates.
- (p) '*Polling Officer*' means person appointed as such by the Returning Officer and includes the person appointed by the Returning Officer to assist the Polling Officer.
- (q) '*Presiding Officer*' means the person appointed by Bar Council.
- (r) '*Polling Station*' or '*Polling Booth*' means Place or Places to be fixed by Bar Council.
- (s) '*Returning Officer*' means the person appointed by the Bar Council as such to conduct and hold the election.
- (t) '*Surplus*' means the number by which the value of the votes, original and transferred, of any candidate exceed the quota.

- (u) '*Transferred vote*' in relation to any candidate, means a vote the value or part of the value of which is credited, and which is derived from a Ballot paper on which a second or a subsequent preference is recorded for such candidate.
- (v) '*Unexhausted Paper*' means a voting Paper on which a further preference is recorded for a continuing candidate.
- (w) '*Voter*' means a person whose name is included in the Electoral Roll.
- (x) '*Ballot Box*' means any box, bag or other receptacle used for insertion of voting papers.
- (y) '*State Roll*' means the Roll of Advocate prepared and maintained by the Bar Council under Section 17 of the Advocates Act, 1961.

4. TIME AND PLACE OF ELECTION :—

Election of members to the Bar Council shall be held at such place or places and during such hour or hours as the Council may appoint. Different dates and different hours may be appointed for polling at different places.

5. METHOD OF ELECTION :—

- (i) Election to the Bar Council shall be by single transferable vote by and amongst the voters on the Electoral Roll in accordance with these rules.
- (ii) The voting shall be by personal ballot;
 PROVIDED THAT-the Presiding Officer and other persons who are appointed to assist at the poll may cast their votes at the Polling Station where they are deputed on Ballot Papers available there and these Ballot Papers should be placed in a separate Sealed Cover and sent to the Returning Officer along with the Ballot Boxes.

6. NOTICE OF PUBLICATION OF ELECTORAL ROLL AND CORRECTION THERETO :—

The Bar Council shall atleast one month before the date of publication of notice notify to all Bar Associations, about the intended election and the date by which objections if any to the Electoral Roll may be filed before the Bar Council and shall send one copy of the Electoral Roll to the President of each Bar Association. A copy of the notice and Electoral Roll shall also be hung on the Notice Board of the Bar Council.

It shall be open to any person to file an objection for correction of the State Roll and the Electoral Roll on or before the date fixed in the above mentioned notice. Such objection shall be decided by any person or Committee, so appointed by Bar Council, within a week from the receipt thereof and the State Roll and / or the Electoral Roll shall be amended accordingly and the amended roll shall be the final roll.

7. NOTICE AND PROGRAMME OF ELECTION :—

Notice of the time and place of election shall be given by Publication over the signature of the Returning Officer in one issue of an English daily newspaper of the State after one month of the notice of publication of electoral Roll under Rule 6 and not less than 45 clear days before the date of election. The notification shall specify interalia:-

- (i) The date for filing Nomination paper.
- (ii) The date for scrutiny of the Nomination Paper.
- (iii) The date for withdrawal of candidature.
- (iv) The date or dates of polling
- (v) The dates, place and time for counting of votes; and the total number of the seats to be filled up.
- (vi) The minimum number of seat that should be filled from amongst Advocate who on the relevant date have been on the State Roll for at least 10 years.
- (vii) The names of polling Station with necessary details where polling will take place.

Provided that the last date for the filing of the Nomination papers shall not be less than 25 clear days before the date of election and that there shall be atleast 5 clear days after the last date of the scrutiny for withdrawal of the candidature.

Copies of the notice shall be affixed on the Notice Board of the Bar Council and sent to the Advocate-General and to the Bar Association, and published in one local daily newspaper.

8. CANDIDATE :—

No person shall be entitled to seek election unless his name is one the Electoral Rolls

9. CANDIDATE HOW TO BE PROPOSED :—

Every candidate for election as a member of Bar Council shall be proposed by one voter seconded by another voter, and accepted by the candidate. The Nomination Paper shall be delivered to the Returning Officer by the candidate, his proposer or seconder or sent by Registered Post so as to reach the Returning Officer on or before the date specified in the notification under Rule 7.

Provided that no person shall subscribe whether as proposer or seconder to the nomination of not more than the total number of members to be elected.

- (i) The proposer and seconder shall write their full name address and their serial number as mentioned in Electoral Roll.

- (ii) Every Nomination Paper shall be accompanied by a sum of Rs. 5000/- either in cash or by Bank Draft in favour of the Bihar State Bar Council Payable at Patna as Security Deposit. The deposit shall be forfeited if at an election poll has been taken, the candidate is not elected and he does not get more than 1/4th of the number of votes prescribed in this behalf as sufficient to secure the return of a candidate otherwise the amount will be returned to the candidate. The security shall also be returned to a candidate who withdraws on or before the date fixed for the withdrawal.

10. DOUBT AS TO VALIDITY OF PROPOSALS :—

On the date fixed for the scrutiny of nomination under Rule 7 above, the Returning Officer shall examine the nomination and on an objection by a candidate or on his own motion after such summary enquiry, if any, as he may deem necessary reject the nomination on the following grounds;

- (a) That the nomination papers did not comply with the requirement of these rules.
- (b) That the signature of the candidate or the proposer or seconder on the nomination paper is not genuine.

The candidate and/or their agent shall be entitled to be present at the time of scrutiny and to make submission.

No nomination Paper shall be rejected except for defect of substantial nature and the Returning Officer may allow any defect to be rectified.

11. WITHDRAWAL FROM ELECTION :—

Any person whose name has been proposed as a candidate may withdraw his candidature by a communication in writing so as to reach the Returning Officer not later than the date specified for the purpose in the notification under Rule 7.

12. DECLARATION OF NUMBER OF CANDIDATES IS EQUAL TO THE NUMBER OF SEAT:—

If the number of duly nominated candidates who have been on the State Roll for more than 10 years is less than or to the number required by the proviso to Section 3 (b) of the Act, such candidates shall be declared elected. The number thus elected shall be deemed to be the number required by the proviso, If the number of such candidates is in excess of the required number but the number of all the nominated candidates does not exceed the required number they shall be declared elected. In every other case there shall be a poll as prescribed by these Rules.

13. PUBLICATION OF LIST OF CANDIDATE :—

When the number of candidates duly proposed is more than the number of seats to be filled, the Returning Officer shall notify the names of the proposed

candidates in the prescribed form 'B' of these rules at least ten days before the date fixed for election.

- (i) by posting the list of the candidates on the Notice Board of the Bar Council and
- (ii) by sending the list of the candidates to
 - (a) The Advocate-General.
 - (b) Presidents of the Advocates Association, Bar Association and Lawyers' Association of the High Court; and
 - (c) Presidents of the Bar Association and Advocates Association in the different parts of the State.

(N.B.—*Names of candidates who have been on the State Roll for more than 10 years, if not already declared elected shall be marked with an asterisk).*

14. RETURNING OFFICER PRESIDING OFFICER AND POLLING OFFICER:—

- (a) The Bar Council shall appoint the Returning Officer to conduct the election in manner hereinafter prescribed.
- (b) The Returning Officer shall secure the nomination of Presiding Officer and Polling Officers by orders made by the Executive Committee.
- (c) The Presiding Officers and Polling Officers shall be detailed by the Returning Officer.
- (d) The Presiding Officer shall conduct the election at the polling Booth to which he is so detailed.
- (e) The Polling Officers allotted to each Polling Station shall assist the Presiding Officer at the Polling Station in exercising his functions.
- (f) Any Polling Officer, if so directed by Presiding Officer, shall perform all or any of the functions of the Presiding Officer and for such time as may be necessary.

Provided that no candidate shall be appointed either as Returning Officer or Polling Officer.

15. FORM OF VOTING PAPER :—

The Voting Paper shall contain the names of all the candidates, the address of the candidate and the date of his enrolment as Advocate as in the Roll shall be given against the name of each candidate. An asterisk mark shall be put against the name of candidate who on the relevant date have been on the State Roll for at least 10 years for the purposes of proviso to Section 3 (2) (b) of the Act. The Voting paper shall also bear on it the facsimile of the Returning Officer's signature. It shall state the total number of the candidate to be elected. The Voting Paper shall, as nearly as possible be in the Form 'C'.

16. VOTING IN PERSON :—

Voters shall cast their votes in person at the respective Polling Station on the dates notified in this behalf.

Voters casting votes must produce their Identity Cards with Photos issued by the Bar Council in case of dispute before obtaining Ballot Paper and those Voters, who fail to produce Identity Cards shall not be supplied ballot papers. The Presiding Officer shall put his signature with date on the Identity Card in token of production of the Identity Card.

17. POLLING STATION FOR VOTES VOTING IN PERSON :—

There may be one or more polling station at each place. Different dates may be fixed for polling at the different Stations. Polling shall ordinarily be from 10 A.M. to 5 P.M. The Returning Officer shall appoint a sufficient number of Polling Officers for the Stations. The Bar Council may give such general directions as it may consider necessary with regard to place where polling Stations ought to be established and the persons to be appointed as Polling Officer.

18. SECOND VOTING PAPER NOT TO BE ISSUED :—

When a Voting Paper has once been handed over to a Voter, a second Voting Paper shall not be issued to him unless he satisfies the Presiding Officer that the Voting Paper has been spoiled or mutilated or in which case a duplicate voting paper may be issued to him.

19. DESPATCH OF VOTING PAPERS :—

Despatch of voting papers to Polling Officer for voting in person:-

- (1) The Secretary shall deliver the polling officers of the booths, requisite number of voting papers and some additional voting papers bearing the facsimile of the Returning Officer, with a covering letter stating the number of the papers being delivered and enclosing an extract from the Electoral Roll relating to the polling booth and other papers, if any, and instructions.
- (2) The Secretary shall deliver the boxes & other materials to the Presiding Officer of the booths as per details below:-
 - (i) One box which is meant for casting of votes must be locked and be sealed with a particular seal, as prescribed by the Council, and the hole on the top of the box should also be pasted with a slip duly signed and sealed by the returning officer. The paper so pasted on the top of the box be torn at the polling station in order to enable the voters to cast their votes.
 - (ii) One Big Box in which unused ballot papers, Cloth, Seal, Lac, Match Box Candle, Needle, Thread, Copies etc can be kept.
 - (iii) Sufficient cloth for wrapping the box in which vote is cast.

20. SCREENED SPACE :—

In every Polling Station there shall be one or more screened space provided for the voters to mark the Ballot paper so that their marking may not be visible to any person. In the screened space only one voter shall be allowed entry at one time.

21. AUTHORISED REPRESENTATIVES OF CANDIDATES :—

Each candidate shall be entitled to nominate an Advocate to be his authorised representative for every Polling Station to act on his behalf to safeguard his interest on the day of election.

22. ADMISSION TO POLLING STATION :—

- (a) The Presiding Officer concerned shall open the Polling Station at the hour fixed and thereafter admit electors allotted to the Polling Station for the purpose of casting their votes.
- (b) The Presiding Officer shall exclude from the Polling Station all persons other than,
 - (i) Polling Officers
 - (ii) Candidates and his authorised Agents; and
 - (iii) Voters allotted to the Polling Station who have not cast their votes;
 - (iv) Person or persons admitted for the purpose of identity of electors and by the Presiding Officer to assist him in the discharge of his duties.
 - (v) Other persons admitted by the presiding officer to assist him in the discharge of his duties.

Provided that the Presiding Officer may at any time authorise representative from the Polling Booths either due to lack of space or due to other specified circumstances.

The Returning Officer shall with the approval of the Executive Committee issue instructions to the Presiding Officer regulating the procedure to be followed in recording votes at the Polling Booth including admission of the voters to the Polling Station. Such regulations shall provide that all persons who had entered the Polling Station before the hour fixed for closing the poll under Rule 17 shall be entitled to vote at that Polling Station.

- (c) The Presiding Officer shall subject to instruction issued by the Returning Officer regulate the number of voters to be admitted at any one time inside the Polling Station.
- (d) The Presiding Officer shall close a Polling Station at the hour fixed in that behalf under Rule 17 and shall not thereafter admit any voter into the Polling Station.

Provided that all voters present at the Polling Station within the area fixed for the purpose before its close shall be allowed to cast their votes.

23. NO CANVASING IN POLLING STATION :—

No person shall be permitted to canvas during the polling hours fixed under Rule 17 within the Polling Station and thereafter until all the Voters within the Polling Station have cast their votes.

24. IDENTIFICATION OF VOTERS :—

(a) The voter entering the Polling Station shall be required to give his name, his father's name and such other particulars and details as may be considered necessary to enable the Presiding Officer to be satisfied about the identity of the Voter in cases in which he does not personally know the Voter.

(b) In case where the Presiding Officer is not satisfied about the identity of any person who claims to be a voter, he shall issue a Ballot Paper to that person upon his signing a Register kept for the purpose at the Polling Station. Such Ballot Paper would be marked separately with an endorsement on the back with the words "Disputed Ballot Papers" by the Presiding Officer in his own hand and signed by him.

If a person representing himself to be a particular voter applies for a Ballot paper after another person has already voted as such voter he shall on satisfactorily answering such question relating to the identity as the Presiding Officer may ask, be entitled subject to the following provisions of this rule to mark Ballot paper hereinafter referred to as "Tendered Ballot Paper" in the same manner as any other voter, Every such person shall be supplied a "Tendered Ballot Paper" sign his name against entry relating to him in a register maintained separately for the purpose. A 'Disputed' or 'Tendered' Ballot Paper shall be the same as any other Ballot Paper used at the Polling Station except that:

(a) they shall serially be the last 2 in the list of Ballot Paper issued for use at the Polling Station and

(b) endorsed on the back with the words 'Disputed Ballot Paper' or 'Tendered Ballot Paper' as the case may be by the Presiding Officer in his own hand signed by him.

The Voter after mailing a 'Disputed Ballot Paper' or a 'Tendered Ballot Paper' in the voting compartment and folding, it shall instead of putting it into the Ballot Box give it to the Presiding Officer who shall place it in separate covers specially kept for the purpose of 'Disputed' or 'Tendered' Ballot Paper as the case may be.

The said Register and Ballot Papers shall be looked into and scrutinised and considered in dispute relating to the election where any point arises concerning the matter.

25. SUPPLY OF VOTING PAPERS TO VOTERS VOTING IN PERSON :—

The Polling Officer, shall, on the date and at the time or hour fixed in this behalf, supply a Voting Paper to each voter in his Polling Booth after being satisfied that Rule 16 is complied who applied in person therefore, and take his signature in the list of voters against the voter's name to signify the issue of the Voting Paper.

26. CASTING OF VOTES :—

- (a) On receiving the Ballot Paper the voter shall sign his full name as also put his usual signature and the number of Ballot paper received by him against his name in the Register or file, as the case may be kept at the Polling Station for the purpose.
- (b) The voter shall then forthwith :-
 - (i) Proceed into the screened space provided for marking the Ballot Paper.
 - (ii) Without undue delay mark the Ballot Paper in accordance with the provision of these Rules;
 - (iii) Fold the Ballot Paper properly so that his marking cannot be viewed; and
 - (iv) Put the Ballot Paper into the Ballot Box nearest to him.
- (c) In no shall any Ballot Paper either marked or unmarked be taken away by any voter and in all cases the Ballot Paper shall be put in the Ballot Box except where it is either torn or mutilated in which case he shall return it to the Presiding Officer as provided in these Rules.

27. CASTING OF VOTES BY INFIRM PERSONS :—

The Presiding Officer shall give such assistance at the Polling Station as he may consider necessary to voter who is blind and incapacitated to enable him to exercise his right to vote And may for that purpose on the request of the Voter concerned mark the Ballot Paper as directed by the voter. In all such cases, the Presiding Officer shall make an endorsement in the Register kept at the Booth for the purpose.

28. CHALLENGE AS TO IDENTITY OF PERSON FALSELY CLAIMING TO VOTE :—

- (a) Any candidate or in his absence any authorised representative of the candidate will have the right to challenge the claim of any person to receive Ballot Paper, Cases where the candidate or his authorised representative, as the case may be, is satisfied that the person claiming Ballot Paper is not voter or is voter not allotted to the Polling Station concerned;
 - (i) Stop the issue of Ballot Paper to such person; and
 - (ii) Require the person offering the challenge to give in writing the fact of his challenge;

- (iii) On receiving written challenge make such summary inquiry, then and there in accordance with the proviso of these rules as may be necessary, and
- (iv) On being satisfied that the person claiming the Ballot Paper is a voter allotted to the polling Station, he shall direct that a Ballot Paper be given to him and in case he is not so satisfied he shall take steps in the manner provided in Rule 24(c) of these Rules.

29. SUPPLY OF FRESH BALLOT PAPER IN CERTAIN CASES, AND RETURN OF BALLOT PAPER BY AN ELECTOR:—

- (i) Any voter who has inadvertently dealt with the Ballot Paper in such a manner that it cannot be conveniently used as a Ballot Paper may by delivering it to the Presiding Officer and satisfying him of the inadvertance obtain another Ballot Paper in place of the Ballot Paper so delivered which shall be marked as cancelled by the Presiding Officer.
- (ii) All the Ballot Papers so cancelled shall be kept in a separate packet set apart for the purpose.
- (iii) If a voter after obtaining any Ballot Paper for the purpose of recording his vote decides not to use the same, he shall return the Ballot Paper to the Presiding Officer and the Ballot so returned shall be marked as Cancelled and kept in the Packet referred to sub-rule(ii).
- (iv) A record shall be kept by the Presiding Officer of all Ballot Papers cancelled under Sub-rule (ii) & (iii) above.

30. VOTE AND PREFERENCE TO BE EXERCISED BY VOTERS:—

- (i) Every voter shall have only one vote at the election irrespective of the number of seats to be filled.
- (ii) A voter in giving his vote-
 - (a) shall place on his Ballot Paper the word (in English numerical 'One' word) in the space opposite the name of the candidate whom he chooses for his first preference:
 - (b) may in addition on his Ballot Paper the word 'two' to the word Twenty five (in English numerical word) as he may choose to do in the Ballot paper in the space opposite the names of the candidates in the order of his Preference;
 - (c) may if he chooses to indicate fewer preference than up to "Twenty five";
 - (d) shall not make or cause to be made erasure, obliterations or alterations in the Ballot Paper.
- (iii) The Ballot Paper bearing the signature of the voter or any erasures, obliterations or alterations shall be deemed to have defaced.

31. BALLOT PAPERS WHEN INVALID:—

A Ballot Paper shall be invalid :-

- (i) Which had not been issued by the Returning Officer for the purpose of the election,
- (ii) If it is deemed to have been defaced.
- (iii) If there is any mark in writing on the Ballot Paper by which the voter can be identified.
- (iv) On which the 'ONE' word.
 - (a) is not marked, or
 - (b) is set opposite the names of more than one candidate, or
 - (c) is so placed as to render it doubtful to which candidate it is intended to apply.
 - (d) and some other word or words are set opposite the name of the same candidate! or

32. SEALING OF BALLOT PAPERS :—

- (1) The Presiding Officer shall as soon as practicable after the close of polling in the presence of the candidate or their representative.whoever be present.
 - (a) re-paste the opening of the box in which votes have been cast under his signature & seal.
 - (b) take out the cloth which is kept in the other box wrap the said box with the cloth.
 - (c) stitch the cloth by needle & thread kept in other box.
 - (d) sign at conspicuous places and shall put his seal wherever he deems necessary and the candidate or his representative if present may also put his signature and seal.
 - (e) make separate packets of -
 - (i) the unused Ballot Papers,
 - (ii) the mutilated torn Ballot Papers,
 - (iii) returned Ballot Papers, and
 - (iv) Electoral Rolls and Register and papers used at the polling Station.
 - (f) Place all the packets, sealed Box containing votes cast other materials in the Big Steel Box.
 - (g) Prepare a short report in form 'D' showing the number of Ballot papers issued to him and the number of Ballot Papers returned unused and placed in the Big Steel Box: and

(h) Close Big Steel Box by putting lock and shall be sealed by different seal at the Junctions.

(2) The candidates or their representatives may and the Presiding Officer shall put their signatures on a sheet of paper which shall be pasted at necessary places so as to ensure that the Big Steel Box cannot be opened without tearing the pasted sheets of Paper.

33. DELIVERY OF SEALED STEEL-BOXES' AND THEIR SAFE KEEPING:—

(a) The Presiding Officer, shall, as soon as practicable deliver the Steel-Box so fastened to and the Returning Officer at Patna either Personally or through a responsible person duly authorised in writing by him to do so.

(b) The Returning Officer shall keep the sealed boxes safely in a secure place under his direct control to which no other person shall have access except under his orders.

34. ADJOURNMENT OF POLL IN EMERGENCIES:—

(i) If at an election the proceeding at any Polling Station are interrupted or obstructed it is not possible to take the Poll on account of any natural calamity or any other sufficient cause, the Presiding Officer for such Polling Station shall announce and adjournment of the Poll to a date to be notified later on; and where he has so adjourned the Poll, he shall forthwith inform the Returning Officer.

(ii) Whenever a Poll is adjourned under sub-rule (i) the Returning Officer shall immediately report the circumstances to the Executive committee and shall as soon as may be, with the approval of the Executive committee appoint the day on which the Poll shall recommence and fix the Polling Station of place at which, and hours during which, the Poll will be taken and shall not count the votes, cast at such election until such adjourned poll shall have been completed.

(iii) In every such case, as aforesaid the Returning Officer shall notify in such manner as the Executive committee may direct the date, place and hours of Polling fixed under sub-rule (ii).

35. FRESH POLL IN CASE OF DESTRUCTION, ETC. OF BALLOT BOXES :—

(i) If at any election any Ballot Box used at a Polling Station or at a place fixed for the poll is unlawfully taken out of the custody or place fixed for the Poll, is unlawfully taken out of the custody of the Presiding or the Returning officerlost damaged, and the Returning Officer is satisfied that in cosequences thereof the result of the Poll at that Polling Station or place cannot be ascertained he shall.

(a) declare the polling at the Polling Station or Place to be void; and

(b) report the matter forthwith to the Bar Council and to the Returning Officer,

- (ii) With the previous approval of the Executive Committee the Returning Officer shall, as may be—
- (a) appoint a day fix the hours for taking fresh Poll at the Polling Station or Place or at some other appropriate Polling Station or place.
 - (b) shall not count the votes cast at such election until such fresh poll shall have been completed.
 - (c) notify the day so appointed and the hours so fixed by him in such manner as the Advocate-General may direct.
- 36. SAME RULES TO APPLY IN ADJOURNED OR FRESH POLL:—**
The provision of the rule for election and/or orders made thereunder shall apply to every adjourned or fresh poll as they apply to the original Poll.
- 37. TIME, PLACE AND DATE FOR THE COUNTING OF VOTES:—**
- (i) The scrutiny and counting of votes shall take Place in the Bar Council Office or such other Place as the Returning Officer may fix and it shall be done at the hour and on the date previously notified under Rule 7.
 - (ii) The scrutiny counting of votes, shall, as far as practicable, proceed continuously till such time as all the Ballot Papers are scrutinised and the votes are counted.
 - (iii) In the event of counting being suspended for any necessary interval the counted Ballot Papers shall be kept separately in one Steel Box and the remaining Ballot Papers along with other document etc. relating to the election shall be kept in another Box or other Steel Boxes. All the Steel Box shall be duly locked and secured and sealed and kept in the proper sustody with adequate precaution so that Boxes may not be tampered in any way.
- 38. ADMISSION TO THE PLACE FIXED FOR COUNTING :—**
- (i) The Returning Officer shall exclude from the place for the counting of votes all persons except:
 - (a) such person as he may appoint to assist him in the counting;
 - (b) Candidates and/or their authorised representatives.
 - (c) Persons authorised by the Returning Officer.
 - (ii) No person who has been employed by or on behalf of had been otherwise working for candidate in or about the election shall be appointed to assist the Returning Officer in the counting of votes.
 - (iii) Any person who during the counting of votes misconducts himself or fails to obey the directions of the Returning Officer may be removed from the Place where the votes are being counted.
- 39. ARRANGEMENT OF VALID VOTING PAPERS IN PARCELS :—**
- (a) On the day fixed for counting, the Returning Officer shall open all the Ballot Boxes and the packet containing Voting papers. After rejecting the

voting papers, which are invalid or which cannot be taken into account for the purpose of election under these rules, the Returning Officers shall.

- (b) arrange the remaining voting Papers in parcels according to the first preference recorded for each candidate.
- (c) count and record the number of papers in each parcel.
- (d) credit, to each candidate the value of papers in his parcel.

40. ASCERTAINMENT OF QUOTA :—

Every Voting Paper shall be deemed to be of the value of one hundred, and the quota sufficient to secure the return of a candidate at the election shall be determined as follows:

- (a) add the value credited for a candidate under clause (d) of rule 39.
- (b) divide the total by a number which exceeds by one of the number or seat to be filled: and
- (c) add one to the quota ignoring the remainder if any resulting number is the quota.

41. CANDIDATES WITH QUOTA TO BE ELECTED :—

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 Voting Papers credited to a candidate is equal to or greater than the quota that candidate shall be declared elected.

Provided that (1) No candidate who has not been an advocate on the State Roll for at least 10 years shall be elected if 12 candidates of less than 10 years standing have already been declared elected.

- (ii) If at the end of any count, there are two or more candidates who have not been on the State Roll 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 category referred to in proviso (ii) above, getting the same value of votes at the end of any count, the Returning Officer conducting the election shall decide by lot which of such person 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.

42. TRANSFER OF SURPLUS :—

If the value of the Voting Paper credited to a candidate is greater than the quota, the surplus shall be transferred in accordance with the provision of this rule to

the continuing candidates indicated on the Voting Papers of that candidate as being next in order of the Voter's preference.

(ii) If more than one candidate have a surplus, the surplus shall be dealt with first and the others in order of magnitude.

Provided that every surplus arising on the first count shall be dealt with before those arising on the second count and so on.

(iii) where there are more surpluses than one to distribute and two or more surpluses are equal regard shall be had to the original votes of each candidate, and the candidate for whom original votes are recorded shall have his surplus first distributed, and if the value of the original votes is equal the Returning Officer shall decide by lot which candidate shall have his surplus first distributed.

(iv) (a) If the surplus of any candidate to be transferred arise on the original votes only, the Returning Officer shall examine all the papers in the poll belonging to that candidate, divide the unexhausted papers into sub-parcels according to the next preference recorded there on and make a separate sub-parcel of the exhausted papers.

(b) The Returning Officer shall ascertain the value of the papers in each sub-parcel of all the unexhausted papers.

(c) If the value of the unexhausted papers is equal to or less than the surplus the Returning Officer shall transfer all the unexhausted papers at the value at which they were received by the candidates whose surplus is being transferred.

(d) If the value of the unexhausted paper is greater than the surplus, the Returning Officer shall transfer the sub-parcels of the unexhausted papers, and the value at which each paper shall be transferred shall be ascertained by dividing the surplus by the total number of unexhausted papers.

(v) If the surplus of any candidates to be transferred arises from transferred as well as original votes, the Returning Officer shall re-examine all the papers in the sub-parcel last transferred to the candidate, divide the unexhausted paper into sub-parcels, according to the next preferences recorded there on and then deal with the sub-parcel in the same manner as provided in the case of such parcel referred to in sub-rule 4.

(vi) The papers transferred to each candidate shall be added in the form of a sub-parcel to the papers already belonging to such candidate.

(vii) All papers in the parcel or sub-parcel of an elected candidate not transferred under this rule shall be set apart as finally dealt with.

43. EXCLUSION OF CANDIDATES LOWEST ON THE POLL :—

The Returning Officer conducting the election shall exclude from the poll the following.

- (i) If there are more candidate who have obtained more than the quota the candidate who can not be declared elected under proviso (i) to Rule 41 of these rule,
- (ii) The candidates lowest in the Poll in the following order after all the surpluses have been transferred as provided in these rules 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 rule,

First such candidates as are advocates on a State Roll for less than 10 years, if the number of candidates who have been advocates on a State roll for at least 10 years required by the proviso to Sec. 3(2) of the Act already declared elected is less than 10 in number.

Next the other candidates,

ILLUSTRATIONS

At an election to the Bar Council if 30 is arrived at as the quota, at the end of a count, when there is no further surplus to be dirtributed, M and N are the contesting candidates.

M (who has not been on the State roll for atleast 10 years gets 150) and N (who has been on the State Roll for at least 13 years or more) gets 100.

Only 9 candidates who have been advocates on State Roll atleast 10 years have already been declared elected. Hence N has to be excluded and the voting papers of M will be thereafter transferred as provided inthese rules.

If in the same case 10 candidates who have been advocates on a State roll for atleast 10 years had already been declared elected, N will be excluded.

The voting Papers of N will be transferred as provided in rules (2)

- (i) The Returning Officer shall distribute the unexhausted papers of the candidates excluded under there rules among the continuing candidates according to the next preference recorded therein and all exhausted papers shall be set apart as finally dealt with.
- (ii) The papers containing original votes of an excluded candidate shall first be ' transferred, the transfer value of such paper being one hundred.
- (iii) The papers containing transferred 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 paper, 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 exclusions 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 their original votes are equal, the candidate with the smallest value at the earliest count at which these candidate had unequal votes shall be excluded.
- (viii) If two or more candidates are lowest on the poll and each has the same value of votes at all counts the Returning Officer shall decide by lot which candidate shall be first'excluded.
- (ix) If during a count, any candidate getting the quota or more has to be excluded by reason of rule 41 above, the transfer of his votes shall be deferred and made immediately after the other candidates having got the above quota in that count are declared and their votes transferred as provided for in these rules.

44. TRANSFER WHEN TO BE DISCONTINUED:—

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 count then proceeding shall be completed but no further papers shall be transferred to him.

45. FILLING THE LAST VACANCIES:—

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

If the total number of candidates so far declared elected from amongst the advocates on the State Roll for atleast 10 years at the relevant date is less than 10, the requisite number 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 candidates shall not, however, be declared elected if he has been on the State roll for

less than 10 years and if the total number of candidates so far declared elected from amongst advocates on the State roll for atleast 10 years as provided in these rules, is less than 10 as aforesaid.

- (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 atleast 10 years on the relevant date so far elected is less than the required number, then that candidate who will be on the State roll for atleast 10 years shall be declared elected and the other candidate shall be excluded.

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

- (5) In the case of every election of member of a State Bar Council, the State Bar Council shall-

(a) notify the minimum number of seats that should be filled up from amongst advocates who on the relevant date will be advocates on a State roll for atleast 10 year.

(b) require every candidate to specify in his nomination paper the date of this enrolment and the period for which his name had been on the roll of one or more High Court under the Indian Bar Councils Act, 1926, and the roll or rolls of State Bar 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.

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

(i) the period during which an advocate may have been on the roll of any other State Bar Council or on the roll of any High Court or High Courts under the Indian Bar Council 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.

46. FRACTION ETC TO BE DISREGARDED:—

In carrying out of the provision of rules 41 to 44 the Returning Officer shall disregard all fractions and ignore all preference recorded for candidates already elected or excluded from the poll.

47. PETITION FOR RE-COUNTS :—

(i) Any candidate or in his absence his authorised representative may, at any time during the counting of votes, either before the commencement or after the transfer completion of any of votes (whether surplus or otherwise), request the Returning Officer to re-examine and re-count the Votes of all or any candidates (not being papers set aside at any previous transfer as finally dealt with), and the Returning Officer shall forthwith re-examine and re-count the same accordingly.

(ii) The Returning Officer may in his discretory on recount the votes either once or more than once in any case in which he is not satisfied as to the accuracy of any previous count.

Provided that nothing in this sub-rule shall make it obligatory on the Returning Office to re-count the same votes more than once.

48. DETERMINATION OF RESULT AND PUBLICATION THEREOF:—

(i) Upon the completion of count, a list of the candidates elected to the Bar Council shall be prepared and signed by the Returning Officer and the list shall be submitted by him to the Advocate-General who shall certify the same by his signature.

(ii) After such certification a copy of the list shall be published in the official Gazette and a copy thereof shall be sent to the Advocate General and to each of the President of the Advocate Association, Bar Association, and Lawyers Association, Patna High Court and other Bar Association, Advocate Association in the State of Bihar, for information.

(iii) On the publication of the list in the Official Gazette, the persons whose names appear in the list shall be deemed to have been declared as elected to the Bar Council.

49. DISPUTES AS TO THE VALIDITY OF ELECTION:—

(1) Any voter may contest the validity of the election of candidates declared to have been elected to the Bar Council by a petition signed by him and supported by an affidavit and delivered to the Secretary personally or sent by Registered Post so as to reach him within 16 days from the date of publication of the results of the election.

(2) The petition shall be accompanied by a fee of Rs. 1000/- which shall be paid in cash or sent by money order. In case it is sent by M.O.; the

M.O. receipt shall also be attached to the petition. The fee shall not be refundable.

- (3) Such petition shall include as respondent all the contesting candidates, and the petition shall be accompanied by as many copies as there are respondents.
- (4) All disputes arising under the above sub-rule shall be decided by a tribunal to be known as an Election Tribunal comprising 3 Advocates whose names are on the State Roll and who are not less than of 10 years standing.
- (5) The Election Tribunal shall be appointed by the Bar Council on or before the date on which the time of the election is fixed under Rule 4.
- (6) The Election Tribunal shall have all or any of the following powers:-
 - (i) To dismiss a petition,
 - (ii) To order re-count,
 - (iii) To declare any candidate to have been duly elected on a re-count.
 - (iv) To set aside the election of the candidate who either by himself or through his agent is guilty of corrupt practices.
 - (v) In other cases to declare a vacancy to be filled up as a casual vacancy,
 - (vi) To make an order as to costs.

Explanation : The vacancy arising under sub-rule (6) (iv) shall be filled up as a casual vacancy.

CORRUPT PRACTICES

The following shall be deemed to be corrupt practice. (1) 'Bribery' that is to say

- (A) Any gift, offer or promise of any gratification to any person whomesoever with the object, directly or indirectly of inducing:—
 - (a) a person to stand or not to withdraw or not to withdraw from being a candidate at an election,
 - (b) an elector to vote or refrain from voting at an election, or as reward to,
 - (i) a person for having so stood or not stood, or for having withdrawn or not having withdrawn his candidature,
 - (ii) an elector for having voted or refrained from voting. '
- (B) The receipt of, agreement to receive, any gratification whether as a motive or a reward-
 - (a) by a person for standing or not standing as, or for withdrawing or not withdrawing from being a candidate; or

- (b) by any person whom so-ever for himself or any other person for voting or refraining from voting or person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

For the purposes of this clause the term gratification is not restricted to pecuniary gratification or gratifications estimatable is money and includes all forms of entertainment and all forms of employment for reward.

- (2) Undue influence, that is to say any direct or indirect interference or attempt to interfere with the free exercise of any electoral right including the issuing or sending of any appeal or manifesto for votes whether direct or indirect.

Provided that a mere intimation of candidature with a bare request for a vote shall not amount the undue influence.

And Provided further that a candidate or his agent may orally ask for votes from voters; but on the date of election such request shall not be made within a radius of 200 yards from the Polling Station. And a candidate may issue a written intimation to his Voters announcing his candidature and seek their votes or their first preference votes, which intimation shall not contain any other publicity or his eulogy, Such written intimates shall also not amount to undue influence.

- (3) The hiring or procuring, whether on payment or otherwise of any vehicle or vessel or the use of such vehicle or vessel for the free conveyance of any elector to or from any Polling Station.
- (7) The trial of an election petition shall as far as possible be governed by the Civil Procedure Code.
- (8) No petition shall lie on the ground that any Nomination Paper was wrongly rejected or the name of any voter was wrongly included in or omitted from the Electoral Roll or any error of irregularity which is not of substantial character.
- (9) The voting Papers and other records relating to elections shall not be destroyed until the expiry of the time fixed for the filing of any petitions under clause 1 of this rule.
- (16) In case where a petition or petitions have been filed under clause 1, no such voting Papers or records shall be destroyed till all the election petitions are finally disposed off.

50. RULES FOR FILLING UP CASUAL VACANCY:—

- (A) A casual vacancy among elected members of the Bar Council shall, be deemed to occur if a member:-

- (a) dies; or
 - (b) resigns his office or appointed as Advocate General;
 - (c) is adjudged as an insolvent or lunatic: or
 - (d) is suspended from practice; or
 - (e) his name is removed from the roll of Advocates of the Bar Council for any reason including transfer to the roll of another State Bar Council; or
 - (f) his election is declared invalid by the tribunal of Advocates constituted under rule 47; or
 - (g) is declared by the Bar Council of which he is a member to have been absent without sufficient excuse for three consecutive meetings of the Bar Council.
- (B) Method of filling up casual vacancy : Any casual vacancy in the Bar Council shall be filled-up by the remaining members of the Council at a meeting thereof provided that if the number of the Council which have been on the roll for more than ten years is less than that required under the Proviso to Section 3(2) of the Act, the member co-opted shall be one who has been on the State Roll for more than ten years.
- (C) Filling up of casual vacancies : To fill a casual vacancy amongst the elected members of the Council the remaining members of the Bar Council shall elect Advocate from amongst Advocates on the roll of the Bar Council of Bihar.
- (D) The Chairman shall declare the casual vacancy when occurs and shall forthwith direct the Secretary to notify it.
- (E) The Secretary shall notify to the members of the Bar Council as well as to the Bar Associations in the State about the vacancy or the vacancies and shall further specify the date before which the nomination has to be filed and the date of the scrutiny.
- (F) Every candidate shall be duly proposed by a member of the Council on the prescribed nomination form and the declaration of the candidate to serve the Bar Council shall be in the prescribed form 'A'.
- (G) In case there is only one candidate such candidate shall be declared by the Chairman in conformity with Section 3(2) of the Act after scrutiny,
- (H) If there are more than one candidate the Election shall take place at the meeting of the Bar Council.
- (I) The Election shall be by ballot, and the Chairman shall in case of equality of votes, draw a lot then and there and shall declare the result accordingly.

Provided that such elected member shall continue to be the member of the Bar Council only for the remaining term of the member in whose place he is elected.

- (J) The result of the election shall be published in the official gazette and Local News Papers and sent to the Bar Associations of the State.

51. RULES FOR ELECTION OF CHAIRMAN AND VICE CHAIRMAN :—

[(Authentic copy of Rule not available till now hence not printed].

[Rule 50 & 51 was adopted by Bar Council of Bihar Vide Resolution No.5(B) 24.1.71 and approved by BCI and Communicated vide letter No. 632/71 dt. 14.3.71]



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Dated: 10.5.2007

BCI:D : 2007

The Secretary,
 Bar Council of Jharkhand
 Old T.A. Division,
 Room No. 44-47
 Dhurwa
 Ranchi, Jharkhand

Sir,

Please refer to your letter No. 2003/06 dated 2.12.2006 regarding approval of rules framed by the Bar Council of Jharkhand forwarded to this office along with the above mentioned letter. The Council considered the matter at its meeting held on 20th & 21st January, 2007 and passed the following resolutions :-

(i) For affiliation / Registration of Advocates /
 Bar Associations in the State of Jharkhand

RESOLUTION NO. 5 /2007

"RESOLVED that the Resolution Nos. 7, 8 & 15 dated 29.4.2006 modifying and adopting Bihar State Bar Council rules and also rules regarding affiliation / Registration of Advocates / Bar Associations in the State of Jharkhand received with the letter No. 2003/06 dated 2.12.06 be and are hereby approved."

(ii) Application Form for Enrolment as Advocate

RESOLUTION NO. 6 /2007

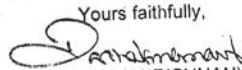
"RESOLVED that the Resolution No. 15 dated 29.4.2006 regarding application for Enrolment as advocate in Bar Council of Jharkhand received with letter No 2003/06 dated 2.12.06 be and is hereby approved."

(iii) Monogram of Jharkhand State Bar Council

RESOLUTION NO. 7 /2007

"RESOLVED that the Resolution No. 8 dated 29.4.2006 regarding monogram of Jharkhand State Bar Council be and is hereby approved."

Yours faithfully,


 (S. RADHAKRISHNAN)
 SECRETARY

AFFILIATION RULE

*Approved by Bar Council of India in its meeting dt. 20th & 21st January' 2007
(Vide resolution no. - 5/2007)*

Rules for the Affiliation or Reorganisation of the Advocate / Bar Associations with the Jharkhand State Bar Council

Whereas the Bar Council is of the opinion that it is necessary and expedient for an unified Bar in the State and for furthering better links with the Advocates/Bar Associations the following rules are framed for the Affiliation of the Advocates/Bar Association.

These Rule shall be called :

- a) The Advocates/Bar Associations Affiliation Rules - 2006.
- b) They shall extended to the whole of Jharkhand.

1. Definition: - In these Rules:-

- (a). "Association" means a body of Advocates having at least 50 Members if the Association is functioning at the District Head Quarter and in any other case having at least 25 members provided that the Bar Council may for good and sufficient reason, relax the conditions relating to number of Members in respect of the Associations.
- (b) "Council" means the Bar Council of Jharkhand.
- (c) "Advocate" means the legal practitioner whose names appear on the State roll of Advocates maintained by the State Bar Council.
- (d) "Unit" will means Advocate/Bar Jharkhand High Court, District, Sub - Division, Income-Tax, Sales-Tax and Labour Tribunal at Ranchi, District or Sub-Divisional Head Quarter.

2. Affiliation:-

- (a) All associations which were affiliated to Bihar State Bar Council, Patna till 22nd Nov. 2000 may apply for regularization of their affiliation by making application on prescribed form on payment of Rs. 2100/- consolidated amount forthwith.

Provided, the sub -Divisional Bar Association with the State of Jharkhand may apply for regularization of affiliation on prescribed form with consolidated amount of Rs. 1400/- forthwith.

Break in affiliation of the association may effect their members of respective association in calculating claim under Jharkhand State Advocate Welfare Trustee Committee.

- (b) Every Association desirous of affiliation may apply for its affiliation on the prescribed form (Sch.I) alongwith an affiliation fee of Rs. 500/- for District Bar Association and Rs. 300/- for Sub-Division Bar Association. A

renewal fee of Rs. 300/- for District Bar Association and Rs. 200/- for Sub-Divisional Bar Association annually shall be payable 30th April, each year to the Bar Council for continuing the affiliation. If no renewal application is made by 30th May every year, the associations making application for re-newal after the grace period shall be liable to pay fine @ Rs. 20/- per months alongwith the application for renewal.

Provided that affiliation will be accorded to one Association in one Unit, which has largest number of members on the date of affiliation.

- (c) The Association shall forward to the Council the names of the office bearers every year alongwith the application for renewal in (Sch.II).
3. (a). Such affiliated Association shall under obligation to keep a vigil over the professional activities of the members of profession and shall promptly inform the Council about any Advocate committing breach of the rules professional standards and etiquette or of any other misconduct which in the opinion of its Executive Committee or the General Body is derogatory of the profession or the dereliction of his duties towards his client or follow members and the council may thereupon take such action against the Advocate as be deems appropriate in the circumstances.
- (b). The Council shall keep the affiliated Association informed of every important decision taken or resolutions passed by it or by the Bar Council of India. The affiliated Association shall carry out all the directions and instruction issued by the Council from time to time.
4. **Dis-Affiliation:- The Council may disaffiliate any Association on any of the following grounds:**
- (i) If any Association fails to renew its affiliation even on payment of fine for more than 12 months.
 - (ii) If the Association deliberately or will fully disobeys or does not carry out the directions and instructions of the State Bar Council.
 - (iii) The number of members of the Association falls below the prescribed limit.
 - (iv) The annual election of the Association is not held in accordance with their rules and in spite of the request of the Council.
 - (v) If it comes to the notice of the Council that the Association has misconducted itself by tarnishing the image and lowering down the dignity of profession and/or conducting itself, in a manner unbecoming of a lawyers' Association.
 - (vi) Or for any reason the council may decide from time to time.

5. General/Supervisory:-

- (I) In case of any dispute arising amongst the office bearer of the affiliated Association, the dispute shall be referred to Bar Council for decision. The Chairman himself or his nominees shall fix up a date with due notice to respective person decide the dispute within three months of receipt of the complaints. Such decision of the Council shall be final and binding. Provided the aggrieved party may move in appeal within 30 days of the order to Bar Council.
- (II) However, Bar Council shall have right to seek/call for any information from any association within State of Jharkhand.

SCHEDULE - I**Application for Affiliation or Registration of Association under the Jharkhand Advocate's Welfare Act.**

1. Name of Association :
2. Address :
3. Name of President :
4. Name of Secretary/General Secretary :
5. Strength of Association :
(Name, Father's Name, Date of Enrolment, Date of Birth and other details, if any, should be furnish separately of all the existing members)
6. Details of Bank Draft
(The Draft should be drawn in favour of "Jharkhand State Bar Council" payable at Ranchi)
Draft No.
Date.....
Amount.....
Name of Bank
7. Copy of Rules of the Association :

Signature of Secretary**Signature of President.**

SCHEDULE - II*Application for Renewal of the Association*

1. Name of Association :
2. Address :
3. Name of the President :
4. Name of Secretary/General Secretary :
5. Strength of Association and details of new members :
6. Registration No. :
7. Amount paid by Draft :
8. Name of office Bearer :

Signature of Secretary**Signature of President**

THE JHARKHAND ADVOCATES' WELFARE (PENSION & FAMILY PENSION) RULES, 2012

AIMS AND OBJECTS

To provide the pension and other welfare benefits to the deserving advocates' and their needy family members in order to ensure maximum financial assistance for the purpose of security and future protection during crisis. Whereas it is expedient to provide a General Rules to govern the Jharkhand Advocates' Welfare (Pension & Family Pension) Scheme & regulate the Jharkhand Advocates' Pension Fund; **The Trustee Committee under section 9(2)(i) of the Jharkhand Advocates' Welfare Fund Act, 2012 makes the Scheme/Rules as follows:**

1. Short Title, Extent & Commencement:—

- (1) This Scheme may be called as "The Jharkhand Advocates' Welfare (Pension & Family Pension) Scheme, 2012" (in short- "Advocates' Pension Scheme") framed in exercise of power conferred **under section 9(2)(i) of the Jharkhand Advocates Welfare Fund Act, 2012 and recommended by Jharkhand State Bar Council under Rule 57(6) of the Uniform Model Rules (for affiliated Bar/Advocates'/lawyers' Associations of Jharkhand), 2007 r/w under sections 6 and 15(1)(3) of the Advocates' Act 1961.*
- (2) It extends to the whole of the State of Jharkhand.
- (3) This Scheme shall not apply (a) in case of death of an advocate-member by way of committing suicide (b) to persons/applicants who have retired from the service of government, public authority, local body or any other private institution or institutions and have been paid or are entitled to payment of retiral benefit from his employer and (c) to the Advocates' Association which is not recognised/affiliated by the Jharkhand State Bar Council and has not remitted the contribution of 10% share in terms of Rule 57(6) of the Uniform Model Rules, 2007 and section 3 (2) (ii) of this Rules, and/or 10% of gross income of Association where hazri form is not in use.

2. Definitions:—

In this Scheme unless the context otherwise requires:-:

- (i) "**Act**" means the Advocates' Act 1961.
- (ii) "**Account Officer**" means an officer appointed by the Council/Trustee Committee for Pension Fund and shall include Senior Accountant or Junior Accountant by what ever name the Council designates.
- (iii) "**Advocate**" means a person who has been enrolled on the State Roll of the Advocates' prepared and maintained by the Jharkhand State Bar

* amended vide Resolution no. 14/2014 dated 18.7.2014 by Trustee Committee in its meeting dt. 18/7/2014

Council under Section 17 of the Advocates' Act, 1961 read with relevant provisions of the Bar Council of India Rules, 1975 and amended from time to time.

- (iv) **"Advocates' Association"** means an Association of Advocates/ Bar/ Lawyers recognized/affiliated by the State Bar Council.
- (v) **"Administrator"** means the Secretary of Jharkhand State Bar Council who shall act as the Administrator of the Pension Fund.
- (vi) **"Advocates' Pension Fund"** means the ***account maintained by the Trustee Committee under Rule 3.**
- (vii) **"Bank"** means any scheduled/nationalised/corporate Bank of India.
- (viii) **"Bar Council"** means State Bar Council of Jharkhand constituted under the Advocates' Act, 1961.
- (ix) **"J.B.C.J."** means Jharkhand Bar Council Journal printed and published by the Bar Council.
- (x) **"Court"** includes any Tribunal or Authority where an advocate is by or under any law for the time being in force entitled to practice.
- (xi) **"Dependants"** means wife, husband, father, mother and unmarried minor child or children below the age of 18 years of age of a member of the Pension Fund.
- (xii) **"Lump sum payment"** means one time payment in lieu of recurring payment of pension under these rules.
- (xiii) **"Member of the Pension Fund"** means an advocate on State Roll of Jharkhand State Bar Council and who has been admitted to the membership of the Pension Fund under these Rules.
- (xiv) **"Nominee"** means the person or persons nominated by the Member-Advocate with their particulars in prescribed form. In case of more than one nominee the Member Advocate shall specify the ratio of amount payable to each nominee and in absence of such specification all the nominee will get equal proportionate amount payable under this Rules.
- (xv) **"Pension,"** means and denotes 'an acknowledgement of the service as an advocate having a minimum practice of 30 years in any court. The word pension used under this Scheme shall have the meaning as provided under the Rules and shall not mean pension to a retired person.
- (xvi) ****Pension Fund" means Jharkhand Advocates' Welfare Pension Fund accounts maintained by the Trustee Committee under the Advocates Welfare Fund Act 2012.***
- (xvii) **"Family Pension"** means the amount payable to the Member Advocate of Pension Fund /his/her living spouse/or dependants after his/her death

* amended vide Resolution no. 14/2014 dated 18.7.2014 by Trustee Committee in its meeting dt.18/7/2014

at the rate of an amount determined/revised from time to time by the Pension Committee.

- (xviii) **"Pension Committee"** means the Jharkhand Advocates' Welfare Pension Committee constituted by the Bar Council under these Rules.
- (xix) **"Pension sub-Committee"** means the sub-committee constituted by Pension Committee for each Advocates' Association where the Pension Scheme has been made applicable.
- (xx) **"People's Representative"** means and includes Member of Parliament, Member-State Legislative Assembly, State Legislative Council and Member elected to any democratic institution constituted under the Act of Parliament or State.
- (xxi) **"Prescribed Form"** means the form to be prescribed by the Administrator with the approval of Council.
- (xxii) **"Regular Advocate"** means Advocate pursuing regular practice and subscribing to J.B.C.J, on regular basis.
Provided that entitlement to complementary copy shall be treated to be subscribing during period of such entitlement.
- (xxiii) **"Trustee Committee" means Trustee Committee constituted under the Advocates Welfare Fund Act, 2012**

3. Jharkhand Advocates' Welfare Pension Fund:—

- (1) ****The Trustee Committee under the Advocates' Welfare Fund Act, 2012 shall maintain and keep a separate account known as Jharkhand Advocates Welfare Pension Fund Account within the Trustee Committee Fund, known as Advocates Welfare Pension Fund. The separate accounting of pension fund shall be done under the rules as obtained under clause 2 as under :-***
- (2) There shall be credited to the Pension Fund:
- (i) All the amount collected from the Member-Advocate by way of subscription/contribution for the fund as prescribed under these Rules,
 - (ii) Twenty per cent (20%) of total amount paid by the Advocates' Association under Rule 54(6) of the Uniform Model Rules 2007 or 10 % of gross income of Advocates'/Bar/Lawyers Association/Ranchi High Court and other Association where hazri/pairvi system is not applicable.
 - (iii) Any voluntary contribution or donation or grant or aid made to the Pension Fund by the Bar Council of India, Jharkhand State Bar Council, Advocates' Association or other Associations/institutions, any advocate or other person or persons.

- (iv) Any grant made by the Centre/State Govt. and Local bodies to the Pension Fund.
- (v) All sums or any profit or dividend or other return/interest received on any investment in the reputed financial institutions or in Govt.'s Treasury Bond or other fund decided by the Council fit for investment.
- (vi) All sum collected by way of application fee and other charges and interest thereon.
- (vii) From other source prescribed and decided by the Bar Council.
- (viii) Any donation from people's representative,
- (ix) The amount or percentage thereof of the profit/return accrued at the end of the financial year of the Journal (J.B.C.J.) in accordance with the decision of Bar Council shall be credited to the Pension Fund.
- (x) (*)amended vide resolution No. 8/2013 dated 21.6.2013 of Trustee Committee

"..... Rule 3(2)(x) , on requisition of the Pension Committee, every three months, the requisite fund will be transferred by the Trustee Committee by crediting into the Pension Fund after examining and safeguarding the payment liability towards the death benefits claim under the Advocates Welfare Act, 2012".

4. Constitution of Pension Committee:—

- (1) The Bar Council shall constitute a Pension Committee which shall consist of:-
 - (a) Vice-Chairman of Bar Council, who shall be the Chairman of this Committee Ex-officio;
 - (b) three members elected by the Bar Council from amongst its members;
 - (c) two renowned Advocates having social background nominated by the Bar Council.
 - (d) Secretary of Bar Council, who shall be Secretary of this Committee Ex-officio;
- (2) In absence of the Chairman of this Pension Committee, the senior most elected member of the Bar Council-cum member of the Committee shall preside over the meeting as its Chairman. During the tenure of Special Committee of the Bar Council constituted by Bar Council of India under section 8A of the Advocates Act, 1961 the Special Committee shall function as Pension Committee.
- (3) In case of vacancy of the member, the Bar Council shall fulfill such vacancy by way of election/nomination as the case may.

- (4) The Pension Committee shall hold its regular meetings as and when required or directed by the Bar Council.
- (5) Three members of the Committee shall form quorum of the meetings.
- (6) Traveling allowance for member of the Committee shall be in accordance with the decision of Bar Council,

5. Constitution of Pension sub-Committee:—

- (1) The Pension sub-Committee shall be constituted by Pension Committee at Association level which shall consist of:-
 - (a) President of the Advocates' Association, shall be the convenor of this sub-Committee Ex-officio;
 - (b) Secretary of Advocates' Association, shall be Secretary of this sub-Committee Ex-officio;
 - (c) three members nominated by the Pension Committee from out of the members of Advocates' Association concerned.

6. Operation of the Fund:—

- (1) **The separate account shall be maintained by the Trustee Committee under the Jharkhand Advocates Welfare Fund Act, 2012 in the name of Jharkhand Adovcates Welfare Pension Fund in which shall be credited all the receipt under the Rule 3(2) of the Scheme. The Fund shall be operated by the Trustee Committee in accordance with Jharkhand Advocates Welfare Fund Act, 2012. but shall be separately accounted for.*
- (2) The amount due and payable under this scheme and all the expenditure relating to management and administration of the Fund and scheme shall be paid out of this Pension Fund **account maintained by the Trustee Committee.**
- (3) The accounts of the Pension Fund shall be well maintained through latest/ advanced technology in such transparent manner as may be prescribed by the Bar Council.
- (4) The accounts of the Pension Fund shall be annually audited by the Chartered Accountant appointed by Bar Council and the report shall forthwith be placed by the Pension Committee before the Bar Council and on such audit report, the Bar-Council may issue any suitable direction, The audit report shall annually be published in J.B.C.J. for due information to the advocates of Jharkhand.
- (5) No cash withdrawal from the Pension Fund shall be permissible.
- (6) The Fund may be invested in profit making financial institutions or in Government Treasury bond with the approval of Bar Council.

* amended vide Resolution no. 14/2014 dated 18.7.2014 by Trustee Committee in its meeting dt.18/7/2014

7. Tenure of the Pension Committee:—

The member elected or nominated to the Pension Committee shall hold their office for three years from the date of constitution of the Committee or till the tenure of elected Bar Council, whichever is earlier.

8. Functions of the Pension Committee:—

- (a) **The Pension Committee shall function under the overall supervision, control and direction of the Jharkhand State Bar Council and Trustee Committee constituted under the Advocates' Welfare Fund Act, 2012.*
- (b) **The Pension Committee shall be the recommending authority for successful operation of the pension scheme and shall assist the Trustee Committee.*
- (c) To hold the amounts and assets belonging to the Pension Fund.
- (d) To receive an application from the desirous member certified to be regular practitioner by his Association for being admitted to the membership of the Pension Fund in prescribed form and dispose of such application within 90 days of its receipt and intimate its decision to the advocate concerned (with brief reasons in case of rejection and intimate also to him the right of appeal, forum of appeal and time within which appeal is to be filed).
- (e) To receive an application in prescribed form duly filled-up by the concerned Advocate and his wife/husband/nominee/heirs as the case may be with all relevant papers and authentication through proper channel of Advocates' Association along with prescribed fee, charges etc for the purpose of processing and payment of pension and any sum in lieu of pension. Any wrong/false certification would entail disciplinary proceedings against the office bearer concerned.
- (f) To hold and conduct such enquiry as it deems necessary for the disposal of any such application and the fact of doubtful validity and in such enquiry fact/facts may be supported by applicant through an affidavit and in case the statement in such affidavit is found to be false then his membership shall stand terminated, but no such order shall be passed without giving him personal notice and through Bar Association to which he belongs.
Provided that such enquiry regarding entitlement to continue as the member shall not be taken-up after depositing the full contribution prescribed in this Rules and after expiry of locking period of 10 years.
- (g) To hold and conduct such enquiry as it deems necessary for the disposal of such application relating to the affairs of the Pension Committee, scheme and other matter connected thereto.

* amended vide Resolution no. 14/2014 dated 18.7.2014 by Trustee Committee in its meeting dt.18/7/2014

- (h) To record its decisions of the applications and proceedings in the minutes book.
- (i) To pay the Pension and ensure the payment to the person entitled to it hustle free.
- (j) To take steps for exemption of income-tax relating to donors under section 80G of Income Tax Act and to get it renewed from time to time to keep the exemption available all the time.
- (k) To do any other act and to take any other decision which is beneficial efficient administration of the Pension Fund.
- (l) To appoint persons whether part time or whole time for effective implementation of the Pension Scheme as may be deemed fit and necessary.

Provided always that the salary and other administrative expenditure for any year shall not be more than 10% of the total Pension Fund available as on 1st April of that relevant year.

- (m) To place all decision of the meeting in the Bar Council.

9. Functions of the Pension sub-Committee:—

- (1) The Pension sub-Committee at the level of Advocates' Association shall discharge following functions:-
 - (i) Take endeavour and ensure remittance of the amount payable to the Bar Council under the provisions of rule 57(6) of Uniform Model Rules 2007.
 - (ii) To submit audit report of income and expenditure of Hazri system regularly and without fail.
 - (iii) To submit list of the regular practitioner and take step to furnish list of advocates who is not regular in practice.
 - (iv) To issue certificate of the advocate concerned to the effect that he has been regular practitioner.
 - (v) To receive, verify and report on all the application in connection with Pension Scheme.
 - (vi) To discharge any other duty assigned by the Pension Committee or by the Bar Council in connection with the Pension Scheme.
 - (vii) To ensure the circulation, collection and remittance of subscription and distribution of J.B.C.J. among the life-member of the journal and among other member.

10. Appeal from the decision of Pension Committee:—

- (1) An appeal shall lie to the Bar Council from any decision of the Pension Committee either by the person aggrieved or person interested in due

administration of the Pension Scheme Within 30 days of the knowledge of the, order from whatever sources it may be.

Provided that the appellant would have to pay fee of Rs. 200 and 26 copies of the memorandum of the appeal and order challenged therein. Provided that where it appears to the appellate authority that the appeal is malafide and not expedient in the interest of justice to admit or to decide such appeal, the appellate authority may dismiss it summarily.

- (2) The decision of the appellate authority shall be final and binding upon the parties to the proceedings and all concerned;'
- (3) Anyone who feels himself aggrieved by whatsoever reasons may file petition to be heard before appellate authority.
- (4) The relaxation under the Indian Limitation Act would apply by way of natural justice.

11. Amount payable by a Member - Advocates' by way of subscription:—

- (i) A member seeking admission to the Pension Fund shall have to pay the amount at the rate given in schedule 1, suitable to his age group at the time of admission. Any payment to Pension Fund shall be made by Bank Draft/Challan in the account of Pension Fund. The draft shall be payable to **Jharkhand Advocates' Welfare Fund Trustee Committee** payable at Ranchi.

Provided that Member would deemed to have agreed to provisions of the Schemes on obtaining membership of the scheme and he shall be bound by it.

- (ii) A member admitted to the fund on payment of full contribution be given a certificate in proof of his membership.

12. Membership of the Pension Scheme of Pension Fund:—

- (1) Any Advocate pursuing regular practice may apply for being admitted to the Pension Scheme and shall apply in prescribed Form A to be supplied by Pension Committee.
- (2) The Pension Committee would issue admission certificate in Form B in accordance with the provisions under this Rules.
- (3) An Advocate seeking admission to the pension scheme shall have to make one time payment in accordance with schedule 1 of this rules.

Provided that the advocate who has registered himself to be the life-member of the J.B.C.J. shall be entitled to rebate in the amount payable of the subscription as decided by Bar Council.

13. Cessation of membership and consequences thereof:—

- (1) The membership of this Pension Fund shall be liable to be terminated in the following cases:-

- (i) if his/her practice license has been cancelled on account of punishment for professional or other misconduct by the Bar Council or the Bar Council of India.
- (ii) if he/she has been disqualified under Section 24 of the Advocates Act.
- (iii) if he/she found to be non-regular in practice within the locking period of 10 years.
- (iv) The membership to fund shall also be terminated when the concerned Advocates' Association failed to remit the share of Bar Council of the hazri form and/or 10 % of the gross income where hazri system is not applicable and/or he/she fails to pay the annual subscription of J.B.C.J. (This would have no application to the Life Subscriber of J.B.C J.)
- (v) On such cessation of membership, under this Rule 13 (l).(i) (ii) (iii) (iv) & (v) the person concerned shall be entitled to get refund of his contribution. Provided that no order of termination of membership shall be passed without giving opportunity to be heard to the member concerned.

14. General Provisions relating to Pension Fund:—

- (1) If the spouse predeceased the Member-Advocate, the child/children during minority would be entitled to sanctioned Pension or right to opt for lump sum payment.
- (2) If there is none to claim pension then his/her heirs would be paid the lump sum amount shown in sub-rule (6) of this Rules.
- (3) A Member-Advocate would be entitled to claim Pension on attaining the age of 65 years or above and his/her spouse/dependant(s) in normal circumstances should be entitled to claim benefit of this scheme if the member concerned was himself/herself entitled to the benefit under this rule.

Explanation 1:- He must have Completed the 30 years of regular practice and he must have completed the locking period of ten years from the date of admitting to be the beneficiary of this scheme.

Explanation 2:- The locking period shall begin from the date of commencement of this rule and of becoming member under this rule.

Explanation 3:- Those who have completed 70 years or above shall be entitled to pension under this Scheme without requiring the member to fulfill the condition of locking period provided that the member is a subscriber to the JBCJ for 10 years (including advance payment of subscription fee of JBCJ to make up the subscription of 10 years) and also pays the membership fee as is applicable to him under Schedule 1

and pay advance subscription for JBCJ to make up the subscription for 10 years.

Explanation 4:- Those who are entitled to receive pension benefits under this Scheme shall apply to the Jharkhand State Bar Council for suspension of their enrolment and give an undertaking that their license shall be kept in abeyance during the period of receiving of pension.

Provided that during the period of such suspension if any member expires, the legal heir shall be entitled to cumulative compensation which would be calculated at 50 % of the amount which would have been payable as Pension to the deceased subscriber for five years.

- (4) Any Member or his spouse or heirs shall have right to exercise option to get pension or lump sum payment in lieu of pension.
- (5) The amount payable by way of pension or the payment in lieu of pension in lump sum mode shall be subject to constant revision in accordance with availability of the fund. Such revision shall be made by Bar Council on the recommendation of the Pension Committee or for any sufficient reason by the Council.
- (6) The pension to the member or person claiming in the right of deceased member would be paid at the rate of Rs. 7000/- only (Seven thousands) per month* for the period of ten years and in case option for the lump sum payment to the extent of Rs. 2,00,000/- only.

15. Mode of Payment of Pension Fund or lump sum payment:—

- (1) Any payment towards Pension or payment in lieu of pension shall be made by account payee cheque.
- (2) On the request of payee payment through banker's cheque/bank draft may be made.
- (3) A member of the Pension Scheme after attaining the age of 65 years and after clear 10 years of admission to the Fund and his/her spouse or dependent after death of the member advocate shall be eligible to claim pension and he would apply for the pension. The member shall apply for pension in prescribe Form C.

Provided that in case of un-timely and unfortunate death this restriction shall not apply.

Explanation:- Untimely and unfortunate death means death within 10 years of joining practice by the member advocate and before completion of the age of 40 years whichever is earlier.

- (4) The spouse of the member after his death, shall apply for Family Pension in prescribed Form D.

- (5) Application for payment of one time payment in lieu of pension or by person not entitled to the pension shall be in Form. E.
- (6) All the application and Form or Forms shall be supplied by the Pension Committee against certain fixed charge.

16. Nominee and change of nominee:—

- (1) An Advocate in the application for admission to the Pension Scheme shall nominate person, or persons who would be entitled to make claim in case of death.
- (2) An Advocate would have to submit passport size photo of the nominee/nominees with his/her date of birth and relation with him.
- (3) An alteration/deletion in the nomination may be carried out on an application of the advocate concerned supported by an affidavit by the Pension Committee.
- (4) The Pension Committee before granting the prayer may insist for personal hearing of the advocate concerned.
- (5) The information of such alteration in the nominee shall be communicated to the advocate concerned by registered post with A/D or with any other mode of effective service of such information which the Pension Committee thinks fit and proper in the facts and circumstances of the case at hands.

17. Power to give directions and to make clarifications:—

- (1) For the proper and efficient functioning of the scheme, **the Bar Council and Trustee Committee** in the exercise of its powers of general supervision and control, give such directions to the Pension Committee as may appear to it be necessary, and the Pension Committee shall comply with such directions.
- (2) In case of any doubt regarding word, phrase not defined under this scheme, the interpretation and clarification made by Bar Council shall be final.
- (3) The Bar Council in case of doubt to the report of income and expenditure submitted by the Association, may take proper decision to ensure the accuracy to the account.

18. Power to Amend the Rules:—

The Bar Council shall have right to recommend to amend the Rules/ Scheme which shall be considered by the Trustee Committee

*SCHEDULE 1****CLASSIFICATION OF ADVOCATE-MEMBER OF
THE FUND AND THEIR CONTRIBUTION TO THE FUND.***(under Rules 11 of the Rules 2012)*

Groups	Age Limits	Amount payable i.e. one time payment (Life-subscription)
A	Up to 30 years of age	Rs. 5,000/- (Five thousands only)
B	Beyond 30 years of age	Rs. 10,000/- (Ten thousands only)
C	Senior designated Advocate	Rs. 10,000/- (Ten thousands only)
D	Beyond 70 years of age including Senior designated Advocate	Rs. 10,000/- (Ten thousands only)

Sl. No.

Price Rs. 25/only.

*FORM NO.-A**(See Rule-12(l))***APPLICATION FOR ADMISSION TO BE A MEMBER OF THE¹ PENSION
FUND UNDER THE JHARKHAND ADVOCATES' WELFARE (PENSION &
FAMILY PENSION) SCHEME 2012****To**

**The Chairman/Secretary, Pension Committee
The Jharkhand Advocates' Pension Fund,
2nd Floor, A.G. Office, High Court Campus, Ranchi**

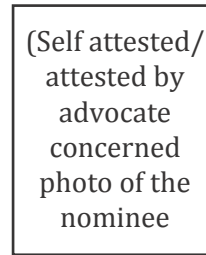
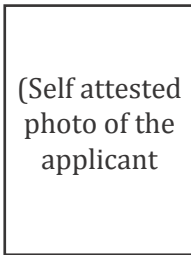
Subject:- Application for seeking Admission to the Pension Fund.

Sir,

I, hereby apply to the Jharkhand Advocates' Welfare (Pension and Family Pension) Scheme for its membership and my full particulars are given below:-

1. Name of the Applicant:
2. Father's name:
3. Date of Birth:
4. Enrolment No. with date:
5. Date on which the Applicant joined the Practice:
6. (i) Place of Practice:
(ii) Whether applicant is designated as senior Advocate by the Ranchi High Court:
7. Present Address:

8. Permanent Address:
9. Name of the Affiliated Advocates' Association under which the applicant is a member.
10. Name of wife/husband or nominee:
 - (i) Date of Birth of the nominee/nominees
 - (ii) Relation with the Applicant:
- 11.** Details of the payment made for admission to the Pension Fund:
12. Suspension or discontinuation of Practice if any, give details:
13. Self attested passport/stamp size current colour photo of the Applicant and his/her nominee/nominees:



14. Declaration :

I do solemnly affirm and state that the particulars furnished above are true and correct to my knowledge.

Date:

Place :

1. Full signature of the applicant:

2. Full signature of Nominee

15. Recommended on verification from the records of the concerned Advocates' Association.

- (i) The information as stated above are correct.
- (ii) The Advocate-Applicant is regular practitioner at this Association.

Signature and Seal of President	Signature and Seal of Secretary
---------------------------------	---------------------------------

17. Nature and details of the documents attached:

FORM NO.- B

*(See Rule-12(2))***THE JHARKHAND ADVOCATES' WELFARE (PENSION & FAMILY PENSION)
SCHEME 2012****CERTIFICATE OF MEMBERSHIP**

The Pension Committee of the Jharkhand Advocates' Welfare (Pension & Family Pension) Schemes 2012 certify that Shri/Smt..... Advocate, having enrolment No...../..... is admitted to the membership of the Jharkhand Advocates' Pension Scheme framed under section 9(2)(i) of the Jharkhand Advocates' Welfare Fund Act, 2012 and Section 6 and 15(i)(3) of the Advocates' Act, 1961 read with Rule 12 of The Jharkhand Advocates' Welfare (Pension & Family Pension) Rules 2012.

Given under my hand and seal of the Pension Committee of the Jharkhand Advocates Pension Fund.

Membership No. ----- / 20-----

Dated : This ----- day of 20-----

Seal

(Signature of the Chairman/Secretary)

Sl. No.

Price Rs. 25/only.

FORM NO.- C

*(See Rule-15(3))***APPLICATION SEEKING PENSION BY MEMBER-ADVOCATE UNDER THE
JHARKHAND ADVOCATES' WELFARE (PENSION & FAMILY PENSION)
SCHEME 2012**

To

**The Chairman/Secretary, Pension Committee
The Jharkhand Advocates' Pension Fund,
2nd Floor, A.G. Office, High Court Campus, Ranchi**

Photo of the applicant duly attested by Convenor of the pension sub-Committee of the Association concerned		Photo of the nominee duly attested by Convenor of the pension sub-Committee of the Association concerned
--	--	--

Sir,

1. Name of the Applicant:
2. Father 's/husband's name:
3. Age and Date of Birth of the Applicant;.
4. Enrolment No. With date:
5. Membership No. of Advocates' Pension Scheme:
 - (i) Date on which the Applicant attained the age of 65 years:
 - (ii) Date on which the 10 years locking period expired:
 - (iii) Date of joining and date of death for/and in case of untimely and unfortunate death, (see rule 15)
6. (i) Place of Practice:
(ii) *Whether applicant is designated as senior Advocate by the Ranchi High Court:*
7. Present Address:
8. Permanent Address:
9. Name of the Affiliated Advocates 'Association under which the applicant is member.
10. Name of wife/husband or nominee :
 - (i) Date of Birth of the nominee/nominees
 - (ii) Relation with the Applicant.
- 11.** Bank Account/Post Account in which Pension will be credited with photo copy of Pass-book.
12. Details of dependents with age, status and relationship with the applicant.
13. Nature and details of the documents attested and attached in support of claim.
14. Comments or recommendation of the Secretary of the concerned Bar Association.
15. Any other information which may be helpful in early disposal of the claim.

Date:

Place

1. Signature/L.T.I, of the applicant.
2. Signature/L.T.I, of the nominee/spouse.

FORM NO.- D*(See Rule-15(4))***APPLICATION SEEKING PENSION BY SPOUSE ON ENTITLEMENT.****To**

**The Chairman/Secretary, Pension Committee
The Jharkhand Advocates' Pension Fund,
2nd Floor, A.G. Office, High Court Campus, Ranchi**

Photo of the applicant duly
attested by Convenor of the
pension sub-Committee of the
Association concerned

Sir,

1. Name of the Applicant:
2. Name of the Member and relation with him of the applicant.:
3. Date of death of the Member-Advocate: .
4. Enrolment No. with date:
5. Membership No. of Advocates' Pension Scheme:
6. (i) Place of Practice:
(ii) Whether applicant is designated as senior Advocate by the Ranchi High Court:
7. Present Address:
8. Permanent Address:
9. Name of the Affiliated Advocates' Association under which the applicant is a member.
10. Name of wife/husband or nominee:
(i) Date of Birth of the nominee/nominees
(ii) Relation with the Applicant:
11. Bank Account/Post Office Account in which lump sum amount will be credited with photo copy of Pass-book.
12. Details of dependants/applicant with age and status:
13. Nature and details of the documents attested and attached in support of claim;
(i) Certified/attested copy of condolence by Association;

- (ii) Certified/attested copy of the death reference of the deceased Member.
- (iii) Original Certificate of Admission to the Pension Fund.
- (iv) Original Certificate of licence of the advocate concerned.
- (v) Any other document with descriptions.

Note: The documents attached is to be tick in 13 (i) to (iv)

14. Comments or recommendation of the Secretary of the concerned Bar Association.

15. Any other information which may be helpful in early disposal of the claim.

Date: 1 .Signature/L.T.I, of the applicant.

Place:

Sl. No.

Price Rs. 25/only.

FORM NO. - E

(See Rule-15(5))

**APPLICATION SEEKING LUMP SUM PAYMENT BY MEMBER OR HIS/HER
SPOUSE/ NOMINEE/HEIRS OF DECEASED MEMBER.**

To

**The Chairman/Secretary, Pension Committee
The Jharkhand Advocates' Pension Fund,
2nd Floor, A.G. Office, High Court Campus, Ranchi**

Photo of the applicant duly
attested by Convenor of the
pension sub-Committee of the
Association concerned

Sir

- 1.** Name of the Applicant:
- 2.** Father 's/husband's/wife's name:
- 3.** Age and Date of Birth of the Member-Advocate on the date of application;
(To be filled up in case of application by member himself/herself)
- 4.** Enrolment No. with date:
- 5.** Membership No. of Advocates' Pension Scheme:
- 6.** (i) Place of Practice:
(ii) Whether applicant is designated as senior Advocate by the Ranchi High Court:

7. Present Address:
8. Permanent Address:
9. Name of the Affiliated Advocates' Association under which the applicant is a member.
10. Name of wife/husband or nominee:
 - (i) Date of Birth of the nominee/nominees
 - (ii) Relation with the Applicant:
- 11.** Bank Account/Post Office Account in which Pension will be credited with photo copy of Pass-book.
12. Details of dependants with age, status and relationship with the applicant:
13. Nature and details of the documents attested and attached in support of claim.
14. Comments or recommendation, of the Secretary of the concerned Bar Association.
15. Any other information which may be helpful in early disposal of the claim.
16. The President & Secretary of Advocates' Association is required to give details about the last/current remittance of 10% share sent to the Jharkhand State Bar Council under Uniform Model Rules in separate sheet and 10% remittance by the High Court Advocates Association.

Date:

Place:

1. Signature/L.T.I, of the applicant.





भारत का राजपत्र
The Gazette of India

असाधारण

EXTRAORDINARY

भाग III-खण्ड 4

PART III—Section 4

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

संख्या 15] नई दिल्ली, मंगलवार, जनवरी 13, 2015/पौष 23, 1936
No. 15] NEW DELHI, TUESDAY, JANUARY 13, 2015/PAUSA 23, 1936

भारतीय विधिज्ञ परिषद्

vf/kl puk

नई दिल्ली, 12 जनवरी, 2015

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भारतीय विधिज्ञ परिषद् ने बार काउंसिल ऑफ इंडिया सर्टिफिकेट एंड प्लेस ऑफ प्रैक्टिस (भेरीफिकेशन) नियम 2015 के संबंध में निम्नलिखित संकल्प पारित किया

l dYi l q; k 216@2014

पूर्व के संकल्प संख्या 169/2014 दिनांक 17 अक्टूबर 2014 को संशोधित (Modify) करने का संकल्प लेकर परिषद् संकल्प पारित करती है कि सर्टिफिकेट एंड प्लेस ऑफ प्रैक्टिस (भेरीफिकेशन) ऑफ प्रैक्टिस नियम 2015 उपसमिति द्वारा प्रस्तुत रिपोर्ट व ड्राफ्ट को मंजूरी दे दी है को अनुमोदित (Approve) करता है। तदनुसार बार काउंसिल ऑफ इंडिया सर्टिफिकेट ऑफ प्रैक्टिस एण्ड रिनीवल रूल्स 2014 को विलोचित/रद्द करने का संकल्प लिया जाता है।

ये नियम अधिवक्ता अधिनियम 1961 की धारा 49 (1) (ag) द्वारा अधिवक्ता अधिनियम की धारा 49 (ah) और 49 (i) और बार काउंसिल ऑफ इंडिया के खंड अध्याय 1, नियम 1(1) और 2 और नियम – 2 और अध्याय III के उपधारा 3, 4 और खंड IX के नियम 17, 18 (h), 20, 22 और 24 के तहत प्रदत्त शक्तियों के तहत पारित किये गये हैं।

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विधिक पेशा एक सम्माननीय पेशा है तथा यह लोगों के नागरिक और संवैधानिक अधिकारों की रक्षा करने एवं बढ़ावा देने में महत्वपूर्ण भूमिका निभाता है। एक स्वतंत्र तथा निडर बार सच्चे तथा स्वस्थ लोकतंत्र को बनाये रखने व बढ़ावा देने के लिए अहम तथा महत्वपूर्ण है। हालांकि जो बार बाह्य शक्तियों के द्वारा हेरफेर तथा प्रभाव के अधीन होते हैं, वे चाहे जितने शक्तिशाली तथा सम्मानित हों, उनके द्वारा विधिक पेशे अथवा विधि के शासन के लिए न्याय नहीं किया जा सकता है। बेंच और बार एक ही गाड़ी के दो पहिए हैं तथा एक-दूसरे के बिना काम नहीं कर सकते। दुख की बात यह है कि इस पेशे की बहुत अवनति हो रही है।

सभी राज्य बार काउंसिल तथा भारतीय बार काउंसिल के प्रतिनिधियों की संयुक्त बैठक में यह चिंता व्यक्त की गयी कि अधिवक्ता अपना पेशा बदल कर अन्य पेशों/सेवाओं/व्यवसायों में राज्य बार काउंसिल को बिना किसी सूचना के लिप्त होते जा रहे हैं और इसका अनुपात चिंताजनक रूप से बढ़ गया है एवम् कई जगहों पर फर्जी लोग वकील के रूप में कार्य कर रहे हैं। यह प्रवृत्ति समग्र रूप से विधिक पेशे को खतरे में डाल रही है। इसके कारण इस पेशे की पवित्रता तथा मानकों को भी क्षति पहुँची है। ऐसे अधिवक्ताओं के नाम इस तथ्य के बावजूद कि उन्होंने विधिक पेशे को छोड़ दिया है अथवा उनका निधन हो चुका है, राज्य बार काउंसिल द्वारा अनुरक्षित "अधिवक्ताओं की सूची" में शामिल हैं। अधिवक्ता अधिनियम की धारा 19 के अंतर्गत राज्य बार काउंसिल द्वारा धारा 17 के अनुसार तैयार की गयी अधिवक्ताओं की सूची की एक प्रति तथा इसके बाद किये गए परिवर्तन/परिवर्धन भेजने के लिए विधिक दायित्व के अधीन हैं परन्तु व्यावहारिक रूप से किसी राज्य बार काउंसिल ने अब तक अधिनियम के इस अनिवार्य प्रावधान का पालन नहीं किया है।

इन परिस्थितियों में यह प्रवृत्ति निश्चित रूप से प्रदर्शित होती है कि अधिवक्ता अधिनियम के अंतर्गत बार संघों व अन्य निर्वाचित निकायों का नियंत्रण विधिक अभ्यास करने वाले अधिवक्ताओं के हाथ से फिसल रहा है। इसके साथ यह भी अनुभव किया जा रहा है कि किसी अधिवक्ता को नामांकन का प्रमाण-पत्र जारी किए जाने के बाद उनके तथा काउंसिल के बीच व्यावहारिक रूप से कोई संचार और सतत संपर्क नहीं रह पाता है।

वर्तमान परिस्थितियों को देखते हुए, भारत के सर्वोच्च न्यायालय के निर्देशों/टिप्पणियों के आधार पर विधिक पेशे के स्तर में सुधार लाने के लिए लागू की गयी अखिल भारतीय बार परीक्षा भी पूरी तरह से अपने उद्देश्य को प्राप्त करने में विफल सिद्ध हुई। राज्य बार काउंसिल के साथ नामांकित अधिवक्ता, "अभ्यास का अंतरिम प्रमाण-पत्र" (2 वर्षों के लिए वैध) प्राप्त करते हैं एवं तत्पश्चात उनमें से अधिकांश अखिल भारतीय बार परीक्षा अथवा इसको उत्तीर्ण करने की चिंता किये बिना ही विधिक सेवाओं में संलग्न रहते हैं।

राज्य के शासन के साथ ही विभिन्न राज्य बार काउंसिलों तथा भारतीय बार काउंसिल, दोनों के द्वारा भारत में अधिवक्ताओं के लिए विभिन्न कल्याणकारी योजनाएं, प्रारंभ की गयी, परन्तु इनके लाभ आज उनको भी प्राप्त हो रहे हैं जो इस पेशे को छोड़ चुके हैं।

विभिन्न न्यायालयों में विधिक सेवाएं प्रदान करने के लिए कुछ शर्तें रखने की एक अविलंब आवश्यकता है ताकि अधिवक्ताओं द्वारा अर्जित अनुभव को महत्व तथा विश्वसनीयता प्रदान की जा

सके। किसी अधिवक्ता द्वारा उच्च न्यायालयों में विधिक अभ्यास प्रारंभ करने से पहले उसे वास्तविक न्यायालय का अनुभव लेने के लिए निचले न्यायालयों/ट्रायल कोर्ट्स में कार्य करने की आवश्यकता होनी चाहिए/इससे बार की दृष्टि से पूरी न्यायिक प्रणाली को एकीकृत करने में मदद मिलेगी।

इसलिए, अधिवक्ता अधिनियम की धारा 22 के तहत विभिन्न राज्य बार काउंसिल द्वारा अनुरक्षित अधिवक्ताओं की सूची में शामिल अधिवक्ताओं पर स्थानीय बार संघों तथा भारतीय बार काउंसिल द्वारा बेहतर तथा प्रभावी प्रशासनिक तथा अनुशासनात्मक नियंत्रण प्राप्त करने के लिए तथा विधिक पेशा छोड़ चुके अधिवक्ताओं के नाम इससे हटाने के लिए भारतीय बार काउंसिल, अधिवक्ता अधिनियम, 1961 की धाराओं 49(1) (ag), 49 (ah), 49 (i) द्वारा प्रदत्त शक्तियों तथा इसे प्रदत्त सक्षम करने वाली अन्य सभी शक्तियों के द्वारा निम्नांकित नियम बना था जिसका शीर्षक बार काउंसिल ऑफ इंडिया सर्टिफिकेट ऑफ प्रैक्टिस तथा नवीकरण नियम, 2014 था तथा जिसका उद्देश्य उक्त अधिनियम के प्रावधानों और उद्देश्यों को लागू करना था।

परन्तु कुछ जगहों पर वकीलों ने 'नवीकरण' शब्द पर आपत्ति जतायी, हालाँकि मूल उद्देश्य व लाइसेंस का नवीकरण न होकर विधि व्यवसाय संबंधी प्रमाण पत्र, वकालत का स्थान व अन्य ब्योरो का समय-समय पर सत्यापन करना था/है।

वकील किस संघ के सदस्य हैं, कहाँ वकालत करते हैं ? उनका पूरा पता, मेल आई-डी, पंजीकरण संख्या, किस संस्थान/विश्वविद्यालय से व कब स्नातक व विधि की डिग्री प्राप्त की ? इन्हीं तथ्यों की पुष्टि करना व इसका रिकार्ड रखना उक्त नियम का उद्देश्य था व है। अधिवक्ताओं का दो पासपोर्ट आकार का फोटो बार काउंसिल के पास रखना भी आवश्यक है। इसका अन्य उद्देश्य बार काउंसिल व बार एसोसिएशन के चुनाव प्रक्रिया में सुधार भी है, क्योंकि हाल ही में बार काउंसिल ऑफ इंडिया एवं राज्य बार काउंसिलों के सामने बार एसोसिएशन व काउंसिल के चुनावों में गड़बड़ी व कदाचार के काफी मामले सामने आये हैं दूसरों के नाम पर मतदान की शिकायतें भी आयी हैं। चूँकि ज्यादातर वकील संघों या राज्य बार काउंसिलों के पास मृत अधिवक्ताओं की, या जिन वकीलों ने पंजीकरण के बाद कोई अन्य व्यवसाय, नौकरी या पेशा अपना लिया, उनकी सूची या रिकार्ड उपलब्ध नहीं है, अतः बार काउंसिल ऑफ इंडिया (जो देश के विधि व्यवसाय एवं विधि शिक्षा की नियंत्रक है) ने राज्य बार काउंसिल के माध्यम से पूरा सत्यापन करने और तब वकीलों के हाल के फोटो के साथ मतदाता सूची, व पहचान पत्र तैयार करने का निर्णय लिया है। काउंसिल ने उक्त निर्णय माननीय सर्वोच्च न्यायालय द्वारा "सर्वोच्च न्यायालय अधिवक्ता संघ (S.C.B.A.) के मामले में लिए गए निर्णय के आलोक में लिया है। बार काउंसिल ऑफ इंडिया ने देश के सभी अधिवक्ताओं की पूर्ण विवरणी सभी विधि शिक्षा संबंधी संस्थानों, विधि के विद्यार्थियों शिक्षकों एवं सभी अधिवक्ता संघों की पूर्ण व अद्यतन विवरणी हेतु एक वेबपोर्टल (Web Portal) विकसित करने का निर्णय पहले ही लिया है, उक्त कार्य के लिए भी यह सत्यापन व अधिवक्ताओं की फोटो आवश्यक है।

इसके अतिरिक्त चूँकि कुछ अधिवक्ता संघों ने उक्त नियमों (2014 के नियमों) में प्रैक्टिस शुल्क के रूप में पाँच सौ रुपये लिए जाने पर भी अनावश्यक आपत्ति व्यक्त की (उनके अनुसार यह राशि बड़ी थी)। इस पाँच सौ रूपयों में से चार सौ रुपये वकीलों के कल्याण (जैसे वकीलों व उनके परिजनों हेतु बीमा, संघों के संसाधन में बढ़ोतरी, पुस्तकालय, पेंशन आदि) के लिए लिया जाना था। परन्तु उक्त आपत्तियों के कारण, काउंसिल ने उक्त चार सौ रुपये की कल्याण राशि को हटाने एवं अलग करने का निर्णय लिया है। अब मात्र 100/- रु ही सत्यापन में लगाने वाले आवश्यक शुल्क

की प्रक्रिया (प्रोसेस शुल्क) के रूप में लिये जायेंगे, शेष चार सौ रूपये संबंधित वकीलों व राज्य बार काउंसिल की इच्छा व निर्णय पर निर्भर करेगा। उक्त 100 रु. में भी प्रक्रिया (Process) में लगाने वाले आवश्यक खर्च के बाद शेष बची हुई राशि को वकील संघों के संसाधनों के विकास में ही लगाया जाना है। इस हेतु राज्य बार काउंसिलों को एक अलग बैंक खाता खोलकर इसका लेखा-जोखा रखना है प्रत्येक वर्ष इस पूरे आय व्यय का अंकेक्षण (Audit) कराकर उसकी रिपोर्ट बार काउंसिल ऑफ इंडिया व वकील संघों को भेजनी है।

बार काउंसिल ऑफ इंडिया को यह भी जानकारी मिली है कि बहुत ऐसे भी फर्जी (Fake) लोग विधि व्यवसाय कर रहे हैं जिनके पास न तो कोई विधि की डिग्री है न ही वे किसी राज्य बार काउंसिल में पंजीकृत हैं। वैसे फर्जी लोगों पर किसी वकील संघ या राज्य बार काउंसिल का नियंत्रण नहीं है और वे इस प्रकार विवादियों व न्यायालयों को धोखा दे रहे हैं।

उसी प्रकार काउंसिल को यह भी जानकारी मिली है कि कई जगहों पर बार एसोसिएशन (वकील/अधिवक्ता संघों) के पदाधिकारीगण या वोट लेने वाले उम्मीदवार, वकील संघ या बार काउंसिल चुनावों में ऐसे लोगों का उपयोग कर सिर्फ वोट पाने की गलत मनसा से ही उन्हें सदस्य या वोटर बनाते हैं। इसी प्रकार बहुत से अधिवक्ता/वकील बार काउंसिल में पंजीकृत होने के बाद किसी अन्य धंधे, पेशे या व्यवसाय को अपना लेते हैं (यथा जमीन खरीद बिक्री का धंधा, ठेकेदारी, या अन्य व्यवसाय) व इनका कोई संबंध विधि व्यवसाय से नहीं रह जाता। ऐसे नॉन प्रैक्टिसिंग वकीलों का इस्तेमाल सिर्फ इनका वोट लेने के लिए बार एसोसिएशन के कुछ पदाधिकारियों या बार काउंसिल चुनावों के कुछ उम्मीदवारों द्वारा किया जाता है। परन्तु काउंसिल ने यह महसूस किया है कि इससे विधि पेशे की गरिमा को ठेस पहुँचती है, और इस गलत प्रथा को रोकना है।

यह चिन्ता का विषय है कि कुछ वकील संघों के पदाधिकारीगण या सदस्यों ने काउंसिल द्वारा लाये गये इन सुधार के कदम का अनावश्यक विरोध किया, एवम् इस विरोध का एक मात्र उद्देश्य निजी स्वार्थ था/है। यदि हमें इस पेशे की गरिमा व ऊँचे स्तर को बरकरार रखना है तो हमें फर्जी (Fake) लोगों को न्यायालय परिसर से बाहर करना पड़ेगा, हमें वैसे नॉन प्रैक्टिसिंग एडवोकेट्स की पहचान करनी होगी जो किसी अन्य व्यवसाय, ठेकेदारी, नौकरी आदि में लिप्त है। हमें यह निश्चित करना होगा कि ऐसे वकील हमारे वकील संघों या बार काउंसिल के भाग्य का फ़ैसला न कर सकें, या इन्हें किसी कल्याणकारी योजना का लाभ न मिले और किसी अन्य पेशे में रहते हुए इन्हें वकालत करने न दिया जाये।

उक्त कारणों से काउंसिल ने ऐसे “नॉन प्रैक्टिसिंग” व फर्जी (Fake) लोगों की पहचान करने का निर्णय लिया। काउंसिल ने यह भी निर्णय लिया कि जो भी संघ के पदाधिकारी या कोई भी अधिवक्ता यदि ऐसे फर्जी (Fake) लोगों या “नॉन प्रैक्टिसिंग” एडवोकेट्स की पहचान की प्रक्रिया में जानबूझकर, अपने निजी स्वार्थवश अनावश्यक आपत्ति जताता है या ऐसे सुधार के प्रक्रिया का विरोध सिर्फ अपने लिए किसी चुनाव में ऐसे फर्जी (Fake) लोगों या “नॉन प्रैक्टिसिंग वकीलों” का वोट पाने की गलत मंशा से करता है, इन सुधारवादी नियमों का दुष्प्रचार कर लोगों को अनावश्यक दिग्भ्रमित करता है तो वैसे पदाधिकारियों या वकीलों को किसी भी संघ या बार काउंसिल का चुनाव लड़ने से कुछ समय के लिए वंचित कर दिया जाएगा।

बार काउंसिल ऑफ इंडिया ने इन नियमों की प्रति भारत के माननीय प्रधान न्यायाधीश को भी उचित कार्यवाही हेतु भेजने का निर्णय लिया है।

उक्त परिस्थितियों में व उक्त कारणों से काउंसिल ने "बार काउंसिल ऑफ इंडिया सर्टिफिकेट ऑफ प्रैक्टिस एण्ड रिनीउल रूल्स, 2014" को विलोपित कर रद्द करने का निर्णय लिया है और "बार काउंसिल ऑफ इंडिया सर्टिफिकेट एण्ड प्लेस ऑफ प्रैक्टिस भेरीफिकेशन नियम, 2015" नामक नये नियम को पारित किया है व लागू करने का संकल्प लिया है।

अध्याय I

i Lrkouk

1- y?lq' k'kZl %

इन नियमों को सर्टिफिकेट एण्ड प्लेस ऑफ प्रैक्टिस (भेरिफिकेशन) रूल्स, 2015 कहा जायेगा।

2- i Hko {k= %

ये नियम उन सभी अधिवक्ताओं पर लागू होंगे जिनके नाम अधिवक्ता अधिनियम, 1961 की धारा 17 के अंतर्गत, राज्य बार काउंसिल द्वारा अनुरक्षित राज्य की अधिवक्ताओं की सूची में शामिल हैं।

3- i kj tk gkus dh frffk %

ये नियम, अध्याय-3 का नियम-7 को छोड़कर, भारत के राजपत्र में इन नियमों के प्रकाशन की तारीख से तत्काल प्रवृत्त हों, अध्याय 3 का नियम 7 उस तारीख से प्रवृत्त होगा जिस तारीख में भारतीय विधिज्ञ परिषद्, भारतीय राजपत्र में तारीख निश्चित करेगा।

4- i fj Hk'k; j %

(a) vf/kfu; e का मतलब है अधिवक्ता अधिनियम, 1961।

(b) vf/koDrk का मतलब है वह अधिवक्ता जिसका नाम अधिवक्ता अधिनियम, 1961 की धारा 17 के अंतर्गत, बार काउंसिल द्वारा अनुरक्षित राज्य की अधिवक्ताओं की सूची में शामिल है।

(c) ulekdudk l fvZQdV का मतलब है अधिवक्ता अधिनियम, 1961 की धारा 22 के अंतर्गत अधिवक्ता निर्गत नामांकन का सर्टिफिकेट।

(d) l fvZQdV vkQ i SDVl] उस अधिवक्ता के संबंध में जिसने शैक्षिक वर्ष 2010 से पहले विधिशास्त्र में स्नातक डिग्री प्राप्त की हो, तथा वह अधिवक्ताओं की सूची में नामांकित हो, इसका अर्थ होगा कि उसे नियम 13 के अंतर्गत सर्टिफिकेट ऑफ प्रैक्टिस जारी किया जा चुका है, तथा ऐसे अधिवक्ता के सम्बन्ध में जो विधिशास्त्र शैक्षिक वर्ष 2009-2010 (1 जुलाई, 2009 से 30 जून, 2010) में स्नातक डिग्री कर रहा हो एवं तत्पश्चात् जून, 2010 के बारहवें दिन अथवा इसके पश्चात् सूची में नामांकित हो, के लिए सर्टिफिकेट ऑफ प्रैक्टिस का अर्थ है अखिल भारतीय बार परीक्षा नियम के अंतर्गत जारी किया गया अथवा इन नियमों के नियम संख्या 13 के अंतर्गत निर्गत सर्टिफिकेट ऑफ प्रैक्टिस, स्थिति-अनुसार।

- (e) **jkt; cjk dkmfl y** का मतलब है अधिवक्ता अधिनियम, 1961 की धारा 3(1)(a) के अंतर्गत परिभाषित राज्य बार काउंसिल।
- (f) सत्यापन/प्रक्रिया शुल्क का मतलब है विधि व्यवसाय प्रमाण-पत्र व सत्यापन संबंधी सूचना आवेदन के सत्यापन-प्रक्रिया हेतु लिए जाने वाली राशि। यह राशि समय-समय पर भारतीय बार काउंसिल द्वारा परिवर्तित की जा सकती है तथा ऐसे परिवर्तनों के समय परिवर्तित राशि को शुल्क माना जायेगा।
- (g) **ckj l ak** किसी विशेष क्षेत्र/कस्बे/शहर में स्थित अधिवक्ताओं का न्यायालय कार्य सम्बन्धी किसी विशिष्ट क्षेत्र/इलाके का संघ, जो या तो सोसायटी पंजीकरण अधिनियम (1860 की अधिनियम सं XXI) के अंतर्गत पंजीकृत हो, अथवा न्यायालयों/न्यायाधिकरण/व्यक्तियों या साक्ष्य लेने के लिए कानूनी तौर पर सक्षम किसी भी अन्य प्राधिकारी, जिनके समक्ष इनके सदस्य विधि प्रैक्टिस करते हों, तथा इसमें विशेष रूप से कानून के विशिष्ट क्षेत्रों में कार्यरत बार संघ शामिल हों, जैसे आयकर, कॉरपोरेट कानून, केंद्र/राज्य उत्पाद शुल्क कानून आदि तथा इनसे संबंधित न्यायालयों/न्यायाधिकरण/व्यक्ति, के क्षेत्राधिकार से संबंधित इसका कोई विशिष्ट क्षेत्र/इलाका परिभाषित न हो।
- (h) **^vf/koDrk/ldh l plh**** का मतलब है अधिवक्ता अधिनियम के अंतर्गत परिभाषित "सूची"।
- (i) **^i zkk fud l fefr**** का मतलब है चुनाव के जरिए राज्य बार काउंसिल द्वारा गठित राज्य परिषद् के तीन सदस्यों की समिति, जिसका गठन इन नियमों के तहत इस तरह के कार्यों और कर्तव्यों के निर्वहन के लिए किया गया हो। राज्य बार काउंसिल के कार्य भार के आधार पर एक से अधिक ऐसी समितियां हो सकती हैं।
- (j) **i dVl usdjusokyk vf/koDrk** उस अधिवक्ता को कहा जायेगा जिसे इन नियमों की नियम संख्या 13 तथा 20.2 के अंतर्गत ऐसा घोषित किया गया हो तथा जिसका नाम नियम 20.4 के अंतर्गत प्रकाशित हो।
- (k) **Qt kZ/kyr½Q fDr %** फर्जी या गलत व्यक्ति का मतलब वैसे लोगों से है जो बिना कानून की डिग्री लिये या किसी राज्य बार काउंसिल में बिना पंजीकरण को स्वयम् को अधिवक्ता बताकर न्यायालयों या अन्य विधि प्राधिकरण व फोरम में विधि कार्य में लिप्त हैं और न्यायालय व विवादियों को धोखा देते हैं।
- (l) **l Hh 'kn vls okD; kak** जिनका प्रयोग इन नियमों में किया गया है, का तब तक वही अर्थ स्वीकार किया जायेगा जैसा कि अधिवक्ता अधिनियम, 1961 में प्रयुक्त हुआ है, जब तक कि इन शब्दों और वाक्यांशों का प्रयोग जिस सन्दर्भ में किया गया है, उसमें स्पष्टतः इसके विपरीत व्याख्या की गयी हो।

5- **¶ fVZQdV vKQ i fDVI ** dh vko' ; drk %**

कोई भी अधिवक्ता अखिल भारतीय बार परीक्षा नियमों अथवा इन नियमों के अंतर्गत निर्गत एक वैध व सत्यापित सर्टिफिकेट ऑफ प्रैक्टिस के बिना विधिक प्रैक्टिस करने का पात्र नहीं होगा।

कुछ श्रेणी के अधिवक्ताओं के लिए छूट :-

एडवोकेट्स एक्ट की धारा 16 के तहत नामित वरीय अधिवक्ताओं और उच्चतम न्यायालय के एडवोकेट्स-ऑन-रिकार्ड (Advocates-on-Record) को सत्यापन फॉर्म दाखिल करने की आवश्यकता नहीं है। वरीय अधिवक्ताओं और एडवोकेट्स-ऑन-रिकार्ड (Advocates-on-Record) को अपने अधिवक्ता संघों के माध्यम से सिर्फ अपने दो पासपोर्ट आकार के फोटो अपने नाम और वर्तमान पते के साथ संबंधित बार काउंसिल को भेजना होगा ताकि बार काउंसिल की मतदाता सूची में उनका नाम शामिल हो सके। इसके लिए अलग से Form-E बना हुआ है।

प्रैक्टिस करने की यह अपात्रता तब से ही प्रवृत्त मानी जाएगी जब ऐसे अधिवक्ता/ अधिवक्ताओं के नाम नियम 20.4 के अंतर्गत प्रकाशित किये जायेंगे।

अध्याय II**LFkuk; ckj l ak**6- **vf/koDrkvla dks ml ckj l ak dk l nL; gkuk gksk t gk og fof/kd i fDVI djrk gA**

6.1 कोई अधिवक्ता, जिसने अधिवक्ता अधिनियम, 1961 की धारा 22 के अंतर्गत नामांकन का सर्टिफिकेट प्राप्त कर लिया हो, को आवश्यक रूप से उस बार संघ के सदस्य के रूप में पंजीकरण करना होगा जहाँ वह सामान्य रूप से विधिक प्रैक्टिस करता है अथवा प्रैक्टिस करने की इच्छा रखता है। परन्तु यदि कोई अधिवक्ता किसी वकील संघ का सदस्य बनने की इच्छा नहीं रखता है तो उसे इस बात की सूचना संबंधित राज्य बार काउंसिल को देनी होगी तथा उसे यह बताना होगा कि वह बार काउंसिल या अधिवक्ता संघ द्वारा समय-समय पर लाये गये कल्याण संबंधी लाभ किस प्रकार लेगा। इस संबंध में राज्य बार काउंसिल का निर्णय अंतिम होगा।

6.2 किसी मामले में यदि कोई अधिवक्ता अपने पेशे के स्थान में परिवर्तन होने के कारण अथवा विधिक क्षेत्र में परिवर्तन के कारण एक बार संघ को छोड़कर दूसरे बार संघ का सदस्य बनता है, उसे सभी प्रासंगिक ब्यौरों के साथ तरह के परिवर्तन की सूचना राज्य बार काउंसिल को, जिसका वह सदस्य है, देनी होगी।

बार संघ को छोड़ने तथा दूसरे बार संघ का सदस्य बनने की सूचना स्वतंत्र रूप से उक्त बार काउंसिल को एक महीने के अन्दर देनी होगी।

- 6.3 बार संघों को संबंधित बार काउंसिल, जिसके क्षेत्राधिकार के भीतर वे स्थित हैं, को इन नियमों के अंतर्गत मान्यता प्राप्त करने के लिए आवेदन करना होगा। मान्यता उन बार संघों को प्रदान की जाएगी जो इन नियमों के तहत बार संघ की परिभाषा के अंतर्गत आएँगी।

अध्याय III

- 7.1 यदि किसी राज्य बार काउंसिल या बार काउंसिल ऑफ इंडिया को यह ज्ञात होता है व साबित होता है कि किसी वकील संघ के किसी पदाधिकारी या किसी भी अधिवक्ता द्वारा जानबूझकर फर्जी (Fake) लोगों को या जैसे लोगों को (जो किसी अन्य व्यवसाय नौकरी पेशे आदि में लिप्त हैं) बचाने या उनकी पहचान होने से रोकने की गलत मंशा से, निजी स्वार्थ हेतु अनावश्यक कार्य किया जा रहा है, या इन सुधारकारी नियमों का गलत मंशा से दुष्प्रचार किया जा रहा है, या गैर जिम्मेदाराना वक्तव्य देकर गलत मंशा से लोगों को दिग्भ्रमित करने का प्रयास कर इन नियमों के लागू होने में जानबूझकर व्यवधान पैदा किया जा रहा है, तो राज्य बार काउंसिल व बार काउंसिल ऑफ इंडिया द्वारा गठित ट्रिब्यूनल (प्राधिकरण) द्वारा ऐसे वकीलों पदाधिकारियों को वकील संघ या बार काउंसिल का चुनाव लड़ने से तीन वर्षों तक के लिए वंचित किया जा सकता है।
- 7.2 उक्त संदर्भ में कोई भी आदेश सिर्फ एक ऐसे प्राधिकरण (Tribunal) द्वारा पारित किया जा सकेगा जिसमें माननीय उच्च न्यायालय के अवकाश प्राप्त न्यायाधीश (बार काउंसिल ऑफ इंडिया द्वारा मनोनीत), एक वरीय अधिवक्ता व राज्य बार काउंसिल के एक वरीय सदस्य (राज्य बार काउंसिल द्वारा मनोनीत) होंगे। माननीय अवकाशप्राप्त न्यायाधीश इस ट्रिब्यूनल के अध्यक्ष होंगे। किसी वकील के विरुद्ध कोई भी आदेश उसको बिना सुने हुए पारित नहीं किया जा सकेगा। अंतिम निर्णय बहुमत के आधार पर होगा। प्राधिकार को अंतरिम आदेश पारित करने का अधिकार प्राप्त होगा।
- प्राधिकार में मामले राज्य बार काउंसिल या बार काउंसिल ऑफ इंडिया द्वारा भेजे जायेंगे और प्राधिकार मामलों का निपटारा त्वरित करेगा। प्रत्येक राज्य बार काउंसिल हेतु अलग-अलग प्राधिकार होंगे।
- 7.3 प्राधिकार के द्वारा पारित किसी भी आदेश के विरुद्ध अपील या पुनरीक्षण बार काउंसिल ऑफ इंडिया में पारित आदेश के 60 दिनों के अंदर किया जा सकेगा : हालांकि बार काउंसिल ऑफ इंडिया को उचित कारणों पर विलम्ब से दाखिल किये गये अपील या पुनरीक्षण याचिका को 60 दिन की अवधि के बाद भी स्वीकार करने का अधिकार प्राप्त होगा।

अध्याय IV

1 fVZQdV vKQ iSDVl dks i nÜk@l R ki u djus ds l EcUk ea vKOnu@vks'k@ vki fÜk ; kfpdk

8- 12 t w] 2010 dks vFlok ml l s igys ulekd r vf/koDrk vka } kjk ^y fVZQdV vKQ iSDVl ** i nku djus ds fy, vKOnu %

- 8.1 ऐसा कोई अधिवक्ता, जो विधिशास्त्र में स्नातक डिग्री शैक्षिक वर्ष 2009–2010 (1 जुलाई, 2009 से 30 जून, 2010) में पूर्ण कर रहा हो एवं तत्पश्चात् जून 12, 2010 अथवा इसके पश्चात अधिवक्ताओं की सूची में नामांकित हो, को अखिल भारतीय बार परीक्षा नियम, 2010 के अंतर्गत "सर्टिफिकेट ऑफ प्रैक्टिस" के निर्गमन के लिए आवेदन करना आवश्यक होगा तथा इस "सर्टिफिकेट ऑफ प्रैक्टिस" के सत्यापन के लिए जिस राज्य बार काउंसिल के अधीन वह नियम 9 के अंतर्गत नामांकित है, से आवेदन करना होगा।
- 8.2 ऐसा कोई अधिवक्ता, जिसने विधिशास्त्र में स्नातक डिग्री शैक्षिक वर्ष 2010 से पहले पूर्ण की हो एवं वह अधिवक्ताओं की सूची में नामांकित हो, को इस "सर्टिफिकेट ऑफ प्रैक्टिस" के निर्गमन के लिए जिस राज्य बार काउंसिल के अधीन वह अधिवक्ता के रूप में नामांकित है, से इन नियमों के प्रवृत्त होने के/नामांकन तिथि के 6 महीने की अवधि के अन्दर आवेदन करना होगा।
- 8.3 सर्टिफिकेट ऑफ प्रैक्टिस के निर्गमन का प्रत्येक आवेदन फॉर्म में दिए गए निर्धारित प्रारूप में प्रस्तुत किया जायेगा जो इन नियमों के साथ परिशिष्ट प्रारूप A के कॉलम I और II में दिया गया है तथा जिसमें राज्य बार काउंसिल जिसके अंतर्गत वह नामांकित है, को सभी आवश्यक सूचनाएं प्रकट करना अनिवार्य है।
- 8.4 ऐसे प्रत्येक आवेदन के साथ निम्नलिखित दस्तावेज प्रमाण—पत्र कथन तथा शुल्क आदि संलग्न किये जायेंगे।
- i. सत्यापन शुल्क के 100 (सौ रुपये) मात्र जो राशि बैंक ड्राफ्ट/अकाउंट पेयी बैंक चेक या नगद द्वारा, निम्नलिखित अधिकारियों के नाम देय होगी :-
 - a. सचिव, राज्य बार काउंसिल, जिसके साथ आवेदक नामांकित है, के नाम, यह राशि नगद भुगतान भी की जा सकेगी।
 - b. उक्त 100 की सत्यापन शुल्क में से राज्य बार काउंसिल का सचिव 20 (बीस रुपये) संबंधित वकील संघ को, 30 रुपये (तीस रुपये) बार काउंसिल ऑफ इंडिया को भेजेगा तथा शेष 50 (पचास रुपये) की राशि राज्य बार काउंसिल के खाते में रखेगा।
 - ii. इन नियमों के साथ परिशिष्ट में दिये गये फॉर्म A के कॉलम II अनुसार निर्धारित प्रारूप में घोषणा पत्र;
 - iii. पासपोर्ट आकार के दो फोटो, जिन्हें बार संघ, जिसका आवेदक सदस्य हो, के अध्यक्ष/सचिव अथवा संघ के किसी भी अन्य पदाधिकारी द्वारा, जो इस उद्देश्य के लिए बार संघ द्वारा अधिकृत हो, अथवा राज्य या भारतीय बार काउंसिल के अधिकृत सदस्य द्वारा विधिवत अभिप्रमाणित किया गया है।
 - ix. फॉर्म A के कॉलम III के अनुसार निर्धारित प्रारूप में अध्यक्ष/सचिव अथवा संघ के किसी भी अन्य पदाधिकारी, जो इस उद्देश्य के लिए बार संघ द्वारा अधिकृत हो, जिसका कि आवेदक सदस्य हो, द्वारा जारी सर्टिफिकेट, इस

आशय के साथ कि अधिवक्ता उक्त बार संघ का प्रमाणिक सदस्य है तथा उसने विधिक प्रैक्टिस छोड़ी नहीं है। इस आशय का प्रमाण—पत्र राज्य बार काउंसिल या बार काउंसिल ऑफ इंडिया द्वारा अधिकृत किसी राज्य बार काउंसिल के सदस्य द्वारा भी निर्गत किया जा सकता है।

यदि आवेदक अधिवक्ता अधिनियम, 1961 की धारा 22 के अंतर्गत नामांकन सर्टिफिकेट के निर्गमन के समय से विभिन्न समय में अलग-अलग बार संघों का सदस्य रहा हो, ये सर्टिफिकेट उन बार संघों के अध्यक्ष/सचिव से प्राप्त किये जा सकते हैं जिनका कि समय-समय पर आवेदक सदस्य रहा हो।

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परन्तु यदि किसी भी स्थिति में यदि साबित हो जाती है कि उक्त प्रमाण-पत्र निर्गत करने वाले किसी भी अधिकृत पदाधिकारी/सदस्य जान-बूझकर, यह जानते हुए भी कि कोई अधिवक्ता प्रैक्टिस न कर अन्य पेशे/व्यवसाय आदि में लगा है, और वैसे अधिवक्ता के पक्ष में यदि किसी अन्य अनुचित लाभ या मात्र उसका वोट लेने के उद्देश्य से ही प्रमाण-पत्र निर्गत किया गया है, तो वैसे पदाधिकारी/सदस्य के विरुद्ध कार्रवाई करने हेतु राज्य बार काउंसिल स्वच्छन्द है।

- 8.5 उक्त आवेदन सभी उपरोक्त दस्तावेजों के साथ आवेदक द्वारा राज्य बार काउंसिल में व्यक्तिगत रूप से उचित पावती प्राप्त करते हुए दाखिल किया जा सकता है अथवा इसे पंजीकृत डाक द्वारा सचिव को भेजा जा सकता है अथवा इसे बार संघ, जिसका कि आवेदक सदस्य हो, के जरिए भेजा जा सकता है।

9- 1 fVZQdV vKQ iSDVl ds l R ki u dsfy, vkonu %

- 9.1 किसी अधिवक्ता को इन नियमों की धारा 13 के अंतर्गत अथवा अखिल भारतीय बार परीक्षा नियम के अंतर्गत निर्गमित तथा नवीकृत सर्टिफिकेट ऑफ प्रैक्टिस, पाँच (5) वर्ष के लिए वैध होगा तथा इसे प्रत्येक पाँच (5) वर्ष में, सर्टिफिकेट ऑफ प्रैक्टिस की वैधता अथवा इसके सत्यापन की वैधता के समाप्त होने के छः (6) माह पूर्व अग्रिम रूप से सत्यापन का आवेदन दाखिल करके नवीकृत कराना होगा।
- 9.2 सत्यापन के ऐसे सभी आवेदन फार्म 'A' में दिए गए निर्धारित प्रारूप के विभिन्न कॉलम में प्रस्तुत किए जाएंगे जो इन नियमों के साथ परिशिष्ट में दिया गया है तथा इनके साथ वे सभी दस्तावेज, प्रमाण-पत्र, कथन तथा शुल्क आदि लगाये जायेंगे जैसा कि

नियम 8.4 के खंड (i), (ii) और (iv) में वर्णित है में वर्णित है तथा इन्हें नियम 8.5 में वर्णित रूप से दाखिल किया जा सकता है।

10- foyæ 'kŷd ds l kfk foyfcr vlonu %

सर्टिफिकेट ऑफ प्रैक्टिस के सत्यापन के सभी आवेदन जो कि इस नियमावली के नियम 8/ नियम 9.1 के द्वारा तय समय-सीमा के पश्चात दाखिल किये जायेंगे, उनको कार्यालय/सचिव के द्वारा विलम्ब शुल्क की राशि रूपये 100 (रूपये सौ मात्र) के बिना स्वीकार नहीं किया जायेगा तथा ऐसे विलंबित आवेदनों पर छः (6) माह के पश्चात् ही विचार किया जायेगा।

11- t qkzs ds l kfk l R ki u grqfofcr vlonu %

सर्टिफिकेट ऑफ प्रैक्टिस के सत्यापन के सभी आवेदन जो कि इस नियमावली के नियम 10 के द्वारा तय समय-सीमा के पश्चात् दाखिल किये जायेंगे, उनको कार्यालय/सचिव के द्वारा जुर्माने की राशि रूपये 50 (रूपये पचास मात्र) प्रतिमाह, जिसकी गणना इस नियमावली के नियम 10 के अंतर्गत ऐसे विलंबित आवेदन के जमा होने के माह की अंतिम तिथि के आधार पर की जाएगी, के बिना, स्वीकार एवं प्रक्रिया में नहीं लिया जायेगा, परन्तु ऐसे विलंबित आवेदनों को जुर्माने के प्रावधान के साथ भी छः (6) माह तक ही स्वीकार किया जा सकेगा।

12- vi wZvls nski wZvlonu %

ऐसी स्थिति में, जबकि प्राप्त आवेदन अपूर्ण/दोषपूर्ण हों, उक्त अधिवक्ता को कार्यालय द्वारा पत्र जारी करके ऐसी कमियों/दोषों के विषय में पंजीकृत डाक के द्वारा सूचना भेजी जाएगी तथा ऐसे आवेदनों को इन कमियों/दोषों के दूर होने के पश्चात ही प्रक्रिया में लिया जायेगा। ऐसी कमियों/दोषों के दूर होने में लगने वाले समय को अधिवक्ता से विलम्ब शुल्क के रूप में 100 प्रतिमाह की दर से वसूल किया जायेगा, यदि इस शुल्क को पर्याप्त कारण प्रदर्शित करने पर राज्य बार काउंसिल के अध्यक्ष/उपाध्यक्ष द्वारा माफ न कर दिया जाए।

13- i sDVl l fvZQdV l R ki u dsfy, vlonu ij vlnsk %

प्रैक्टिस सर्टिफिकेट सत्यापन के लिए प्राप्त प्रत्येक आवेदन की इसकी प्राप्ति की तारीख से एक महीने की अवधि के भीतर कार्यालय द्वारा जांच की जाएगी और यदि सबकुछ नियमानुसार पाया जाता है, तो इसे प्रशासनिक समिति के समक्ष आवेदन को स्वीकृत करने अथवा अस्वीकृत करने का आदेश पारित करने हेतु आवेदक की व्यक्तिगत फाइल के साथ प्रस्तुत किया जायेगा।

ऐसे आवेदनों को सिर्फ तब ही अस्वीकृत किया जा सकता है जब यह पाया जाये कि उक्त अधिवक्ता ने विधिक प्रैक्टिस छोड़ दी है तथा इसे भविष्य में भी जारी रखने का उसका कोई सदाशयी अभिप्राय तथा रुचि नहीं है तथा इस नियमावली के अंतर्गत ऐसे अधिवक्ता को विधिक प्रैक्टिस न करने वाला अधिवक्ता माना जाये।

इस नियम के अंतर्गत कोई विपरीत आदेश पारित नहीं किया जा सकता जब तक कि आवेदक को सुनवाई का उचित अवसर न प्रदान किया जाए।

14- vki fÜk ; kfpdk %

- 14.1 एक अधिवक्ता या कोई भी व्यक्ति राज्य बार काउंसिल के समक्ष किसी अधिवक्ता/ अधिवक्ताओं के नाम विधिक प्रैक्टिस न करने वाले अधिवक्ताओं की सूची में जोड़ने हेतु इस आधार पर आपत्ति याचिका दायर कर सकता है कि उस अधिवक्ता ने विधिक-प्रैक्टिस छोड़ दी है तथा इसे भविष्य में भी जारी रखने का उसका कोई सदाशयी अभिप्राय तथा रूचि नहीं है।
- 14.2 अधिवक्ता अधिनियम की धारा 35 के तहत शिकायतों से संबंधित भारतीय बार काउंसिल नियमावली के खंड VII के अध्याय I नियम AI (1) व नियम AI (2) मूटाटीस मूटान्डीस (यथोचित परिवर्तनों सहित), इन आपत्ति याचिकाओं पर लागू होंगे, सिवाय इसके कि इन आपत्ति याचिकाओं के साथ एक रु. 1000 की सुरक्षा राशि अदा करनी होगी, तथा अधिवक्ता, अधिनियम की धारा 35 के तहत शिकायतों के लिए ऐसी किसी राशि का प्रावधान नहीं है।
- 14.3 ऐसे मामले में जहाँ राज्य बार काउंसिल आवेदक के पक्ष में एक प्रथम दृष्टया मामला पाती है; व इसे निर्णय हेतु प्रशासनिक समिति को भेज देगी।
- 14.4 राज्य बार काउंसिल की प्रशासनिक समिति इस तरह की आपत्ति का संबंधित अधिवक्ता की प्रैक्टिस सर्टिफिकेट सत्यापन के लिए आवेदन के साथ, यदि कोई हो, निर्णय तथा निपटान करेगी। यदि ऐसी कोई कार्यवाही लंबित नहीं हो, तो इस प्रकार की आपत्ति याचिका पर स्वतंत्र रूप से निर्णय लिया जाएगा।
इस नियमावली के अंतर्गत कार्यवाई पर अधिवक्ता अधिनियम की धारा 35 के तहत शिकायतों से संबंधित प्रक्रिया, मूटाटीस मूटान्डीस (यथोचित परिवर्तनों सहित) ही लागू होगी।
- 14.5 उस मामले में जहाँ शिकायत पीड़ित करने वाली, उपयोग शून्य तथा बुरी नीयत से की गयी पायी जाती है, आपत्ति याचिका के साथ अदा की गयी रुपये 1000 की सुरक्षा राशि राज्य बार काउंसिल द्वारा जब्त कर ली जाएगी।
- 14.6 प्रशासनिक समिति को उक्त किसी भी आपत्ति संबंधी याचिका को उसके प्राप्ति के पंद्रह दिनों के अंदर निपटारा करना होगा।
स्पष्टीकरण—यदि कोई अधिवक्ता यह साबित कर पाता है कि इन नियमों के लागू होने के पहले उसने प्रत्येक वर्ष में एक बार भी किसी न्यायालय, अधिकरण या अन्य फोरम के समक्ष वकालतनामा दाखिल किया है या उपस्थिति दर्ज की है, तो उस अधिवक्ता को वकालत पेशे में (Practicing Advocate) माना जायेगा।

अध्याय V

15- fu; e 13 ds vaxZ ikjr vknk dsfy, vuqriZdljZkbZ%

- 15.1 सत्यापित सर्टिफिकेट ऑफ प्रैक्टिस को जारी करने के आवेदन को नियम 13 के अंतर्गत स्वीकृत करने के पश्चात् तत्कालय राज्य बार काउंसिल का कार्यालय सत्यापित

फॉर्म 'B' सर्टिफिकेट ऑफ प्रैक्टिस को दो प्रतियों में राज्य बार काउंसिल के अध्यक्ष द्वारा उनकी उपस्थिति में राज्य बार काउंसिल के उपाध्यक्ष अथवा राज्य बार काउंसिल द्वारा अधिकृत किसी अन्य सदस्य के द्वारा, विधिवत हस्ताक्षर के साथ तैयार करेगा।

- 15.2 सर्टिफिकेट ऑफ प्रैक्टिस (सत्यापित) की एक प्रति संबंधित अधिवक्ता को बिना किसी देरी के पंजीकृत डाक एडी द्वारा प्रेषित कर दी जाएगी तथा दूसरी प्रति अधिवक्ता की व्यक्तिगत फाइल में लगा दी जाएगी। फोटो के साथ एक पहचान-पत्र भी निर्गत किया जा सकेगा, जो सर्टिफिकेट के निर्गत होने की तिथि से पाँच वर्षों की अवधि मान्य होगा।

राज्य बार काउंसिल या अधिवक्ता संघों के चुनाव में मतदान के समय पहचान-पत्र अनिवार्य होगा। उक्त पहचान-पत्र राज्य बार काउंसिल द्वारा, इस संबंध में बनाये गये नियमों के तहत जारी किया जायेगा।

- 15.3 राज्य बार काउंसिल, सारी जानकारी से युक्त एक अलग डिस्पैच रजिस्टर रखेगा जिसमें सत्यापित सर्टिफिकेट ऑफ प्रैक्टिस के सभी विवरण, नामांकन के मूल प्रमाण-पत्र तथा आयु, जन्म-तिथि और पते के साथ अधिवक्ता के पूर्ण विवरण होगा। इस रजिस्टर को राज्य परिषद् द्वारा निर्धारित तरीके से वर्ष-वार रखा जाएगा।
- 15.4 प्रत्येक राज्य बार काउंसिल नियम 15.3 के अंतर्गत प्रतिवर्ष रखे गए रिकॉर्ड की एक प्रमाणीकृत सॉफ्ट कॉपी बार काउंसिल ऑफ इंडिया को भेजेगा।

अध्याय VI

वर्क U/R 13 ds rFlk vlonu djuseafoQyrk ds ifj. ke

- 16- fu; e 13 ds vaxZ vlonu dh vLohdfr dk ifj. ke %

नियम 13 के अंतर्गत आवेदन की अस्वीकृति की स्थिति में नियम 20.4 द्वारा निर्धारित परिणामों का पालन होगा।

- 17- fu; e 7 l s 11 } kjk fu/ Wjr vlonu djuseafoQy gkus ds ifj. ke %

कि यदि एक अधिवक्ता सर्टिफिकेट ऑफ प्रैक्टिस के सत्यापन के लिए आवेदन करने में असफल होता है, जैसा नियमों 8 से 11 के अंतर्गत प्रदान किया गया है, वैसी अवधि/विस्तृत अवधि के भीतर, या अगर वह अपने आवेदन में कमियों/त्रुटियों को हटाने में असफल होता है, नियम 12 के अंतर्गत 6 महीने की अवधि के लिए सूचना दिये जाने के बावजूद, तो यह प्रत्यक्षतः अनुमान कर लिया जायेगा कि ऐसा अधिवक्ता विधिक प्रैक्टिस छोड़ चुका है और इसे भविष्य में भी जारी रखने का उसका कोई प्रमाणिक अभिप्राय तथा रुचि नहीं है।

- 18- fu; e 17 dh l lek earFlk nskh vf/koDrkvdh l ph ds izk ku ds Hhrj vkus okysvf/koDrkvdh t k mUj nsuseavl Qy gksrg dsfo:) vuorizdk Zkg%

18.1 कि राज्य बार काउंसिल का ऑफिस, ऐसे दोषी अधिवक्ता/ओं की सूची बनायेगा, जो सर्टिफिकेट ऑफ प्रैक्टिस के सत्यापन का आवेदन करने में विफल रहे हैं, ऐसी अवधि/विस्तृत अवधि के भीतर, जो इन नियमों द्वारा प्रदान किए गए अथवा 6 महीने

की निर्धारित अवधि के भीतर सूचना दिए जाने के बावजूद अपने आवेदनों में से कमियों/त्रुटियों को हटाने में असफल हुए हैं।

इस सूची को दोषी अधिवक्ताओं की सूची का शीर्षक दिया जा सकता है।

- 18.2 ऐसे सभी अधिवक्ताओं को जिनके नाम दोषी अधिवक्ता सूची में सम्मिलित किये गए हैं, इस तथ्य की यथोचित सूचना दी जायेगी कि उनके नाम उपर्युक्त सूची में सम्मिलित हैं तथा इस सूची की अगली सूचना निम्नलिखित ढंग से भी दी जायेगी।
- i. ऐसी सूची की एक कॉपी बार काउंसिल के ऑफिस के बाहर प्रदर्शित की जायेगी;
 - ii. ऐसी सूची की कापियाँ ऐसी डिस्ट्रिक्ट बार संघ/संघों को भी भेजी जाएँगी, जिनके सदस्य ऐसे अधिवक्ता उनके द्वारा अंतिम बार जाहिर किये गये पते के अनुसार हैं, तथा साथ ही, सम्बद्ध उच्च न्यायालय/उच्चतम न्यायालय बार संघ को भी भेजी जाएँगी।
 - iii. एक सूचना-पत्र कि उसका नाम ऐसी सूची में सम्मिलित है, दोषी अधिवक्ता को भी उसके द्वारा अंतिम बार जाहिर किये गये पते पर रजिस्टर्ड डाक के अंतर्गत भेजी जायेगी।
 - iv. एक सूचना-पत्र कि उसका नाम ऐसी सूची में सम्मिलित है, दोषी अधिवक्ता को भी उसके द्वारा अंतिम बार जाहिर किये गये पते पर रजिस्टर्ड डाक के अंतर्गत भेजी जायेगी।
 - iv. यह सूची विधि के अनुसार राज्य बार काउंसिल द्वारा भी प्रकाशित की जाएगी।

19- fu; e 18 ds vxz izk ku ds ckn foyacr vlo nu %

यदि नियम 18 के खंड (IV) के अंतर्गत पूर्वकृत दोषी अधिवक्ता की सूची के प्रकाशन के 6 महीने की अवधि के भीतर सर्टिफिकेट ऑफ प्रैक्टिस के सत्यापन के लिये एक आवेदन राज्य बार काउंसिल द्वारा प्राप्त होता है, यह ऐसे विलंबित शुल्क तथा जुर्माने के साथ होगा, जैसे इन नियमों के नियम 10 से 12 द्वारा उल्लिखित हैं।

ऐसे सभी आवेदन ऑफिस द्वारा नियम 10 से 12 द्वारा निर्धारित कार्यविधि के अनुसार संसाधित किये जायेंगे तथा तत्पश्चात, ऐसे आवेदनों पर नियम 13 के अंतर्गत आदेश प्राप्त किये जायेंगे तथा इन नियमों के अनुसार ऐसे आदेश को अमल में लाया जायेगा।

20- mUj nuseavl Qy gksrFlk fof/kd iSDVI u djusokysvf/kDrkvkadh l ph ds izk ku ds ifj. ke %

20.1 कि यदि इन नियमों के अंतर्गत सर्टिफिकेट ऑफ प्रैक्टिस के सत्यापन का कोई आवेदन नहीं किया गया है अथवा यदि एक आवेदन फाइल किया गया है परन्तु नियम 17 के अनुसार त्रुटियाँ नहीं हटाई गई हैं, तो इन नियमों के उद्देश्यों के लिए अनुमान कर लिया जायेगा कि ऐसा अधिवक्ता विधिक प्रैक्टिस छोड़ चुका है तथा इसे भविष्य में भी जारी रखने का उसका कोई प्रामाणिक अभिप्राय तथा रुचि नहीं है।

- 20.2 कि ऐसे दोषी अधिवक्ताओं की सूची के प्रकाशन के 6 महीने की अवधि की समाप्ति पर राज्य बार काउंसिल एक आदेश जारी करेगा, यह निर्देश देते हुए कि दोषी अधिवक्ताओं की सूची में आने वाले ऐसे अधिवक्ता/ओं के नाम/नामों को विधिक प्रैक्टिस न करने वाले अधिवक्ता की सूची में डाल दें।
- 20.3 कि विधिक प्रैक्टिस न करने वाले अधिवक्ता सूची की यथोचित सूचना निम्नलिखित को दी जायेगी :-
- ऐसी सूची की एक कॉपी बार काउंसिल ऑफ इंडिया को तथा सभी अन्य राज्य बार काउंसिल को भेजी जायेगी।
 - इस सूची की एक कॉपी राज्य बार काउंसिल की क्षेत्रीय सीमाओं के भीतर अवस्थित सभी न्यायालयों को भेजी जायेगी तथा सम्बंधित उच्च न्यायालय को भी भेजी जायेगी। तथा एक प्रति सर्वोच्च न्यायालय को भी भेजी जायेगी।
 - ऐसी सूची की कापियाँ उन डिस्ट्रिक्ट बार संघों को भी भेजी जाएँगी, जिनके सदस्य अधिवक्ता स्वयं द्वारा अंतिम बार घोषित किये गये पते के अनुसार हैं, तथा साथ ही, सम्बद्ध उच्च न्यायालय/उच्चतम न्यायालय बार संघ को भी भेजी जायेंगी;
- 20.4 विधिक प्रैक्टिस न करने वाले अधिवक्ताओं तथा उन अधिवक्ताओं के नाम जिनके सर्टिफिकेट ऑफ प्रैक्टिस के सत्यापन का आवेदन नियम 13 के अंतर्गत अस्वीकृत घोषित है की सूची भी विधि के अनुसार राज्य बार काउंसिल द्वारा प्रकाशित की जायेगी, जबकि ऐसी सूची/नाम बार काउंसिल ऑफ इंडिया द्वारा स्वीकृत हो।
- 21- **fof/kd i\$DVI u djus okys vf/koDrk t k fof/kd i\$DVI u djus okys vf/koDrk l ph ea l ffe fyr g\$ fof/kd i\$DVI djus ds vf/kdkjh ugha gS rFlk vL; fo' kkk/kdkj k rFlk vf/kdkj ds vf/kdkjh ugha gS%**
- 21.1 विधिक प्रैक्टिस न करने वाले अधिवक्ताओं की उपर्युक्त सूची के प्रकाशन की तारीख से ऐसे सभी अधिवक्ता जिनके नाम उपर्युक्त सूची में सम्मिलित किये गये हैं, किसी भी न्यायालय, किसी भी ट्रिब्यूनल अथवा प्रमाण लेने के लिए विधिक रूप से प्राधिकृत व्यक्ति तथा किसी अन्य प्राधिकारी अथवा व्यक्ति जिसके आगे ऐसा अधिवक्ता किसी भी विधि के द्वारा अथवा अंतर्गत, जो फिलहाल लागू हो, प्रैक्टिस करने का अधिकारी हो, उपस्थित होने के अधिकारी नहीं है, इस तथ्य के होते हुए भी कि ऐसे अधिवक्ताओं के नाम स्टेट सूची में प्रवेश किया/ये गये हैं तथा वह अधिवक्ता अधिनियम की धारा 22 के अंतर्गत नामांकन का सर्टिफिकेट धरे हुए हैं।
- आगे, राज्य बार काउंसिल के चुनावों के उद्देश्यों के लिए ऐसे अधिवक्ता/ओं के नाम चुनावी सूची में सम्मिलित नहीं किये जायेंगे। तथा आगे, बार संघों के किसी भी चुनाव में वोट डालने के अधिकारी नहीं होंगे।

ऐसे अधिवक्ता/ओं की हैसियत से भाग लेने तथा लाभ पाने की प्रतिष्ठा तथा अधिकार जो बार काउंसिल ऑफ इंडिया के कल्याणकारी योजनाओं के अंतर्गत हैं, जो चौप्टर 2, जो कि बार काउंसिल ऑफ इंडिया के नियमों के भाग VI में हैं, के धारा IV-I के नियम 40 से 44 V के अंतर्गत हैं, तथा स्टेट बार काउंसिल द्वारा जारी की गई अन्य योजनाएँ, नियम 20.4 के अंतर्गत विधिक प्रैक्टिस न करने वाले अधिवक्ताओं की सूची / नाम के प्रकाशन की तारीख से समाप्त हो जायेंगे, इस को छोड़कर कि ऐसा अधिवक्ता प्रासंगिक योजना/ओं के अंतर्गत ऐसे लाभों, यदि कोई है, जो पहले से ही उसके पक्ष में दिये जा चुके हैं, को पाने का अधिकारी होगा।

अध्याय VII

22- fof/kd i fDVI djus okys rFlk u djus okys vf/koDrkvlads fj dkmZdk v | ru djuk

22- fof/kd i fDVI djus okys rFlk u djus okys vf/koDrkvlads l sl af/kr fj dkmZ%

22.1 कि नियम 20.4 के अंतर्गत ऐसे अधिवक्ताओं की सूची के प्रकाशन में उपर्युक्त ढंग से विधिक प्रैक्टिस न करने वाले अधिवक्ताओं की पहचान की प्रारंभिक प्रक्रिया के समापन पर राज्य बार काउंसिल ऐसे अधिवक्ताओं का सभी विशेष जानकारियों के साथ जैसे—नाम, पता, जन्म की तारीख, नामांकन की तारीख, नामांकन संख्या, सर्टिफिकेट ऑफ प्रैक्टिस के सत्यापन के लिए आवेदन की, और यदि है, तो उसकी अस्वीकृति की विशेष जानकारी, अलग से रिकॉर्ड बनायेगा तथा उसे बरकरार रखेगा, यह रिकॉर्ड नियमित रूप से अद्यतन किया जायेगा।

22.2 प्रत्येक राज्य बार काउंसिल बार काउंसिल ऑफ इंडिया को हर साल, रिकॉर्ड की एक प्रमाणित सॉफ्ट कॉपी, जैसा नियम 22.1 के अंतर्गत निर्वाह किया गया हो, भेजेगा।

22.3 वैसे सभी वकील जिनके सर्टिफिकेट ऑफ प्रैक्टिस का सत्यापन हो जाता है, को राज्य बार काउंसिल द्वारा एक प्रमाण पत्र निर्गत किया जायेगा जिसमें उक्त अधिवक्ता का एक फोटो रहेगा एवं प्रमाण पत्र के—वैध/मान्य (validity) फॉर्म 'B' रहने की अवधि अंकित रहेगी। इसी प्रकार का एक फोटो पहचान पत्र भी निर्गत किया जायेगा, फॉर्म 'D' जिसे अधिवक्ता किसी भी न्यायालय या अन्यत्र वकालत करते समय अपने पास रखेगा ताकि आवश्यकता पड़ने पर या किसी न्यायिक पदाधिकारी, वकील, पक्षकार या किसी नागरिक के द्वारा माँगे जाने पर वह व्यक्ति यह साबित कर सके कि वह एक वकील है।

23- jkt; ckj dkmf l y dh pqlol l fp; kads pqlolads mís; l sv | ru djuk %

नियम 20.4 के अंतर्गत विधिक प्रैक्टिस न करने वाले अधिवक्ताओं की सूची के प्रकाशन पर तथ नियम 22.2 के अंतर्गत ऐसे रिकॉर्ड की एक कॉपी बार काउंसिल ऑफ इंडिया को भेजने के बाद, बार काउंसिल ऑफ इंडिया के नियमों के अध्याय I, भाग—III के अंतर्गत राज्य बार काउंसिल, राज्य बार काउंसिल के चुनावों के लिए चुनाव सूची की तैयारी की प्रक्रिया को प्रारंभ करेगा। कोई भी राज्य बार काउंसिल चुनावी सूची की तैयारी अथवा राज्य बार काउंसिल के

चुनावों का संचालन करने का उपक्रम तब तक नहीं करेगा जब तक कि इन नियमों के अंतर्गत विधिक प्रैक्टिस न करने वाले अधिवक्ताओं के प्रमाण-पत्र की सत्यापन व उसके वकील होने की पहचान की प्रक्रिया नियम 20.4 के अंतर्गत उनके नामों के प्रकाशन द्वारा समाप्त नहीं होती।

बशर्ते कि राज्य बार काउंसिल, जहाँ इन नियमों के प्रारंभ होने की तारीख पर अधिनियम की धारा-8A के अंतर्गत पहले से ही एक स्पेशल कमेटी/कमेटियाँ कार्यरत है/हैं, वर्तमान नियमों के अंतर्गत चलती रहेंगी जैसे कि ये नियम लागू ही नहीं किये गये हों। ऐसे राज्य बार काउंसिल का गठन किया गया है।

राज्य बार काउंसिल द्वारा इन नियमों को अविलम्ब लागू करने हेतु विभिन्न कमेटियाँ बनायी जानी है। यदि कोई भी राज्य बार काउंसिल इन नियमों को लागू करने या सर्टिफिकेट ऑफ प्रैक्टिस के सत्यापन करने में जान-बूझकर अनावश्यक किसी प्रकार की शिथिलता बरतता है, तो बार काउंसिल ऑफ इंडिया स्वयम् अपने स्तर से अधिवक्ता अधिनियम 1961 के तहत कार्रवाई कर सकेगा।

अध्याय VIII

विधि प्रैक्टिस के लिए

24- विधि प्रैक्टिस

24.1 प्रत्येक राज्य बार काउंसिल से सम्बंधित इन नियमों के अंतर्गत इन अपीलों के निपटान के लिये एक अपील ट्रिब्यूनल होगा तथा ऐसा ट्रिब्यूनल निम्नलिखित सदस्यों से गठित होगा :-

- i. बार काउंसिल ऑफ इंडिया के नियम 44A(2)(i) के अंतर्गत भाग-VI, अध्याय-II, धारा-(VI-A) के अंतर्गत राज्य बार काउंसिल द्वारा चुने गये राज्य बार काउंसिल के दो सदस्य।
- ii. राज्य बार काउंसिल ऑफ इंडिया के अध्यक्ष द्वारा नामांकित किये जाने वाले प्रबंधक कमेटी के सदस्यों में से राज्य बार काउंसिल का एक सदस्य तथा सम्बंधित राज्य बार काउंसिल से सदस्य, बार काउंसिल ऑफ इंडिया द्वारा नामांकित एक अन्य सदस्य।
- iii. सम्बंधित राज्य बार काउंसिल से बार काउंसिल ऑफ इंडिया का सदस्य जो उसका अध्यक्ष होगा;

24.2 कि अपील ट्रिब्यूनल की निर्दिष्ट संख्या तीन सदस्य होगी परन्तु कोई भी अंतिम आदेश जारी नहीं किया जायेगा जब तक कि अपील ट्रिब्यूनल का अध्यक्ष उसका समर्थक न हो।

25- विधि प्रैक्टिस के लिए (विधि प्रैक्टिस के लिए)

यदि एक अधिवक्ता के सर्टिफिकेट ऑफ प्रैक्टिस के सत्यापन के आवेदन को इन नियमों के नियम 13 के अंतर्गत अस्वीकृत किया जाता है/या एक अधिवक्ता का नाम राज्य बार काउंसिल द्वारा विधिक प्रैक्टिस न करने वाले अधिवक्ता की सूची में नियम 20.2 के अंतर्गत

सम्मिलित किये जाने का आदेश दिया जाता है, नियम 20.4 के अंतर्गत व्यथित पार्टी, आदेश जारी करने अथवा विधिक प्रैक्टिस न करने वाले अधिवक्ताओं की सूची के प्रकाशन के 60 दिनों की अवधि के भीतर, ऐसे आदेश के विरुद्ध अपील, ट्रिब्यूनल से एक अपील कर सकता है परन्तु अपील फाइल करने में विलम्ब को अनदेखा किया जा सकता है, यदि ऐसे विलम्ब का उपयुक्त कारण दिखाया जाये।

ऐसी प्रत्येक अपील विवादित आदेश की एक अभिप्रमाणित कॉपी सहित दाखिल होगी। अपील को स्वीकार तथा उस पर ध्यान तब तक नहीं दिया जायेगा जब तक कि वह 200 रुपये के शुल्क के साथ, जो कि बैंक ड्राफ्ट/अकाउंट पेयी बैंक चेक, जो सम्बंधित राज्य बार काउंसिल के सचिव, राज्य बार काउंसिल के पक्ष में है, के रूप में न हो।

200 रुपये की राशि में से सचिव, राज्य बार काउंसिल 50 रुपये की राशि बार काउंसिल ऑफ इंडिया के खाते में भेज/जमा कर देगा तथा इन नियमों के अंतर्गत बार संघ के प्रोत्साहन के लिए कोष के नाम से जाने हुए कोष में 50 रुपये की राशि दे दी जायेगी।

ऐसी प्रत्येक अपील ट्रिब्यूनल द्वारा सुनी जायेगी, जो जैसा उपयुक्त लगे, वैसा अदेश इस पर जारी कर सकता है।

26- fu; e 13 rFkk fu; e 19-2 ds varxz vksrk dsl pkyu ij jkd %

नियम 13 तथा 20.2 के अंतर्गत जारी किये गये आदेश के विरुद्ध केवल अपील फाइल करने से जिस आदेश के विरुद्ध अपील की गयी है उसके संचालन पर रोक नहीं लगेगी जब तक कि अपील ट्रिब्यूनल द्वारा जो उचित लगे, ऐसे प्रतिबंधों के आधार पर उसके संचालन पर रोक न लगायी जाये।

27- ijhkk dh {lcrk %

27.1 बार काउंसिल ऑफ इंडिया किसी भी समय इन नियमों के अंतर्गत किसी भी कार्यवाही के रिकॉर्ड का बुलावा दे सकता है, जो राज्य बार काउंसिल या अपील ट्रिब्यूनल द्वारा निपटा दिए गए हैं, तथा जिनमें से कोई अपील नहीं रहती, ऐसे आदेश अथवा निपटान की वैधता अथवा औचित्यता के सन्दर्भ में स्वयं की संतुष्टि के उद्देश्य के लिये तथा जैसा उचित लगे, इनसे संबंधित आदेश जारी कर सकता है।

यह संशोधन BCI नियमों के अभ्यास IX, भाग- III अर्थात् अधिवक्ता अधिनियम, 1961 के धारा 48 I के अंतर्गत होगा।

27.2 कोई आदेश, जो किसी अधिवक्ता को पूर्वाग्रह रूप से प्रभावित करे, इस नियम के अंतर्गत जारी नहीं किया जायेगा जब तक कि उसे अपना पक्ष रखने का एक अवसर न दिया जाये।

अध्याय IX

iSDVI dkiqjkjk

28- iSDVI dkiqjkjk %

28.1 यदि एक अधिवक्ता जिसका नाम नियम 20.4 के अंतर्गत प्रकाशित विधिक प्रैक्टिस न करने वाले अधिवक्ताओं की सूची में सम्मिलित किया गया है, बदली हुई परिस्थितियों

में विधिक प्रैक्टिस का पुनरारंभ करना चाहता है, वह राज्य बार काउंसिल को आवेदन दे सकता है कि उसका नाम ऐसी सूची में से निकाल दिया जाये।

- 28.2 पुनरारंभ के लिए आवेदन, फॉर्म 'C' में 2,000 रुपये के पुनरारंभ शुल्क तथा फॉर्म एफ/फ में घोषणा पत्र के साथ किया जायेगा।
ऐसा आवेदन बार संघ, जिसका सदस्य अधिवक्ता विधिक प्रैक्टिस करने के लिये बनना चाहता है, के सभापति/सचिव द्वारा जारी किये गये फॉर्म 'B' के कॉलम III में एक सर्टिफिकेट द्वारा समर्थित होगा।
- 28.3 राज्य बार काउंसिल पुनरारंभ के लिये ऐसे आवेदन को प्रशासनिक कमेटी के सुपुर्द करेगा, जो आवेदन को स्वीकृत अथवा अस्वीकृत करते हुए उचित आदेश जारी कर सकता है, बशर्ते ऐसा आवेदन केवल तभी मान्य होगा यदि प्रशासनिक कमेटी संतुष्ट होती है कि आवेदक का विधिक प्रैक्टिस पुनरारंभ करने का अभिप्राय प्रामाणिक है।
- 28.4 ऐसे मामले में कि पुनरारंभ स्वीकार किया जाता है, आवेदक का नाम विधिक प्रैक्टिस न करने वाले अधिवक्ताओं की सूची में से निकाल दिया जायेगा तथा नियम 20.3 के विधिक प्रैक्टिस न करने वाले अधिवक्ताओं की सूची की हैसियत से ऐसे अपवर्जन की यथोचित सूचना दी जाएगी तथा प्रकाशित की जायेगी।
- 28.5 कि नियम 28.4 के अंतर्गत प्रकाशन की तारीख से नियम 21 के अंतर्गत आवेदक द्वारा भुगती गयी सभी असमर्थताएँ अस्तित्व में नहीं रहेंगी परन्तु वह किसी भी ऐसे लाभ/विशेष अधिकार का अधिकारी नहीं होगा, जो उसे नियम 21 के अंतर्गत अस्वीकार कर दी गयी थी, उस अवधि के लिये जिसमें उसका नाम विधिक प्रैक्टिस न करने वाले अधिवक्ताओं की सूची में था।

अध्याय X

1 R ki u i f 0 ; k d k k

29- 1 R ki u i d V l d k k %

- 29.1 इन नियमों के अंतर्गत बैंक ड्राफ्ट/चेक या नगद राशि सचिव, राज्य बार काउंसिल के नाम से जमा किये जायेंगे। राज्य बार काउंसिल इससे संबंधित आय व्यय हेतु एक अलग बैंक खाता खोलेगी जो अध्यक्ष व सचिव द्वारा संचालित किया जायेगा।
- 29.2 कि "राज्य बार काउंसिल प्रैक्टिस कोष खाता" राज्य बार काउंसिल के अध्यक्ष तथा सचिव द्वारा संयुक्त रूप से संचालित किया जायेगा। उसी प्रकार, "BCI प्रैक्टिस कोष खाता" BCI अध्यक्ष तथा सचिव द्वारा संयुक्त रूप से संचालित किया जायेगा।
- 29.3 कि इस प्रैक्टिस कोष का अलग से ऑडिट ऐसे चार्टर्ड अकाउंटेंट्स द्वारा किया जायेगा जिन्हें राज्य बार काउंसिल तथा उनके संबंधित अकाउंटेंट्स की योग्यता से BCI द्वारा नियुक्त किया गया हो।

- 29.4 कि इन नियमों के अंतर्गत इकट्ठा की गयी समस्त धनराशि को केवल निम्नलिखित उद्देश्यों के लिए प्रयोग किया जायेगा :-
- (a) इन नियमों के सम्बन्ध में उत्पन्न होने वाले प्रशासनिक तथा अन्य व्ययों का भुगतान करना;
- (b) विभिन्न बार संघ में केवल निम्नलिखित उद्देश्यों के लिए योगदान देना :-
- विधिक पुस्तकालयों को स्थापित करना तथा सुधार लाना।
 - बार संघ के परिसर, जो अधिवक्ताओं के सामान्य प्रयोग के लिये आरक्षित है, में बुनियादी ढाँचे में सुधार तथा ऐसे ही अन्य योगदान करना जिससे तालुक, डिस्ट्रिक्ट, उच्च न्यायालय, तथा उच्चतम न्यायालय के स्तर पर बार संघ को प्रोत्साहन तथा सुदृढ़ता दी जा सके, जैसा उचित प्रतीत हो।
 - अधिवक्ताओं के लिए कल्याणकारी योजनाओं को प्रोत्साहित करना। ऐसी कल्याणकारी योजनाओं में अधिवक्ताओं तथा उनके परिवार में निर्भर सदस्यों से सम्बंधित सभी प्रकार की बीमाय पेंशन योजनायें, जूनियर तथा निःशक्त अधिवक्ताओं के लिये वजीफा, अधिवक्ताओं की निरंतर विधिक शिक्षा/प्रशिक्षण सम्मिलित हो सकती है।

अध्याय XI

fofo/k

30- dfBulb; lkd dk fuokj . k %

ऐसे मामले में जब इन नियमों के अर्थ, व्याख्या, क्रियान्वयन को लेकर कोई संदेह अथवा मतभेद उत्पन्न हो, अपील ट्रिब्यूनल इन समस्याओं को सुलझाने के लिए अन्तिम प्राधिकारी होगा तथा उन पर इसके निर्णय अंतिम होंगे।

31- fu; a-d {lerk; a%

बार काउंसिल ऑफ इंडिया का राज्य बार काउंसिल के लिए समय-समय पर ऐसे नियंत्रकों को जारी करने का अधिकार होगा जो इन नियमों के उचित परिपालन तथा क्रियान्वयन के लिए आवश्यक है तथा ऐसे नियंत्रक राज्य बार काउंसिल के मूल विषय और भावना का पालन करेंगे जिससे समस्त देश में इन नियमों के अनुप्रयोग में समरूपता बनी रहे।

32- ckj dkmfl y vko bfm; k dh rnFKZdesV; k cukus dh {lerk %

ऐसे मामले में जब किसी राज्य बार काउंसिल के चुने हुए सदस्यों के कार्यकाल का इन नियमों के अंतर्गत विधिक प्रैक्टिस न करने वाले अधिवक्ताओं की पहचान होने की प्रक्रिया के विलंबित होने के कारण समाप्त हो जाने की संभावना है अथवा राज्य बार काउंसिल के चुनावों के लिए चुनावी सूची की तैयारी में विलम्ब होने के मामले में, बार काउंसिल ऑफ इंडिया एक तदर्थ कमेटी बनाएगा, जिसमें राज्य बार काउंसिल के निर्धारित संख्या में सदस्य होंगे, जिससे राज्य बार काउंसिल सुचारू रूप से कार्य करे तथा उपर्युक्त प्रक्रिया का शीघ्रगामी क्रियान्वयन हो।

राज्य बार काउंसिल की यह तदर्थ कमेटी अधिनियम के सेक्शन 8A के अंतर्गत बने स्पेशल कमेटी के अंतर्गत कार्य करेगी जब तक राज्य बार काउंसिल के चुनावों की प्रक्रिया के उद्देश्य के लिये बार काउंसिल ऑफ इंडिया के नियमों के अभ्यास-I, भाग-III के अनुसार चुनावी सूची की तैयारी की प्रक्रिया पूरी न हो जाये।

33- cpko [kM

सर्टिफिकेट ऑफ प्रैक्टिस के स्वरूप जैसा कोई भी सर्टिफिकेट, जैसा इन नियमों में परिभाषित है तथा इनसे नवीकरण/सत्यापन (राज्य बार काउंसिल द्वारा कोई भी नाम/ढंग अथवा रूप द्वारा इन्हें जारी/प्रदान किया गया हो), जो किसी राज्य बार काउंसिल द्वारा प्रदान किया गया तथा राज्य बार काउंसिल द्वारा इसके सम्बन्ध में कोई अन्य कार्यवाही/आदेश जारी किया गया, इन नियमों के लागू होने से पहले, बार काउंसिल ऑफ इंडिया सर्टिफिकेट ऑफ प्रैक्टिस एण्ड रिनीउवल्स रूल्स, 2014 के तहत की गयी कार्यवाही का परिणाम इस नियम के जारी होने की तारीख से पाँच साल की अवधि के लिए निरंतर वैध रहेगा परन्तु इस अवधि के समाप्त होने पर, राज्य बार काउंसिल द्वारा जारी किये गए ऐसे सर्टिफिकेट/लाइसेंस का इन नियमों के अंतर्गत सत्यापन कराया जाना आवश्यक है।

34- fdl h jkT; ckj dkmf y vFlok ckj dkmf y vKQ bM; k }kj k t kjh fd; @ cuk sx, l Hh i Zrlok@fu; eak dk j i gkuk

जिस दिन से ये नियम लागू हुए हैं, किसी राज्य बार काउंसिल अथवा बार काउंसिल ऑफ इंडिया द्वारा जारी किया गया/बनाया गया कोई भी प्रस्ताव/नियम, जो इन नियमों के साथ असंगत है, रद्द माना जायेगा।

35- इन 2015 के नियमों के लागू होने के पूर्व में "बार काउंसिल ऑफ इंडिया सर्टिफिकेट ऑफ प्रैक्टिस एण्ड रिनीउवालु रूल्स 2014" के तहत यदि किसी भी राज्य बार काउंसिल ने किसी अधिवक्ता से 500/- रूपये या 200/- रूपये की राशि वसूल की है तो उक्त रूपये में से मात्र 100/- रूपये की राशि को काटकर बाकी की रकम संबंधित अधिवक्ता को वापस कर दी जाये, अन्यथा 100/- रूपये से अधिक वसूल की गयी राशि का उपयोग उक्त अधिवक्ता की सहमति से उसके और उसके परिवार या वकीलों के कल्याण (यथा बीमा योजना, पेंशन योजना आदि) संबंधी उद्देश्य से की जायेगी। इस संबंध में निर्णय संबंधित राज्य बार काउंसिल को संबंधित अधिवक्ता की सहमति लेनी होगी।

सत्यापित प्रमाणपत्र मिलने के बाद कोई भी अधिवक्ता देश के किसी भी न्यायालय/प्राधिकार या अन्य फोरम के समक्ष एडवोकेट्स एक्ट की धारा 30 के तहत उपस्थित होकर वकालत कर सकता है, परन्तु उक्त उपस्थिति किसी सक्षम न्यायालय द्वारा लगाये गये शर्तों की पूर्ति के साथ ही हो सकेगी।

जे. आर. शर्मा
सचिव

(विज्ञापन-III/4/असा./96/14)

**BAR COUNCIL OF INDIA
NOTIFICATION
NEW DELHI, THE 12TH JANUARY, 2015
EXTRACTS OF THE MINUTES OF THE MEETING OF GENERAL COUNCIL OF
BAR COUNCIL OF INDIA HELD ON 29TH/30TH NOVEMBER, 2014
ITEM NO. 330/2014**

The Council considered the Draft Rules with regard to verification of Certificate and Place of Practice of Advocates and to repeal the Bar Council of India Certificate of Practice and Renewal Rules, 2014 and passed the following resolution:

Resolution No. 216/2014

- (e) The Council resolves to modify the Resolution No. 169 of 2014 (Item No. 276/2014) dated 17th October, 2014. The Council further resolves that Draft Rules with regard to Verification of Certificate and Place of Practice submitted by the sub-Committee be and is hereby approved. These new Rules shall be named as Bar Council of India Certificate and place of Practice (Verification) Rules 2015 depending on the year of its publication in the Gazette of India) and it shall come into force from the date of its publication in the Gazette of India. The Council further resolves to repeal Bar Council of India Certificate of Practice and Renewal Rules, 2014, accordingly the Bar Council of India Certificate of Practice Renewal Rules, 2014 stand repealed.
- (f) Bar Council of India Certificate and Place of Practice (Verification) Rules have been framed in exercise of powers conferred on Bar Council of India by section 49(1)(ag), 49(ah) and 49(i) of the Advocates Act, 1961 and in exercise of powers under Part-V Chapter I, Rule 1(1) & 2 and Rule 2 of Bar Council of India Rules, Chapter III sub Rule 3, 4 and Part-IX Rule 17, 18(h), 20, 22, 24 of Bar Council of India Rules.

**BAR COUNCIL OF INDIA CERTIFICATE AND PLACE OF PRACTICE
(VERIFICATION) RULES, 2015**

Statement of objects and reasons:

The legal profession is an Honorable one and it has critical role to play in protecting and promoting the Civil and Constitutional rights of the people. An independent and fearless Bar is vital and crucial for sustaining and promoting a true and healthy democracy. The Bar which is subject to manipulation and influence from extraneous powers, howsoever mighty and esteemed they may be, cannot do justice either to the Legal Profession or to the Rule of Law. Bench and Bar are the two wheels of a chariot and one cannot function without the other. Sadly, this profession has fallen under a cloud.

In the Joint Meeting of the representatives of all State Bar Councils and Bar Council of India, concerns were raised by all that trend of Advocates switching over to other

professions/services/business without any information to the State Bar Council has reached alarming proportions. This trend is endangering the legal profession as a whole. It has also made a dent in its sanctity and standards. Names of such advocates continue to be included in the "Roll of advocates" being maintained by the State Bar Councils, notwithstanding the fact that they have left the legal profession or have since died. Though under section 19 of the Advocates Act, the State Bar Councils are under legal obligation to send a copy of the Roll of advocates prepared by it under section 17 of the Act and subsequent alterations/additions thereto but practically no State Bar Council has observed this mandatory provision of the Act up till now.

Under these circumstances, it appears that a definite trend is visible that the control of Bar Associations and of other elected bodies under the Advocates Act is slipping out of the hands of the advocates who practice law. It is also being experienced that after certificate of enrolment is issued to an advocate, practically no communicative and continuing contact survives between him and the Council.

Under the existing state of affairs, All India Bar Examination introduced on the directions/observations of the Supreme Court of India to improve the standard of legal profession has also failed to fully achieve its objective. Advocates enrolled with the State Bar Councils obtain "Provisional Certificate of Practice" (valid for 3 years)* and thereafter most of them are practicing Law without caring to appear for All India Bar Examination and to pass it.

Various welfare schemes for advocates have been floated in India both under State Legislations as well as under various welfare schemes framed by different State Bar Councils and by Bar Council of India but benefits thereunder are being enjoyed by those also who have left the profession.

There is also an urgent need for laying down some conditions for practicing law in different Courts so as to give due weightage and credence to experience. Before an advocate could practice law in higher Courts, there is need that he is exposed to real court experience in lower Courts/trial Courts. This will help in integrating the whole judicial system from the perspective of the Bar.

Therefore, in order to achieve better and effective administrative and disciplinary control of the local Bar Associations, State Bar Councils and the Bar Council of India over the advocates entered on the Rolls of advocates being maintained by different State Bar Councils under section 22 of the Advocates Act and further in order to weed out advocates who have left practice, the Bar Council of India, in the exercise of powers conferred on it by Section 49(1) (ag), 49 (ah) 49(i) of the Advocates Act, 1961 and by all other enabling and residuary powers vested in it, had brought the rules titled 'Bar Council of India Certificate of Practice and Renewal Rules, 2014' for the purposes of carrying into effect the provisions and objectives of the Act:-

But in some of the places, the Advocates raised objection with regard to the word Renewal, though in fact it is not the renewal of enrolment, rather it aimed at periodical

* Letter No. B.C.I. : D 1962 : 2015 (Item No. - 6/2015-A/LE Mtg. 26.4.15) dt. 10.10.15

verification of the details of an Advocate already enrolled with some State Bar Council. The aim was/is only to verify the place where the Advocate normally practices, the Bar Association of which he is a member (if any), the address/email id. enrolment number/year, the Institutions from which the Advocate has passed his Graduation and LL.B. The purpose is the maintenance of record of all the Advocates of the country; two passport size photographs of Advocate was/is also required to be furnished to the State Bar Council. The other object was/is also to introduce certain electoral reforms in the Bar Council/Bar Association elections, because in recent past, the Bar Council of India and the State Bar Councils have come across the cases of rigging in the polls and the allegations of bogus voting has now become frequent, since the State Bar Councils and/or majority of Bar Associations of the country have no record of the Advocates who died after enrolment or who joined other jobs, business or professions; the Bar Council of India being the regular of Legal profession and Legal education of the country has, therefore, decided to undertake the detailed verification and then to prepare a Voters' List alongwith recent photographs of the Advocate (Voter). The Council has framed these Rules in the light of the verdict of Hon'ble Apex Court in the case of Supreme Court Bar Association. The Bar Council of India has already decided to develop the web-portal for this purpose to have full details of all the Advocates of the country, all the Institutions imparting Legal Education, details of Law students, the Law Teachers and details of all the Bar Associations. The detailed information and photograph is necessary for that purpose also. Furthermore, since some of the Bar Associations have raised baseless objection with regard to the sum of Rs. 500/- as Practice Fee (as per them it is a heavy amount); the major portion (about Rs. 400/-) of this Rs. 400/- was aimed (in 2014 Rules) for providing welfare schemes (like Insurance for Advocates and their family members and improvement of infrastructure and Library of Bar Associations, Pensions etc.) But due to objection, now the Council has resolved to segregate this amount of Rs. 400/- for welfare-schemes from the process fee of verification. Now only Rs.100/- is to be charged from the Advocates as Process fee and rest of Rs. 400/- would be optional not mandatory, depending upon the decision of concerned State Bar Council and the concerned Advocate. Even from this process fee of Rs. 100/-, besides the expenditure incurred for undertaking the work of verification, the State Bar Council, Bar Associations and Bar Council of India are required to spend the rest of the amount for the improvement of infrastructures of Associations only. State Bar Councils shall be required to open and maintain a separate Bank Account for this purpose which would be audited every year. The report of Audit shall be sent to Bar Council of India and the Bar Association soon after the submission of report.

The Bar Council of India has also come to know that a number of fake (farzi) persons (without any Law Degree or enrolment certificate) are indulged in Legal practice and are cheating the Litigants, courts and other stake-holders; and neither the Bar. Associations nor the concerned State Bar Councils have any control over such fake persons. Shockingly, it has come to the notice of the Council that at some places, the

office-bearers of Bar Associations or some vote-seekers knowingly make such people members and voters of their Associations with a motive to get their votes in the elections of Bar Associations or Bar Councils. Similarly, many persons, after getting enrolled as Advocates in any State Bar Council, get involve in Property-Dealings, contract or switch over to some other business, profession or job and have no more concern with the Legal profession. Such “non-practicing Advocates” are sometimes being used by some of the office-bearers/candidates for elections of Bar Associations or Bar Councils (only for their votes). But in fact, the Council has realized that such practice is degrading the standard of Legal profession, and this mal-practice has to be stopped.

Few of the office-bearers/representatives of some of the Bar Associations had raised unnecessary objections and protests to these reformative steps. Such protests were/ are only to serve their vested interests. Bar Council of India, has to maintain the dignity and standard of Legal profession, we shall have to oust fake people from the court-campus and we shall have to identify the “non-practicing Advocates”, (who are involved in other job, business or profession). We are to ensure that such Advocates do not involve in deciding the fate of our Associations and the Bar Councils; And such Advocates are not allowed to get any benefit of welfare schemes or to practice Legal profession so long they are in any other business, job or profession.

It is due to these reasons, the Council has decided to make provisions for identification of such fake persons and non-practicing Advocates. And the Council has also felt it necessary to discourage those Advocates who raise unnecessary protests with an intent to keep and protect the fake and/or non-Practicing Advocates with an object to get their votes. Therefore, the Council has resolved to make suitable provisions in these Rules so that if any Advocate is found to be indulged in making deliberate effort to

- (i) Protect fake people practicing legal profession illegally
- (ii) to create any hurdle, in identification of "non-Practicing Advocates" and
- (iii) create any objection in verification of the certificate of practice, credentials, place of Practice and details of Advocates, such Advocates would be debarred from contesting any election of Bar Association or Bar Council for a period of three years from the date of order to this effect.

Under the circumstances and for the abovementioned reasons, the Council has resolved to repeal the “Bar Council of India Certificate of Practice and Renewal Rules 2014” and has made and passed the new “ Bar Council of India Certificate and place of Practice (Verification) Rules 2015”, and has decided to implement it.

CHAPTER I PRELIMINARY

1. Short Title :

These Rules shall be called as the "Certificate of Practice and Place of Practice (Verification) Rules, 2015".

2. Extent :

These rules will be applicable to all the advocates whose names appear on the State Rolls being maintained by the State Bar Councils under section 17 of the Advocates Act, 1961.

3. Date of commencement:

These rules, except Rule 7 of Chapter III, shall come into force at once from the date of publication of these Rules in the Gazette of India. Rule 7 of Chapter III shall come into force on such date as the Bar Council of India may, by notification in the Gazette of India, appoint in this behalf. Published in the Gazette of India on 12th January 2015.

4. Definitions:

- (a) **Act** means the Advocates Act, 1961.
- (b) **Advocate** means an advocate whose name is entered in the Roll of Advocates being maintained by the State Bar Councils under section 17 of the Advocates Act, 1961.
- (c) **Certificate of Enrolment** means the certificate of enrollment held by an advocate issued under Section 22 of the Advocates Act, 1961.
- (d) **Certificate of Practice** in relation to an advocate having obtained graduate degree in law before the academic year 2010 enrolled on the roll of Advocates shall mean Certificate of Practice issued under Rule 13 and in relation to an advocate graduating in law in academic year 2009 -2010 (1st July, 2009 to 30th June, 2010) and thereafter, enrolled on or after 12th Day of June, 2010, Certificate of Practice means the "Certificate of Practice" issued under All India Bar Examination Rules or under Rule 13 of these Rules or the enrolment certificate issued by the State Bar Council.
- (e) **State Bar Council** means the State Bar Councils as defined under section 3 (I) (a) of the Advocates Act, 1961.
- (f) **Verification/process fee** means the amount /s payable under these rules as fee and amount for processing of Application and its verification. This amount may be varied by the Bar Council of India from time to time and on such variation, the varied amount shall mean the fee.
- (g) **Bar Association** of a given area/town/city means an area/territory and court work based association of advocates, whether registered under the Societies Registration Act (Act No. XXI of 1860) or not having its area/territory defined in terms of the whole or part of the territorial jurisdiction of Courts / Tribunals /Persons or any other Authorities legally competent

to take evidence before which its members ordinarily practice law and it includes Bar Association exclusively dealing in specific fields of law viz. Income Tax, Corporate Law, Central / State Excise Law etc. in relation to the authorities / tribunals / boards etc. there under.

- (h) **"Roll of advocates"** means "roll" as defined in the Advocates Act.
- (i) **"Administrative. Committee"** shall mean a committee comprising of three members of the State Council, constituted by the State Bar Council by way of election, for discharging such functions and duties as are entrusted to it under these Rules. There may be more than one such Committee depending upon the work load of a particular State Bar Council.
- (j) **An non-practicing advocate** means an Advocate enrolled with any State Bar Council, but is not in actual practice of Law and is engaged in some other public or private job, business, contract etc. not related to Legal profession: and who has been so declared under Rule 13 and Rule 20.2 of these Rules and whose name stands published under Rule 20.4.
- (k) **Fake Person** is a person who is involved in practicing in Courts of Law/ Tribunals or other Legal forums without having a valid Degree in Law (without any enrolment in any State Bar Council) and use to appear in such Courts, Tribunals or Forums illegally posing him as an Advocate.
- (l) **All terms and phrases** used in these rules shall have the same meaning as they have under the Advocates Act, 1961, unless the context in which such words and phrases are used, expressly suggest to the contrary.

5. **Necessity of "Certificate of Practice":**

An advocate shall not be entitled to practice law unless he holds a valid and verified certificate of practice issued either under All India Bar Examination Rules or under these Rules. This disability to practice law would come into force only when the name/names of such advocate/s is/are published under Rule 20.4.

5(a) **Exemption of certain categories of Advocates:-**

However, the senior Advocates designated under Section 16 of the Advocates Act and Advocates on Record of Supreme Court of India are required to fill form E for Senior Advocates and Form F (new) for Advocates on Records. They shall also be required to send two passport size photographs alongwith duly filled up forms to their respective Bar Associations or the concerned State Bar Council, so that their names could be included in electoral roll of State Bar Council. The senior Advocates shall be required to deposit a sum of Rs. 500 and the AORs shall deposit the fee to be decided by their respective State Bar Councils. All the State Bar Council shall be required to inform the Supreme Court Bar Association and the AOR Association of Supreme Court about the fee for verification of Certificate of Practice fixed by them forthwith.

CHAPTER II

LOCAL BAR ASSOCIATIONS

6. Advocate to be a member of the Bar Association where he/she normally practices law:

- 6.1 An advocate, after having obtained a Certificate or Enrollment under section 22 of the Advocates, Act, 1961, is required to get himself registered as a member of the Bar Association where he ordinarily practices law or intends to practice law. And if any Advocate does not intend to be a member of any Bar Association duly recognized by concerned State Bar Council, then he shall be required to intimate the same to the State Bar Council and he shall have to explain as to how shall he be getting the benefits of any welfare scheme floated by the State Bar Council or the Local Bar Association. The decision of State Bar Council shall be final in this regard.
- 6.2 In case an advocate leaves one Bar Association and joins another by reason of change of place of practice or by reason of change of field of law, he/she shall intimate such change with all the relevant particulars to the State Bar Council, of which he is a member. Such fact of leaving as well as of joining shall be independently intimated to the aforesaid said Bar Council within a period of one month.
- 6.3 Bar Associations to apply to the respective Bar Council within whose jurisdiction they are located, for being recognized under these rules. Recognition shall be accorded to such a Bar Association only which falls within the definition of Bar Association as defined in these rules.

CHAPTER III

- 7.1 If it comes to the notice of the Council through any source that any office-bearer of any Bar Association or any Advocate is involved in making unnecessary, baseless and deliberate Protests /objections in the process of identification of fake persons (involved in Legal profession) or in the identification of non-practicing Advocates (who are doing some other job, business etc.) and/or making any attempt to mislead the Advocates of his Association or State by making irresponsible statements with ill motive to create hurdle in implementation of these reformatory Rules, a Tribunal constituted by the Bar Council of India and the State Bar Council may pass an order debarring such Advocate or office-bearer from contesting the elections of Bar Association/ State Bar Council for a period of three years from the date of passing of such order.
- 7.2 Any such order be passed only by a Tribunal consisting of one former Judge of any High Court (nominated by Bar Council of India) one senior Advocate and one Senior Member of State Bar Council (nominated by the Chairman and the

Vice-Chairman of that Bar Council.) Hon'ble Former Judge of High Court shall be the Presiding Officer of the Tribunal and no adverse order can be passed by such Tribunal unless the concerned office-bearer/Advocate is given an opportunity of hearing. The decision of majority will prevail in such decision. The Tribunal shall have power to pass interim orders also.

The State Bar Council or Bar Council of India may refer the matters to such Tribunals and the Tribunal shall dispose of the matters expeditiously. There shall be a separate Tribunal for each State Bar Council.

- 7.3 An Appeal / Revision shall lie before the Bar Council of India against any order passed by the said Tribunal, if preferred within a period of 60 days from the date of order: However, the Council shall have the power to condone the delay in filing such Appeal / Revision beyond 60 days, if sufficient cause is shown by the appellant/petitioner.

CHAPTER IV

APPLICATIONS/ORDERS/OBJECTION PETITION WITH RESPECT TO GRANT / VERIFICATION OF CERTIFICATE AND PLACE OF PRACTICE

8. Application for verification of "Certificate to practice and place of Practice" by advocates enrolled on or before June 12, 2010:

- 8.1 An advocate graduating in law in academic year 2009-2010 (1st July 2009 to 30th June, 2010) and thereafter enrolled on the "Roll of Advocates" on or after June 12, 2010, is required to apply for issuance of "Certificate of Practice" under All India Bar Examination Rules, 2010 and for verification of such "Certificate of Practice" from the State Bar Council in which he / she is enrolled as an advocate under Rule 9.
- 8.2 An advocate having obtained graduate degree in law before the academic year 2010 & enrolled on the "Roll of Advocates", is required to apply for verification of "Certificate of Practice and place of practice" from the State Bar Council in which he/she is enrolled as an advocate under this rule within a period of 6 months of the enforcement of these Rules/date of enrolment.
- 8.3 Every application for issuance of verified Certificate of Practice shall be submitted in the prescribed format as given in Form A Column I and Column II annexed with these Rules disclosing all the necessary informations as required there under to the State Bar Council, with which he/she is enrolled.
- 8.4 Every such application shall be accompanied by the following documents, certificates, declaration, fee etc: -
- i)* Verification fee/process fee in the sum of Rs. 100/- (Rupees One Hundred only) by way of Bank Drafts/Account payee bank cheque or cash in the name of :-

- a.* Secretary State Bar Council, with which the applicant is enrolled (or it may be paid in cash also);

shall send a sum of Rs. 20/- to the concerned Bar Association and Rs. 30/- to Bar Council of India, rest Rs. 50/- is to be kept in the Account of State Bar Council.

- ii.* A declaration in the prescribed format as given in Column II of **FORM 'A'** annexed with these Rules;
- iii.* Two passport size photographs duly attested by the President/ Secretary of the Bar Association or by any other office bearer of the Association who is duly authorized for this purpose by the Bar Association, of which the applicant is a member, or by a member of the State Bar Council duly authorized by the State Bar Council or Bar Council of India;
- iv.* Certificate in **FORM A COLUMN III** issued by the President/ Secretary or by any other office bearer of the Association, who is duly authorized for this purpose by the Bar Association/ to the effect that the applicant advocate is a bona fide member of the concerned Bar Association and that he has not left law practice OR By any member of State Bar Council duly authorized by State Bar Council or by the Bar Council of India.

In case, the applicant has been a member of different Bar Associations at different times since the issuance of certificate of enrolment under section 22 of the Advocates Act, 1961, such certificates may be obtained from the Presidents/Secretaries of the different Bar Associations, of which the applicant remained a member, at different times.

In case, the certificate of enrolment under section 22 of the Advocates Act. 1961 was granted more than five (5) years prior to the date of application, such certificate/certificates needs to be confined only to a period of five (5) years.

Provided that in case it is established at any stage that any such Authority has deliberately issued a certificate in Column III of FORM 'A' even after knowing that the Advocate is not in practice, the State Bar Council will be at Liberty to take appropriate action against such Authority issuing such certificate.

- v.* However, the State Bar Councils would be at liberty to make any change in the Verification/process fee as per their own requirements and necessities. But any such change shall be required to be approved by the Bar Council of India.

8.5 That the aforesaid application may be filed by the applicant along with all the aforesaid documents either by hand in the Office of the State Bar

Council against proper receipt or send to the Secretary under registered post or through the Bar Association, of which he/she is a member.

9. Application for Verification of Certificate of Practice issued by State Bar Council:

9.1 The Certificate of Practice issued to an advocate under Rule 13 of these Rules or under All India Bar Examination Rules and Verification thereof, shall be valid for a period of five years (5) years only and is liable to be verified every five (5) years by filing an application for verification in advance within a period of six (6) months, before the validity period of "Certificate of Practice" or of its verification, expires.

9.2. All such applications for verification shall be filed in the format as given in Form A annexed with these Rules and it shall be accompanied by such documents, certificates, declaration, fee etc as are mentioned in clauses (i), (ii) and (iv) of Rule 8.4 and the same may be submitted as per Rule 8.5.

10. Delayed application with late fee:

That all the applications for verification of "Certificate of Practice" filed after the time fixed by rule 8 / rule 9.1 of these Rules shall not be received by the Office/Secretary unless it is accompanied by late fee in the sum of Rs. 100/- (one hundred only) and such late applications would be entertained only for a period of six (6) months.

11. Delayed application for verification with penalty clause:

That all applications for verification of certificate of practice filed after the period fixed under rule 10 shall not be received and processed by the Office/Secretary unless it is accompanied by a penalty fee of Rs.50 (rupees fifty only) per month reckoned from the last date on which such an application ought to have been made under Rule 10 of these Rules but such late application with penalty clause attached thereto would be entertained only for a period of six (6) months.

12. Incomplete and faulty applications:

That in case, the applications so received, are found to be incomplete/faulty, the Office of State Bar Council shall intimate the concerned advocate of such shortcomings/defects by issuing letter under registered Post and such applications shall be processed further by the office on removal of such shortcomings/defects.

The time taken to remove such shortcomings/defects by the concerned applicant may be counted towards late fee payable by the concerned advocate at the rate of Rs.100/- per month unless it is waived by the Chairman/Vice-Chairman of the State Bar Council in case sufficient cause is shown for such delay.

13. Order on the application for verification of Certificate of Practice:

That every application for verification of certificate of practice and place of practice received shall be scrutinized by the Office within a period of one month from the date of its receipt and if found in order, it shall be placed along with the personal file of the applicant before the Administrative Committee, for passing the requisite order allowing or dismissing the application.

Such application is liable to be dismissed only in case it is found that the advocate has left law practice and that he/she has no bona fide intent and interest in continuing it in future also and such an advocate shall be treated as a non-practicing advocate under these Rules.

No adverse order can be passed under this rule unless a reasonable opportunity of being heard is afforded to the applicant.

14. Objection Petition:

14.1 An advocate or any person may file an objection petition before the State Bar Council seeking to add the name/names of an advocate/advocates in the List of Non-Practicing Advocates on the ground that such an advocate has left law practice and that he/she has no bona fide intent and interest in continuing it in future also.

14.2 Rule A. I (1) and rule A. I (2) of Chapter I of Part VII of the Bar Council of India Rules relating to complaints under section 35 of the Advocates Act shall, mutatis mutandis apply to these objection petitions except that such objection petition shall be accompanied by a security amount of Rs. 1,000/- and such fee as is prescribed in the aforesaid Rules relating to complaints under section 35 of the Advocate Act.

14.3 That in case the State Bar Council finds that there is a prima facie case in favor of the applicant; it shall refer it for decision to its Administrative Committee.

14.4 That the "Administrative Committee" of the State Bar Council shall decide and dispose of such an objection petition along with application for issuance/verification of Certificate of Practice of the concerned advocate, if any. But if no such proceedings are pending, such objection petition shall be decided independently. Such procedure as is applicable to complaints under section 35 of the Advocates Act shall apply, mutatis mutandis, to proceedings under this rule.

14.5. That in case the complaint is found to be vexatious, frivolous and mala fide, the security amount deposited with the objection petition shall be forfeited to the State Bar Council.

14.6 The "Administrative Committee" shall be required to decide the objection petitions within a period of 15 days from the date of objection.

Explanation: However, the Advocates doing chamber practices, or engaged with some Law firms who are unable to file vakalatnamas in any court or forum shall also be entitled to apply for verification of their certificates and place of practice. They shall be required to file an affidavit stating that they are doing Legal practice and shall have to furnish at least proof to this effect. Those who are engaged in any registered law firm shall be required to obtain a certificate from the Law firm and submit it alongwith their applications form.

CHAPTER V FOLLOW UP ACTION

15. Follow up action of order passed under rule 13:

15.1 That immediately after the application for verification of Certificate of Practice is allowed under Rule 13 of these Rules, the Office of the State Bar Council shall prepare the verified Certificate in FORM 'B' in duplicate duly signed by the Chairman of the State Bar Council and in his absence by the Vice chairman of the State Bar Council or by such other member of the State Bar Council who is specifically authorized for the said purpose by the State Bar Council.

15.2 That one copy of such verified Certificate of Practice shall be dispatched to the advocate concerned under registered Post AD without any delay and the other copy shall be kept in the personal file of the advocate. The State Bar Council shall also make rules and issue an Identity card of such Advocates containing their photographs, which I-card shall be valid for a period of 5 years from the date of issuance and it shall be required to be produced at the time of voting election of State Bar Council or Bar Association.

15.3 That the State Bar Council shall maintain a separate Dispatch Register containing all the details as to the particulars of issuance/verification of the certificate of practice, original and communication incurred by the State Bar Council. Certificate of enrolment and full particulars of the advocate as to age, date of birth, address, email id etc.

This Register shall be maintained year wise in such manner as may be prescribed by the State Council.

15.4 Every State Bar Council shall send to the Bar Council of India an authenticated soft copy of the record maintained by it under Rule 5.3 every year.

CHAPTER VI CONSEQUENCES OF ORDER U/R 13 AND OF FAILURE TO MAKE APPLICATIONS

16. Consequence of dismissal of application under Rule 13:

In the event of dismissal of application under Rule 13, such consequences as are laid down by Rule 20.4 would follow.

17. Consequences of failure to make application as stipulated by Rule 7 to 11:

That in case an advocate fails to make an application for verification of Certificate of Practice within such period/extended periods as provided for under Rules 8 to 11 and in case he fails to remove the shortcomings/defects in his application despite intimation under Rule 12 for a period of 6 months, it shall, prima facie, be presumed that the such an advocate has left law Practice and that he/she has no bona fide intent and interest in continuing it in future also

18. Follow up action against advocates who fail to respond and fall within the ambit of Rule 17 and Publication of "list of defaulting advocates":

18.1 That the Office of the State Bar-Council -shall prepare a list of such defaulting advocate/advocates who has/have failed to apply for issuance/verification of Certificate of Practice within such period/extended period as provided for by these Rules or have failed to remove shortcomings/defects in their applications despite intimation within the stipulated period of 6 months.

This list may be titled as the "**List of the Defaulting Advocates**".

18.2 All such advocates whose name/names have been included in the list of "defaulting advocates" shall be given due notice of the fact that their name/names stood included in the above list and further notice of this list shall also be given in the following manner:

- i. One Copy of such List shall be displayed outside the Office of the Bar Council
- ii. Copies of such list shall also be sent to such District/Taluka Bar Association /s to which such advocate/advocates belong as per the Address last disclosed by him/her and also to the concerned High Court/Supreme Court Bar Association
- iii. A letter of intimation that his/her name stands included in such list shall also be sent to the defaulting advocate at the address last disclosed by him/her under registered Post.
- iv. This List shall also be published by the State Bar Council as per law.

19. Late Applications after publication under Rule 18:

If an application for issuance/verification of Certificate of Practice is received by the State Bar Council within a period of 6 months of the publication of the aforesaid list of defaulting advocates under Clause (iv) of Rule 18, it shall be accompanied by such late fee penalties as are specified by rules 10 to 12 of these Rules.

All such applications shall be processed by the Office as per the procedure laid down by rule 10 to 12 and thereafter order on such applications shall be obtained under rule 13 and such order shall be given effect to as per these rules.

20. Consequences of failure to respond and publication of “list of non-Practicing advocates :

20.1 That if no application for issuance/verification of Certificate of Practice is made under these rules or if an, application is filed but defects are not removed as -per Rule 17, it shall be presumed for the purposes of these rules that such an advocate has left law practice and that he/she has no bona fide intent and interest in continuing it in future also.

20.2 That on the expiry of a period of 6 months of the publication of such “List of Defaulting Advocates”, the State Bar Council shall pass an order directing that the name/names of such advocate/advocates appearing “List of the Defaulting Advocates” be put in the list of “NonPracticing Advocates”.

20.3 That due notice of the list of “Non-Practicing Advocates” shall be given to the followings:-

- i. One copy of such list shall be sent to the Bar Council of India and to all other State Bar Councils.
- ii. One copy of this list shall be sent to all the Courts situated within the territorial limits of the State Bar Council and also to the concerned High Court. One copy shall be sent to Supreme Court of India also.
- iii. Copies of such list shall also be sent to such District Bar Association/s to which such advocate/advocates belong as per the address last disclosed by him/her and also to the concerned High Court/ Supreme Court Bar Association;

20.4 The List of Non-Practicing advocates and name/names of advocates whose application for Issuance /verification of certificate of practice stands dismissed under Rule 13 shall also be published by the State Bar Council as per law after such list/name/names is/are approved by the Bar Council of India.

List of such non-practicing Advocates is to be furnished by the concerned State Bar Council to Registrar of Supreme Court of India, Registrar of all the High Courts. Subordinate courts of the States. Bar Association of Supreme Court of India and Bar Associations of all the High Courts and Subordinate Courts.

21. Non-practicing advocates as included in the list of “non-practicing advocates” not entitled to practice law and to other privileges and rights:

21.1 From the date of publication of the aforesaid list of non-practicing-advocates, all such advocate/s whose name/names has/have been included in the aforesaid list shall not be entitled to appear in any Court

of Law, before any Tribunal or person legally authorized to take evidence and before any other authority or person before whom such advocate is by or under any law for the time being in force entitled to practice. Notwithstanding the fact that name/names of such advocates is / are entered in the State Roll and that he is holding certificate of enrolment under section 22 of the Advocates Act.

Further name/s of such advocate/s shall not be included in the electoral roll for the purposes of elections to the State Bar Councils. Such an advocate/s shall cease to be a member of any Bar Association and further he/she shall not be entitled to cast vote/s in any elections of the Bar Associations.

The status and rights of such advocate/s as advocate/s entitled to participate and receive benefits” under Welfare Schemes of Bar Council of India created under Rules 40 to 44 B of Section IV - A of Chapter II contained in part VI of the Bar Council of India Rules and other schemes floated by the State Bar Council shall come to an end w. e. f the date of publication of the List /name/names of Non-Practicing Advocates under Rule 20.4 with the exception that such an advocate would be entitled to receive such benefits under the relevant scheme/s if any, which have already accrued in his/her favor.

CHAPTER VII

UPDATING OF THE RECORD OF PRACTICING AND NON-PRACTISING ADVOCATES

22. Record with respect to practicing and non-practicing Advocates:

- 22.1 That on culmination of the initial process of identification of Non-practicing Advocates in the aforesaid manner in the publication of the List of such advocates under Rule 20.4 the State Bar Council shall create and maintain a separate record of such Advocates with all particulars as to name, address, date of birth, date of enrolment, enrolment number, particulars of application for issuance/verification of Certificate of Practice if any, and of its dismissal. This record shall be updated regularly.
- 22.2 Every State Bar Council shall send to the Bar Council of India an authenticated soft copy of the record as maintained under Rule 22.1 every year.
- 22.3 All the Advocates whose certificate of Practice are duly verified shall be issued a certificate of Practice affixing his photograph and mentioning the period of its validity FORM “B”, and the State Bar Council shall also issue an Identity card to such Advocates containing a Xerox copy of his photograph and the period of its validity in FORM “D”. The Advocates would be supposed to carry it while practicing in Courts / Tribunals or

other Forums, so that in case of demand by any Law Court / Authority or any Advocate or any Litigant or citizen one can easily establish that he is an Advocate.

22.4 An Advocate after getting the verified Certificate of Practice under these Rules can appear before any Court of Law/Tribunal or other forum in India as per Section 30 of the Advocates Act subject to fulfillment of any condition imposed by any competent Court of Law

23. Updating of the electoral rolls of the State Bar Council for the purposes of elections:

On the publication of list of non-practicing Advocates under rule 20.4 and after sending copy of such record to the Bar Council of India under Rule 22.2 the State Bar Councils shall start the process of preparation of electoral roll for elections to the State Bar Councils as per Chapter I Part-III of the Bar Council of India Rules. No State Bar Council shall undertake to prepare electoral roll or to conduct elections to the State Bar Councils unless the process of verification of Certificate of Practice and of identification of non-practicing advocates is completed under these Rules by publication of their names under Rule 20.4

Provided that the election /s of the State Bar Council/s where a special committee/committees under section 8A of the Act is/are already functioning on the date of commencement of these rules, shall continue under the existing rules as if these rules-have not been enforced. In such State Bar Councils. these Rules shall come into force only after the new State Bar Council is constituted on the declaration /publication of the results of the elections.

The State Bar Councils are required to constitute various Committees for implementation of these Rules. If any State Bar Council is proved to be deliberately slack unnecessarily in verification of Certificate of Practice and identification of non-Practicing Advocates, then in that case Bar Council of India would be at Liberty to take appropriate action under the provisions of Advocates Act, 1961.

**CHAPTER VIII
APPEAL, REVISION ETC**

24. Appellate Tribunal:

24.1 There shall be an Appellate Tribunal for disposal of appeals under these rules with respect- to each State Bar Council and such Tribunal shall comprise of the following members:-

- i. Two Members of the State Bar Council elected by the state Bar Council under Rule 44 A(2)(i) of Bar Council of India Rules under Part VI, Chapter II Section (IV A).
- ii. One member of the State Bar Council from amongst the members of the Executive Committee to be nominated by the Chairman of the

State Bar Council and another member nominated by the Member, Bar Council of India from the concerned State Bar Council.

- iii. Member of the Bar Council of India from the concerned State Bar Council who shall be its Chairman;

24.2 That the quorum of the Appellate Tribunal shall be three members but no final order shall be passed unless the Chairman of the Appellate Tribunal is party thereto.

25. Appeal against order passed under rule 13/Rule 20.2:

That in case the application of an Advocate for verification of Certificate of Practice is dismissed under **Rule 13** of these Rules/in case the name of an Advocate is ordered to be included in the list of “non-practicing Advocates” by the State Bar Council under Rule 20.2, the aggrieved party may, within a period of 60 days of the date of passing of the order or publication of the list of nonpracticing advocates under Rule 20.4, **prefer an appeal** against such order to the Appellate Tribunal but delay in filing the appeal can be condoned, if sufficient cause is shown for such delay.

Every such appeal shall be accompanied by an attested copy of the impugned Order. The appeal shall not be received and entertained unless it is accompanied by a fee of Rs. 200/- in the form of a Bank Draft / Account Payee Bank Cheque favoring Secretary, State Bar Council of the concerned State Bar Council.

Out of this amount of Rs: 200/- the Secretary State Bar Council shall send or deposit remit a sum of Rs. 50/ to the Account of the Bar Council of India and a sum of Rs. 50/- shall be transferred to the fund known as “ Fund for Promotion Bar Associations” under these rules.

Every such appeal shall be heard by the Appellate Tribunal, which may pass such order there on as it deems fit. Appeal is to be decided expeditiously preferably within 90 days of its filing.

26. Stay of operation of order passed under rule 13 and 19.2:

Mere filing of an appeal against order passed under rules 13 and 20.2 shall not operate to stay the operation of order appealed against unless its operation is stayed by the Appellate Tribunal on such conditions, as it may deem fit.

27. Power of Revision:

27.1 The Bar Council of India may, at any time call for the record of any proceeding under these Rules which has been disposed of by the State Bar Council or by the Appellate Tribunal, and from which no appeal lies for the purpose of satisfying itself as to the legality and propriety of such: order or disposal and may pass such orders in relation thereto as it may deem fit.

This revision shall be under Part-II, Chapter IX of BCI Rules viz, Section 48A of the Advocates Act, 1961.

- 27.2 No order which prejudicially affects any Advocate shall be passed under this Rule unless an opportunity of being heard has been afforded to him.

CHAPTER IX RESUMPTION OF PRACTICE

28. Resumption of Practices :

- 28.1 If an advocate whose name has been included in the “list of non-practicing advocate” published under Rule 20.4, intends to resume law practice in the changed circumstances, he may apply to the State Bar Council that his/her name may be taken out of such list.
- 28.2 Application for resumption shall be made in Form C along with resumption fee of Rs.2,000/- and declaration.
Such an application shall be supported by a certificate in Column III of Form A issued by the President/Secretary of the Bar Association, of which the applicant intends to become member for doing practice in law.
- 28.3 The State Bar Council shall refer such an application for resumption to the Administrative Committee which may pass an appropriate order allowing or dismissing such application provided that such an application shall be allowed only if the Administrative Committee is satisfied that the intent of the applicant to resume law practice is bona fide.
- 28.4. In case application for resumption is allowed, the name of the applicant shall be taken out of the list of the “non-practicing advocates” and such exclusion shall be duly notified and published as provided by rule 20.3 qua “list of non-practicing advocates”.
- 28.5 That from the date of publication under Rule 28.4, all disabilities suffered by the applicant under rule 21, shall not survive but he/she shall not be entitled for any benefits/privileges that were denied to him under Rule 21 for the period „his/her name remained in the “list of non- practicing advocates”.
- 28.6 Out of Rs. 2000/- a sum of Rs. 1000/- shall be utilized by State Bar Council for the purpose of welfare of Advocates and Rs.500/- shall be transferred to the concerned Bar Association and Rs. 500/- shall be utilized by Bar Council of India for the welfare of Advocates.

CHAPTER X PROCESS FEE FUND

29. The Verification / Process Fee Fund:

The State Bar Council shall open a separate account for this purpose to be operated jointly by the Chairman and Secretary of the State Bar Council.

- 29.1 That all the payments towards application verification fee, late fee and penalties payable under these rules shall be paid by way of bank drafts/ account payee bank cheques only in the name of Secretary State Bar Council or it may also be deposited in cash to the Secretary, State Bar Council or it may also be deposited in cash to the Secretary, State Bar Council.
- 29.2 That the all the amount collected under these rules shall be utilized for the following purposes only:-
- (a) To meet the administrative and other expenses arising in connection with these Rules; The rest of amount shall be spent.
 - (b) To make contributions to different Bar Associations for the following purposes only :—
 - i. Establishing and improving Law libraries.
 - ii. Improvement of infrastructure in the premises of the Bar Associations which is reserved for the common use of the advocates and to make such other contributions for promoting and strengthening the Bar Associations at the Taluka, District, High Court and Supreme Court levels as it may deem fit.
 - iii. To promote welfare schemes for advocates. Such welfare schemes may include insurance of all kinds with respect to the advocates and their dependent members of the family; pension schemes, stipends for junior and disabled advocates continued legal education/training of advocates.

CHAPTER XI MISCELLENOUS

30. Removal of difficulties:

In case of any doubt or dispute as to the meaning, interpretation, execution of these Rules arises, the Appellate Tribunal shall be the final authority to settle all such issues and its decision thereon shall be final.

31. Regulatory Powers:

The Bar Council of India shall have the right of issuing such regulations to the State Bar Council . from time to time, as are necessary for the proper implementation and execution of these Rules and such regulations shall be complied with by the State Bar Council in letter and spirit so that uniformity is maintained in the application of these Rules throughout the Country.

32. Power of Bar Council of India to form Ad-hoc Committees:

In case the term of elected members of any State Bar Council is likely to expire/ expires due to delay in the process of identification of non- practicing advocates

under these rules or in case of delay in the preparation of the electoral roll for the elections to the State Bar Councils, the Bar Council of India shall constitute an ad-hoc Committee consisting of required number of elected members of the State Bar Council for smooth running of the State Bar Council and for expeditious execution of the aforesaid process. This ad-hoc Committee of State Bar Council shall function under the Special Committee constituted under Section 8A of the Act till the process of preparation of electoral roll as per Chapter I, Part-III of the Bar Council of India Rules for the purpose of elections to the State Bar Council is completed.

33. Saving clause

The Bar Council of India Certificate of Practice and Renewal Rules 2014” are hereby repealed. However, any certificate of the nature of Certificate of Practice as defined in those Rules and verification/renewal thereof (by whatever name/manner or form they may have been issued/granted by the State Bar Councils) or under Bar Council of India Certificate of Practice Renewal Rules 2014 and any other action taken/order passed by the State Bar Council in connection with any such Rule, before the enforcement of these Rules, shall continue to be valid for a period of five years from the date of its issuance/renewal, but on the expiry of period of five years, such certificate issued by the State Bar Council is required to be verified under these Rules.

34. Repeal of all Resolutions/Rules passed/framed either by any State Bar Council or by Bar Council of India.

Any Resolutions/Rules passed/framed by any State Bar Council or by Bar Council of India, which are inconsistent with these Rules, shall stand repealed from the date on which these Rules come into force.

35. The decision with regard to Rs. 500 or Rs. 200 (as the case may be) as paid by any Advocate as Practice fee as provided under Bar Council of India Certificate of Practice and Renewal Rules. 2014, prior to the date of commencement of these Rules of 2015, shall be taken by the concerned State Bar Council. Either after deducting Rs. 100 as Process/Verification fee the rest of Rs. 400 or Rs.100 (as the case may be) is to be refunded to the Advocate or it may be utilized for the insurance of the Advocate and his family or for the benefit and welfare of concerned Advocate. This decision is to be taken by the concerned State Bar Council only after obtaining option of concerned Advocate.

**J.R. SHARMA
SECY.**

[ADVT. III/4/EXTY./96/14

FORM-A
COLUMN- I

APPLICATION FOR ISSUANCE OF CERTIFICATE OF PRACTICE

*[See Rule 8.3 of B.C.I. Certificate and Place of Practice
(Verification) Rules, 2015]*

To,
The Secretary,
Bar Council of

.....

.....

.....

Passport size
photograph
of Advocate

Sub.: Application for issuance of Certificate of Practice (...../...../.....)

Sir,

I hereby apply to the (name of the State Bar Council) for issuance of certificate of practice.

My full particulars are as follows: -

1. Enrolment Number on the Roll
2. Date of Enrolment
3. Name of the Advocate
(As given in the Enrolment Certificate)
4. Father's Name
5. Present Residential Address
-
-
6. Name of Institution & University from where advocate has done his
 - i. Matriculation/10th Name of School/Board/Year of passing
 - ii. Graduation Name of College/University/Year of passing
 - iii. LL.B. Name of College/University/Year of passing
7. Office Address with Telephone No.
-
-
-
- Mobile No./email/Website
-
-
-
8. Place of Practice
(As given in the Application form for enrolment)
9. Present Place of Practice

10. Date of Birth
11. Name of Bar Association of which applicant is a member
12. Whether the applicant, after enrolment, has joined any Government/Semi-Government or Private Service or any other kind of service, if so full particulars be furnished with date of joining of such services
-
-
13. Whether the applicant after enrolment, has joined any business, as a full partner/sleeping partner, if so, full particulars be supplied, with an attested copy of business instrument like Partnership deed, MOU, Agreements etc.
-
14. Whether the applicant, after enrolment has incurred any disqualification as mentioned in Section 24-A of the Act, if so, certified copy of judgment/other be attached
15. Whether applicant, at present, is facing any disciplinary proceedings/convicted in any Criminal Proceedings or not, if so, particulars be given.
-
16. Delay, if any, in submitting the application form, reasons to be given
-
-
-
17. Process fee/Late fee/Penalty
- Rs. by way of Demand Draft No.
- Date/Account Payee Cheque No.
- Dated or Cash.
- Paid to on
18. Place where the Advocate intends to cast his vote
- i.* In Bar Council Elections
- ii.* In Bar Association Elections
- Name of the Bar Association
- Place
- 19.** Any other information, applicant wants to submit about his distinctions.
- 20.** If the Advocate is not a member of any Bar Association (registered and recognized by the concerned State Bar Council), the reason for not being a Member of Bar Association
-
-

20a. Whether the Advocate intends to become the Member of Bar Association in Future. (Put a "X" Mark)

Yes ()

No ()

I verify that the information/particulars furnished by me are true and correct to the best of my knowledge and nothing has been kept concealed therein.

I am also submitting herewith Column-II and III of this Form "A".

Date:

Full Signature of the Advocate

Note:- One additional passport size photograph is attached/sent herewith.

FORM - A

COLUMN - II

[See Rule 8.4 (ii) of B.C.I. Certificate and Place of Practice (Verification) Rules, 2015]

I aged
son of resident of
.....
..... enrolled as a
advocate on the roll of
(name of the State Bar Council) vide certificate of enrolment dated and No.
..... do hereby solemnly
affirm and declare as follows:-

1. That after having obtained Certificate of enrolment from the
..... (name of the Bar Council) under Section 22 of the Advocates Act, I have not left practice in law.
2. That I usually practice at and I intend to cast my vote
 - i. In the elections of the State Bar Council at
 - ii. In the elections of Bar Association
(Name and Place of Bar Association)

(This clause 2(h) shall not apply to those advocates who do not intend to be the members of any Bar Association)

3. That since my enrolment as an advocate, I have not switched over to any other profession/services/business and that thereafter, I am doing practice in law.

Date:

FULL SIGNATURE OF THE DECLARANT-ADVOCATE

FORM - A
COLUMN - III (CERTIFICATION)

[See Rule 8.4 (iv) of B. C. I. Certificate and Place of Practice (Verification) Rules, 2015]

This is to certify that Shri/Mr./Mrs./Ms.
....., Advocate
S/o, W/o, D/o is a bona-fide member
of the Bar practicing usually at (name of the
Bar Association, if any) and he/she has been practicing law since joining this Bar from
the year and has not left such practice and I further certify
that the particulars disclosed by him/her in the accompanying application are correct
to my knowledge and belief.

Date:

Full Signature with name
Authorized Member
Bar Council of

Full Signature with name
President/Secretary
Bar Association (Seal)

N. B. —>

If the certification is made by any authorized member, State Bar Council or Bar Council of India, then the declaration should contain/attach the certified copies of at least 5 Vakalatnamas or any other document/cause list establishing that the advocate has been in practice for last 5 years.

If such proof is not furnished, then the Administrative Committee shall consider the reason (if any) thereof and can pass orders to take an undertaking or affidavit from the Advocate, only after furnishing the affidavit asked by the Administrative Committee of State Bar Council, the application for verification shall be entertained and C. O. P. (Form-B) would be granted.

FORM — B*(for use of office only)***BAR COUNCIL OF****CERTIFICATE OF PRACTICE***[issued under B. C. I. Certificate and Place of Practice (Verification) Rules, 2015]*

Scanned Photograph of Advocate with the seal of Bar Council

C. O. P. No. of

This is to certify that Shri/Mr./Mrs./Ms.

..... S/o, W/o, D/o

. R/o

..... PS

dated is an advocate enrolled in the Bar Council of

..... His enrolment number is

dated and his normal place of practice is

He is entitled to cast his vote for the election of Bar Council of at

..... (Place) and in the elections of Bar Association of

..... (name & place of Bar Association, if applicable).

This certificate of practice is valid for a period of 5 years from the date of its issuance.

Date:

Chairman/Vice-Chairman
Authorized Signatory
(Seal of the State Bar Council)
(Full Signature)

FORM - C

APPLICATION FOR RESUMPTION OF CERTIFICATE OF PRACTICE

[See Rule 28.2 of B. C. I. Certificate and Place of Practice (Verification) Rules, 2015]

To,
The Secretary,
Bar Council of

Sub.: Application for resumption of Certificate of Practice (...../...../.....)

Sir,

I hereby apply to the (name of the State Bar Council) for resumption of certificate of practice.

My full particulars are as follows: -

1. Enrolment Number on the Roll
2. Date of Enrolment
3. Name of the Advocate
(As given in the Enrolment Certificate)
4. Father's Name
5. Present Residential Address
.....
.....
6. Name of Institution & University' from where advocate has done his
 - i. Graduation year
 - ii. LL. B. year
7. Office Address with Telephone No.
.....
.....
Mobile No./email/Website
.....
.....
8. Place of Practice
(As given in the Application form for enrolment)
9. Present Place of Practice
10. Date of Birth

- 11.1. That in the changed circumstances, I intend to resume law practice
- 11.2. That after enrolment I have not suffered and incurred any disqualification s mentioned in Section 24-A of the Advocates Act.
12. Particulars of the Certificate of Practice issued to the application if any
- a. Whether issued under AIBE Rules, if so, its number and date
 - b. Whether issued by the State Bar Council under these rules, if so, its number and date (self attested photo copies of the certificate of practice to be annexed with this application)
 - c. Particulars of the notification, whereby the applicant was put in the list of "Non-Practicing Advocate"
13. Whether the applicant after enrolment has joined any Government/Semi-Government or Private Service or any other kind of sendee, if so full particulars be furnished with date of joining of such services
14. Whether the applicant after enrolment, has joined any business, as a full partner/sleeping partner, if so, full particulars be supplied, with an attested copy of business instrument like Partnership deed, MOU, Agreements etc.
15. Whether the applicant, after enrolment has incurred any disqualification as mentioned in Section 24-A of the Act, if so, certified copy of judgment/other be attached
16. Whether applicant, at present, is facing any disciplinary proceedings/convicted in any Criminal Proceedings or not, if so, particulars be given.
17. Delay, in submitting the application form, reasons to be given
18. Verification fee/Late fee/Penalty
 Rs. by way of Demand Draft No.
 Date/Account Payee Cheque No.
 Dated or Cash Rs
19. Any other information, applicant wants to submit about his distinctions

20. Place where Advocate intends to cast his vote in the elections of Bar Council

21. Place/Name of Bar Association (if any) where the advocate intends to cast his
 vote

I verify that the information/particulars furnished by me are true and correct to the best of my knowledge and nothing has been kept concealed therein. I bona-fide intend to resume Law practice.

Date:

Signature of the Advocate

FORM - D

BAR COUNCIL OF

IDENTITY CARD

Photograph of Advocate

I. Card No.

1. Name
2. Father's Name
3. Enrolment No., Year & date
4. Address
-
 Email ID
- Telephone/Mobile No.
5. Normal Place of Practice
6. Date of expiry of I-Card
7. Place where Advocate is entitled to vote in elections of State Bar Council
-
8. Place/name of Bar Association (if any) where Advocate is entitled to vote in
 election of Bar Association

Date:

**Chairman/Vice-Chairman
 Authorized Signatory
 (Seal of the State Bar Council)
 (Full Signature)**

FORM - E

**FOR SENIOR ADVOCATES & ADVOCATES ON RECORD
IN SUPREME COURT OF INDIA**

*(See Rule 5(a) of the Bar Council of India Certificate and Place of Practice
(Verification), Rules 2015)*

To,
The Secretary,
Bar Council of
.....
.....
.....



Name

Father's Name

Enrolment No. and Date

Email Id

Place where the Sr. Advocate/AOR intends to cast his vote in the elections of State Bar Council

Name/Place of Bar Association where the Senior Advocate/A.O.R. casts his vote:
.....

Signature
Designation & Seal of the authorized
signatory of S.C.B.A./A.O.R. Association

Signature of Senior Advocate/
A.O.R.

Date:



THE BIHAR REORGANISATION ACT, 2000*(Act No. XXX of 2000)*¹**An Act to provide for the reorganisation of the existing State of Bihar and for matters connected therewith.**

Be it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:-

**PART I
PRELIMINARY****1. Short title:—**

This Act may be called the Bihar Reorganisation Act, 2000.

2. Definitions:—

In this Act, unless the context otherwise requires,-

- (a) "*appointed day*" means the day² which the Central Government may, by notification in the Official Gazette appoint;
- (b) "*article*" means an article of the Constitution;
- (c) "*assembly constituency*", "*council constituency*" and "*parliamentary constituency*" have the same meanings as in the Representation of the People Act, 1950;
- (d) "*Election Commission*" means the Election Commission appointed by the President under article 324;
- (e) "*existing State of Bihar*" means the State of Bihar as existing immediately before the appointed day;
- (f) "*law*" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having, immediately before the appointed day, the force of law in the whole or in any part of the existing State of Bihar;
- (g) "*notified order*" means an order published in the Official Gazette;
- (h) "*population ratio*", in relation to the States of Bihar and Jharkhand, means the ratio of 645.30:218.44;
- (i) "*sitting member*", in relation to either House of Parliament or of the Legislature of the existing State of Bihar, means a person who immediately before the appointed day, is a member of that House;

¹ Received assent of the President on 25.8.2000 and published in Gazette of India Extra. Part II. Sec. I. No. 38 dated August 25, 2000. And for statements of Objects and Reasons see Gazette of India, Extra, Part II, Sec. 2, No. 30, dated 25.7.2000.

² W.e.f. 15.11.2000, vide S.O. 829(E), dated September 14, 2000.

- j) "*successor State*", in relation to the existing State of Bihar, means the State of Bihar or Jharkhand;
- k) "*transferred territory*" means the territory which on the appointed day is transferred from the existing State of Bihar to the "State of Jharkhand";
- (l) "*treasury*" includes a sub-treasury; and
- (m) any reference to district, tahsil or other territorial division of the existing State of Bihar shall be construed as a reference to the area comprised within that territorial division on the appointed day.

PART II

REORGANISATION OF THE STATE OF BIHAR

3. Formation of Jharkhand State:—

On and from the appointed day, there shall be formed a new State to be known as the State of Jharkhand comprising the following territories of the existing State of Bihar, namely:-

Bokaro, Chatra, Deogarh¹, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribagh, Kodarma, Lohardaga, Pakur, Palamau, Ranchi, Sahebganj, Singhbhum (East) and Singhbhum (West) districts;

and thereupon the said territories shall cease to form part of the existing State of Bihar.

4. State of Bihar and territorial divisions thereof:—

On and from the appointed day, the State of Bihar shall comprise the territories of the existing State of Bihar other than those specified in section 3.

5. Amendment of the First Schedule to the Constitution:—

On and from the appointed day, in the first schedule to the Constitution, under the heading "I. THE STATES" ,-

- (a) in the paragraph relating to the territories of the State of Bihar, the following shall be added at the end, namely:-

"and the territories specified in Section 3 of the Bihar Reorganisation Act 2000";

- (b) after entry 27, the following entry shall be inserted, namely:-

"28. Jharkhand: The territories specified in section 3 of the Bihar Reorganisation Act, 2000".

6. Saving powers of State Governments:—

Nothing in the foregoing provisions of this Part shall be deemed to affect the power of the Government of Bihar or Jharkhand to alter, after the appointed

¹ Publisher's note :- Read Deogarh as Deoghar.

day; the name, area or boundaries of any district or other territorial division in the State.

PART III

REPRESENTATION IN THE LEGISLATURES

The Council of States

7. Amendment of the Fourth Schedule to the Constitution:—

On and from the appointed day; in the Fourth Schedule to the Constitution, in the Table,-

- (a) entries 4 to 29 shall be renumbered as entries 5 to 30 respectively;
- (b) in entry 3, for the figures "22" the figures "16" shall be substituted;
- (c) after entry 3, the following entry shall be inserted, namely:-
"4. Jharkhand 6".

8. Allocation of sitting members:—

- (1) On and from the appointed day, the twenty-two sitting members of the Council of States representing the existing State of Bihar shall be deemed to have been elected to fill the seats allotted to the State of Bihar and Jharkhand, as specified in the First Schedule to this Act.
- (2) The term of office of such sitting members shall remain unaltered.

The House of the People

9. Representation in the House of the People:—

On and from the appointed day, there shall be allocated 40 seats to the successor State of Bihar, and 14 to the successor State of Jharkhand, in the House of the People and in the First Schedule to the Representation of the People Act, 1950 under heading "I. STATES":-

- (a) for entry 4, the following entry shall be substituted, namely:-
"4. Bihar 53 7 5 4 0 7";
- (b) entries 10 to 25 shall be renumbered as entries 11 to 26 respectively;
- (c) after entry 9, the following entry shall be inserted, namely:-
"10. Jharkhand ... 14 1 5".

10. Delimitation of Parliamentary and Assembly Constituencies:—

On and from the appointed day, the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, shall stand amended as directed in the Second Schedule to this Act.

11. Provision as to sitting members:—

- (1) Every sitting member of the House of the People representing a constituency which, on the appointed day by virtue of the provisions of

section 10, stands allotted, with or without alteration to boundaries, to the successor State of Bihar or Jharkhand, shall be deemed to have been elected to the House of the People by the constituency as so allotted.

- (2) The term of office of such sitting members shall remain unaltered.

The Legislative Assembly

12. Provisions as to Legislative Assemblies:—

- (1) The number of seats as on the appointed day in the Legislative Assemblies of the State of Bihar and Jharkhand shall be two hundred and forty-three and eighty-one, respectively.
- (2) In the Second Schedule to the Representation of the People Act, 1950, under heading "1. STATES",-
- (a) for entry 4, the following entry shall be substituted, namely:-
"4. Bihar 318 45 29 243 39",
- (b) entries 11 to 27 shall be renumbered as entries 12 to 28 respectively;
"11. Jharkhand ... 81 9 28".
- (c) after entry 10, the following entry shall be inserted, namely:-
"11. Jharkhand ... 8 9 28".

13. Allocation of sitting members:—

- (1) Every sitting member of the Legislative Assembly of the existing State of Bihar elected to fill a seat in that Assembly from a constituency which on the appointed day by virtue of the provisions of section 10 stands allotted, with or without alteration of boundaries, to the State of Jharkhand shall, on and from that day, cease to be a member of the Legislative Assembly of Bihar and shall be deemed to have been elected to fill a seat in the Legislative Assembly of Jharkhand from that constituency as so allotted.
- (2) All other sitting members of the Legislative Assembly of the existing State of Bihar shall continue to be members of the Legislative Assembly of that State and any such sitting member representing a constituency the extent, or the name and extent of which are altered by virtue of the provisions of section 10 shall be deemed to have been elected to the Legislative Assembly of Bihar by that constituency as so altered.
- (3) Notwithstanding anything contained in any other law for the time being in force, the Legislative Assemblies of Bihar and Jharkhand shall be deemed to be duly constituted on the appointed day.
- (4) The sitting member of the Legislative Assembly of the existing State of Bihar nominated to that Assembly under Article 333 to represent the Anglo-Indian community shall be deemed to have been nominated to represent the said community in the Legislative Assembly of Jharkhand under that Article.

14. Duration of Legislative Assemblies:—

The period of five years referred to in clause (1) of Article 172 shall, in the case of Legislative Assembly of the State of Bihar or Jharkhand be deemed to have commenced on the date on which it actually commenced in the case of Legislative Assembly of the existing State of Bihar.

15. Speaker and Deputy Speaker:—

(1) The persons who immediately before the appointed day are Speaker and Deputy Speaker of the Legislative Assembly of the existing State of Bihar shall continue to be the Speaker and Deputy Speaker respectively of that Assembly on and from that day.

(2) As soon as may be after the appointed day, the Legislative Assembly of Jharkhand shall choose two members of that Assembly to be respectively Speaker and Deputy Speaker thereof and until they are so chosen, the duties of the office of Speaker shall be performed by such member of the Assembly as the Governor may appoint for the purpose.

16. Rules of procedure:—

The rules of procedure and conduct of business of the Legislative Assembly of Bihar as in force immediately before the appointed day shall, until rules are made under clause (1) of Article 208, be the rules of procedure and conduct of business of the Legislative Assembly of Jharkhand, subject to such modifications and adaptations as may be made therein by the Speaker thereof.

The Legislative Council of Bihar

17. Legislative Council of Bihar:—

On and from the day on which all the members specified in the Third Schedule retire, there shall be seventy-five seats in the Legislative Council of Bihar, an in the Third Schedule to the Representation of People Act, 1950, for the existing entry 2, the following entry shall be substituted, namely:-

"2. Bihar 75 24 6 6 27 12".

18. Council constituencies:—

On and from the appointed day, the Delimitation of Council Constituencies (Bihar) Order, 1951 shall stand amended as directed in the Fourth Schedule.

19. Provision as to sitting members:—

Notwithstanding anything contained in section 17, all sitting members of the Legislative Council of the existing State of Bihar, shall continue to be members of that Council till they retire on the expiration of their present term of office.

20. Chairman and Deputy Chairman:—

The persons who immediately before the appointed day is the Chairman or Deputy Chairman of the Legislative Council of the existing State of Bihar shall

continue to be the Chairman or Deputy Chairman, as the case may be, on and from that day of that Council.

Delimitation of Constituencies

21. Delimitation of Constituencies:—

- (1) For the purpose of giving effect to the provisions of Section 12, the Election Commission shall determine in the manner hereinafter provided,—
 - (a) the number of seats to be reserved for the Scheduled Castes and the Scheduled Tribes in the Legislative Assemblies of the States of Bihar and Jharkhand respectively, having regard to the relevant provisions of the Constitution;
 - (b) the assembly constituencies into which each State referred to in clause (a) shall be divided, the extent of each of such constituencies and in which of them seats shall be reserved for the Scheduled Castes or for the Scheduled Tribes; and
 - (c) the adjustments in the boundaries and description of the extent of the parliamentary constituencies in each successor States that may be necessary or expedient.
- (2) In determining the matters referred to in clauses (b) and (c) of sub-section (1), the Election Commission shall have regard to the following provisions, namely:—
 - (a) all the constituencies shall be single-member constituencies;
 - (b) all constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them, regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and conveniences to the public; and
 - (c) constituencies in which seats are reserved for the Scheduled Castes and the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total population is the largest.
- (3) The Election Commission shall, for the purpose of assisting it in the performance of its functions under sub-section (1), associate with itself as associate members, five persons as the Central Government may by order specify being persons, who are member of the Legislative Assembly of the State or of the House of the People representing the State:
Provided that, none of the associate members shall have a right to vote or to sign any decision of the Election Commission.
- (4) If, owing to death or resignation, the office of an associate member falls vacant, it shall be filled as far as practicable, in accordance with the provisions of sub-section (3).

- (5) The Election Commission shall—
- (a) publish its proposals for the delimitation of constituencies together with the dissenting proposals, if any, of any associate member, who desires publication thereof in the Official Gazette and in such other manner as the Commission may consider fit, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it;
 - (b) consider all objections and suggestions which may have been received by it before the date so specified;
 - (c) after considering all objections and suggestions which may have been received by it before the date so specified, determine by one or more orders the delimitation of constituencies and cause such order or orders to be published in the Official Gazette and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any Court.
- (6) As soon as may be after such publication, every such order relating to assembly constituencies shall be laid before the Legislative Assembly of the concerned State.
- (7) The delimitation of constituencies in the States of Bihar and Jharkhand shall be determined on the basis of the published figures of the census taken in the year 1971.

22. Power of the Election Commission to maintain Delimitation Orders up-to-date:—

- (1) The Election Commission may, from time to time, by notification in the Official Gazette,—
- (a) correct any printing mistakes in any order made under section 21 or any error arising therein from inadvertent slip or omission;
 - (b) where the boundaries or name of any territorial division mentioned in any such order or orders is or are altered, make such amendments as appear to it to be necessary or expedient for bringing such order up-to-date.
- (2) Every notification under this section relating to an assembly constituency shall be laid, as soon as may be after it is issued, before the concerned Legislative Assembly.

Scheduled Castes and Scheduled Tribes

23. Amendment of the Scheduled Castes Order:—

On and from the appointed day, the Constitution (Scheduled Tribes) Order, 1950, shall stand amended as directed in the Fifth Schedule.

24. Amendment of the Scheduled Tribes Order:—

On and from the appointed day, the Constitution (Scheduled Tribes) Order, 1950, shall stand amended as directed in the Sixth Schedule.

PART IV
HIGH COURT

25. High Court of Jharkhand:—

- (1) On and from the appointed day, there shall be a separate High Court for the State of Jharkhand (hereinafter referred to as the "High Court of Jharkhand") and the High Court at Patna shall become the High Court for the State of Bihar (hereinafter referred to "the High Court at Patna").
- (2) The principal seat of the High Court of Jharkhand shall be at such place as the President may, by notified order, appoint.¹
- (3) Notwithstanding anything contained in sub-section (2), the Judges and Division Courts of the High Court of Jharkhand may sit at such other place or places in the State of Jharkhand other than its principal seat as the Chief Justice may, with the approval of the Governor of Jharkhand, appoint.

26. Judges of High Court:—

- (1) Such of the Judges of the High Court at Patna holding office immediately before the appointed day as may be determined by the President shall on that day cease to be Judges of the High Court at Patna and become Judges of the High Court of Jharkhand.
- (2) The persons, who by virtue of sub-section (1) become Judges of the High Court of Jharkhand shall, except in the case where any such person is appointed to be the Chief Justice of that High Court, rank in that according to the priority of their respective appointment as Judges of the High Court of Patna.

27. Jurisdiction of High Court:—

The High Court of Jharkhand shall have, in respect of any part of the territories included in the State of Jharkhand, all such jurisdiction, powers and authorities as, under the law in force immediately before the appointed day, are exercisable in respect of that part of the said territories by the High Court at Patna.

28. Special provision relating to Bar Council and Advocates:—

- (1) On and from the appointed day, in the Advocates Act, 1961, in section 3, in sub-section (1), in clause (a), after the words "Jammu and Kashmir", the word "Jharkhand" shall be inserted.
- (2) Any person, who immediately before the appointed day is an Advocate on the roll of the Bar Council of the existing State of Bihar may give his option

¹ Principal seat at Ranchi is appointed *vide* S.O. 1006 (E)/2000, dated 8.11.2000 (w.e.f. 15.11.2000).

in writing, within one year from the appointed day in the Bar Council of such existing State, to transfer his name on the roll of the Bar Council of Jharkhand and notwithstanding anything contained in the Advocates Act, 1961 and the rules made thereunder, on such option so given his name shall be deemed to have been transferred on the roll of the Bar Council of Jharkhand with effect from the date of the option so given for the purposes of the said Act and the rules made thereunder.

- (3) The person other than the Advocates, who are entitled immediately before the appointed day, to practise in the High Court at Patna or any subordinate court thereof shall on and after the appointed day, be recognised as such persons entitled also to practise in the High Court of Jharkhand or any subordinate Court thereof, as the case may be.
- (4) The right of audience in the High Court of Jharkhand shall be regulated in accordance with the line principles as, immediately before the appointed day, are in force with respect of the right of audience in the High Court at Patna.

29. Practice and procedure in common High Court:—

Subject to the provisions of this Part, the law in force immediately before the appointed day with respect to practice and procedure in the High Court at Patna shall, with the necessary modifications, apply in relation to the High Court of Jharkhand and accordingly, the High Court of Jharkhand shall have all such powers to make rules and orders with respect to practice and procedure as immediately before the appointed day exercisable by the High Court at Patna.

Provided that, any rules or orders which are in force immediately before the appointed day with respect to practice and procedure in the High Court at Patna shall, until varied or revoked by rules or orders made by the High Court of Jharkhand, apply with the necessary modifications in relation to practice and procedure in the High Court of Jharkhand as if made by that court.

30. Custody of seal of High Court:—

The law in force immediately before the appointed day with respect to the custody of the seal of the High Court at Patna shall with the necessary modification, apply with respect to the custody of the seal of the High Court of Jharkhand.

31. Form of writs and other processes:—

The law immediately before the appointed day with respect to the form of writs and special processes used, issued or awarded by the High Court at Patna shall, with the necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Jharkhand.

32. Powers of Judges:—

The law in force immediately before the appointed day relating to the powers of the Chief Justice, Single and Division Courts of the High Court at Patna with respect to all matters ancillary to the exercise of those powers shall, with the necessary modification, apply in relation to the High Court of Jharkhand.

33. Procedure as to appeals to Supreme Court:—

The law in force immediately before the appointed day relating to appeals to the Supreme Court from the High Court at Patna and the Judges and division courts thereof shall, with the necessary modification, apply in relation to the High Court of Jharkhand.

34. Transfer of proceedings from High Court at Patna to High Court of Jharkhand:—

- (1) Except as hereinafter provided, the High Court at Patna shall, as from the appointed day have no jurisdiction in respect of the transferred territory.
- (2) Such proceedings pending in the High Court at Patna immediately before the appointed day as are certified whether before or after that day, by the Chief Justice of the High Court, having regard to the places of accrual of the cause of action and other circumstances, to be proceedings which are ought to be heard and decided by the High Court of Jharkhand shall as soon as may be after such certification, be transferred to the Court of Jharkhand.
- (3) Notwithstanding anything contained in sub-sections (1) and (2) of this section or in section 27, but save as hereinafter provided, the High Court at Patna shall have, and the High Court of Jharkhand shall not have, jurisdiction to entertain, hear or dispose of appeals, applications for leave to appeal to the Supreme Court applications for review and other proceedings where any such proceedings seek any relief in respect of any order passed by the High Court at Patna before the appointed day:
Provided that, if after such proceedings have been entertained by the High Court at Patna, it appears to the Chief Justice of the High Court that they ought to be transferred to the High Court of Jharkhand, he shall order that they shall be so transferred, and such proceedings shall thereupon be transferred accordingly.
- (4) Any order made by the High Court at Patna,—
 - (a) before the appointed day, in any proceeding to the High Court of Jharkhand by virtue of sub-section (2), or
 - (b) in any proceedings with respect to which the High Court at Patna retains jurisdiction by virtue of sub-section (3) shall for all purposes have effect, not only as an order of the High Court at Patna, but

also as an order made by the High Court of Jharkhand in relation to those proceedings.

35. Right to appear or to act in proceedings transferred to High Court of Jharkhand:—

Any person, who immediately before the appointed day, is an advocate entitled to practice or an attorney entitled to act, in the High Court at Patna and so authorised to appear or to act in any proceedings transferred from that High Court to the High Court of Jharkhand under section 34 shall have the right to appear or to act, as the case may be, in the High Court of Jharkhand in relation to those proceedings.

36. Interpretation:—

For the purposes of section 34,—

- (a) proceedings shall be deemed to be pending in a Court until that Court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of the proceedings and shall include appeals, applications for leave to appeal to the Supreme Court, application for review, petitions for revision and petitions for writs;
- (b) references to a High Court shall be construed as including references to a Judge or division court thereof, and reference to order made by a Court or the Judge shall be construed as including references to a sentence, judgment or decree passed or made by that court of Judge.

37. Saving:—

Nothing in this Part shall affect the application to the Court of Jharkhand of any provisions of the Constitution, and this Part shall have effect subject to any provision that may be made on or after the appointed day with respect to that High Court by any Legislature or other authority having power to make such provision.

PART V

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

38. Authorisation of expenditure of Jharkhand State:—

The Governor of Bihar may, at any time before the appointed day, authorise such expenditure from the Consolidated Fund of the State of Jharkhand as he deems necessary for any period not more than six months beginning with the appointed day pending the sanction of such expenditure by the Legislative Assembly of the State of Jharkhand:

Provided that, the Governor of Jharkhand may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of

the State of Jharkhand for any period not extending beyond the said period of six months.

39. Reports relating to accounts of Bihar States:—

- (1) The reports of the Comptroller and Auditor-General of India referred to in clause (2) of article 151 relating to the accounts of the existing State of Bihar in respect of any period prior to the appointed day shall be submitted to the Governor of each of the successor States of Bihar and Jharkhand, who shall cause them to be laid before the Legislature of that State.
- (2) The President, after considering the views of the State Legislatures of the successor States, may by order,—
 - (a) declare any expenditure incurred out of the Consolidated Fund of Bihar on any service in respect of any period prior to the appointed day during the financial year or in respect of any earlier financial year in excess of the amount granted for that service and for that year as disclosed in the reports referred to in sub-section (1) to have been duly authorised; and
 - (b) provide for any action to be taken on any matter arising out of the said reports.

40. Distribution of revenue:—

The President shall, by order, determine the share of States of Bihar and Jharkhand in the total amount payable to the existing State of Bihar on the recommendation of the Finance Commission constituted under article 280 of the Constitution, in such manner as he thinks fit.

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

41. Application of Part:—

- (1) The provisions of this Part shall apply in relation to the apportionment of the assets and liabilities of the existing State of Bihar immediately before the appointed day.
- (2) The successor States shall be entitled to receive benefits arising out of the decisions taken by the predecessor State and the successor States shall be liable to bear the financial liabilities arising out of the decisions taken by the existing State of Bihar.
- (3) The apportionment of assets and liabilities would be subject to such financial adjustment as may be necessary to secure just, reasonable and equitable apportionment of the assets and liabilities amongst the successor States.

- (4) Any dispute regarding the amount of financial assets and liabilities shall be settled through mutual agreement, failing which by order, by Central Government on the advice of the Comptroller and Auditor-General of India.

42. Land and goods:—

- (1) Subjects to other provisions of this Part, all land and all stores, articles and other goods belonging to the existing State of Bihar, shall,-

- (a) if within the transferred territory, pass to the State of Jharkhand; or
(b) in any other case, remain the property of the State of Bihar:

Provided that, where the Central Government is of opinion that a goods or class of goods should be distributed between the States of Bihar and Jharkhand, otherwise that according to the situation of the goods, the Central Government may issue such directions as it thinks fit for a just and equitable distribution of the goods and the goods shall pass to the successor States accordingly.

- (2) Stores held for specific purposes, such as use or utilisation in particular institutions, workshops or undertakings or on particular works under construction, shall pass to the successor States in whose territories such institutions, workshops undertakings or works are located.
- (3) Stores relating to the Secretariat and offices of Heads of Departments having jurisdiction over the whole of the existing State of Bihar shall be divided as may be agreed upon between the successor States, or in default of such agreement, as the Central Government may by order direct for a just and equitable distribution of such stores.
- (4) Any other unissued stores of any class in the existing State of Bihar shall be divided between the successor States in proportion to the total stores of that class purchased in the period of three years period to the appointed day, for the territories of the existing State of Bihar included respectively in each of the successor States:

Provided that, where such proportion cannot be ascertained in respect of any class of stores or where the value of any class of such stores does not exceed rupees ten thousand, that class of stores shall be divided between the successor States according to the population ratio.

- (5) In this section, the expression "*land*" includes immovable property of every kind and any rights in or over such property, and the expression "*goods*" does not include coins, bank notes and currency notes.

43. Treasury and bank balances:—

The total of the cash balances in all treasuries of the State of Bihar and the credit balances of the State with Reserve Bank of India, the State Bank of India or any

other bank immediately before the appointed day shall be divided between the States of Bihar and Jharkhand according to the population ratio:

Provided that, for the purposes of such division, there shall be no transfer of cash balances from any treasury to any other treasury and the apportionment shall be effected by adjusting the credit balance of the two States in the books of the Reserve Bank of India on the appointed day:

Provided further that, if the State of Jharkhand has no account on the appointed day with the Reserve Bank of India, the adjustment shall be made in such manner as the Central Government may, by order, direct.

44. Arrears of taxes:—

The right to recover arrears of any tax or duty on property, including arrears of land revenue, shall belong to the successor State in which the property is situated, and the right to recover arrears of any other tax or duty shall belong to the successor State in whose territories the place of assessment of that tax or duty is included on the appointed day.

45. Right to recover loans and advances:—

(1) The right of the existing State of Bihar to recover any loans or advances made before the appointed day to any local body, society, agriculturist or other person in an area within that State shall belong to the successor State in which that area is included on that day.

(2) The right of the existing State of Bihar to recover any loans or advances made before the appointed day to any person or institution outside that State shall belong to the State of Bihar:

Provided that, any sum recovered in respect of any such loan or advance shall be divided between the States of Bihar and Jharkhand according to the population ratio.

46. Investments and credits in certain funds:—

(1) The securities held in respect of the investments made from Cash Balances Investment Account or from any Fund in the Public Account of the existing State of Bihar as specified in the Seventh Schedule shall be apportioned in the ratio of population of the successor States:

Provided that, the securities held in investments made from the Calamity Relief Fund of the existing State of Bihar shall be divided in the ratio of the area of the territories occupied by the successor States:

Provided further that, the balance in the Reserve Funds in the Public Account of Bihar created wholly out of appropriations from the Consolidated Fund of the existing State of Bihar, to the extent the balances have not been invested outside Government account, shall not be carried

forward to similar Reserve Funds in the Public Account of, successor States.

- (2) The investments of the existing State of Bihar immediately before the appointed day, in any special fund, the objects of which are confined to a local area, shall belong to the State in which that area is included on the appointed day.
- (3) The investments of the existing State of Bihar immediately before the appointed day in any private, commercial or industrial undertaking, in so far as such investments have not been made or are deemed not to have been made from the cash balance investment account, shall pass to the State in which the principal seat of business of the undertaking is located.
- (4) Where any body corporate constituted under a Central Act, State Act or Provincial Act for the existing State of Bihar or any part thereof has, by virtue of the provisions of Part II, becomes an inter-State body corporate, the investments in, or loans or advances to, any such body corporate by the existing State of Bihar made before the appointed day shall, save as otherwise expressly provided by or under this Act, be divided between the States of Bihar and Jharkhand in the same proportion in which the assets of the body corporate are divided under the provisions of this Part.

47. Assets and liabilities of State undertakings:—

- (1) The assets and liabilities relating to any commercial or industrial undertaking of the existing State of Bihar shall pass to the State in which the undertaking is located.
- (2) Where a depreciation reserve fund is maintained by the existing State of Bihar for any such commercial or industrial undertaking, the securities held in respect of investments made from that fund shall pass to the State in which the undertaking is located.

48. Public Debt:—

- (1) All liabilities on account of Public Debt and Public Account of the existing State of Bihar outstanding immediately before the appointed day shall be apportioned in the ratio of population of the successor States unless a different mode of apportionment is provided under the provisions of this Act.
- (2) The individual items of liabilities to be allocated to the successor States and the amount of contribution required to be made by one successor State to another shall be such as may be ordered by the Central Government in consultation with the Comptroller and Auditor-General of India:
Provided that, till such orders are issued, the liabilities on account of Public Debt and Public Account of the existing State of Bihar shall continue to be the liabilities of the successor State of Bihar.

- (3) The liability on account of loans raised from any source and re-lent by the existing State of Bihar to such entities as may be specified by the Central Government and whose area of operation is confined to either of the successor States devolve on the respective States as specified in sub-section (4).
- (4) The public debt of the existing State of Bihar attributable to loan taken from any source for the express purpose of re-lending the same to a specific institution and outstanding immediately before the appointed day shall,—
 - (a) if re-lent to any local body, body corporate or other institution in any local area, be the debt of the State in which the local area is included on the appointed day; or
 - (b) if re-lent to the Bihar State Electricity Board, the Bihar State Road Transport Corporation, or the Bihar Housing Board or any other institution which becomes an inter-State institution on the appointed day, be divided between the States of Bihar and Jharkhand in the same proportion in which the assets of such body corporate or institution are divided under the provisions of Part VII of this Act.
- (5) Where a sinking fund or a depreciation fund is maintained by the existing State of Bihar for repayment of any loan raised by it, the securities held in respect of investments made from that fund shall be divided between the successor States of Bihar and Jharkhand in the same proportion in which the total public debt is divided between the two States under this section.
- (6) In this section, the expression "*Government security*" means a security created and issued by a State Government for the purpose of raising a public loan and having any of the forms specified in, or prescribed under clause (2) of section 2 of the Public Debt Act, 1944.

49. Floating Debt:—

The liability of the existing State of Bihar in respect of any floating loan to provide short-term finance to any commercial undertaking shall be the liability of the State in whose territories the undertaking is located.

50. Refund of taxes collected in excess:—

The liability of the existing State of Bihar to refund any tax or duty on property including land revenue, collected in excess shall be the liability of the successor State in whose territories the property is situated, and the liability of the existing State of Bihar to refund any other tax or duty collected in excess shall be the liability of the successor State in whose territories in the place of assessment of that tax or duty is included.

51. Deposits, etc:—

- (1) The liability of the existing State of Bihar in respect of any civil deposit or loan fund deposit shall, as from the appointed day, be the liability of the State in whose area the deposit has been made.
- (2) The liability of the existing State of Bihar in respect of any charitable or other endowment shall, as from the appointed day, be the liability of the State in whose area the institution entitled to the benefit of the endowment is located or of the State to which the objects of the endowment under the terms thereof, are confined.

52. Provident fund:—

The liability of the existing State of Bihar in respect of the provident fund account of a Government servant in service on the appointed day shall, as from that day; be the liability of the State to which that Government servant is permanently allotted.

53. Pensions:—

The liability of the existing State of Bihar in respect of pensions and other retirement benefits shall pass to, or be apportioned between, the successor States of Bihar and Jharkhand in accordance with the provisions contained in the Eighth Schedule to this Act.

54. Contracts:—

- (1) Where, before the appointed day, the existing State of Bihar has made any contract in the exercise of its executive power for any purposes of the State, that contract shall be deemed to have been made in the exercise of the executive power,—
 - (a) if the purposes of the contract are, on and from the appointed day, exclusive purposes of either of the successor States of Bihar and Jharkhand; and
 - (b) any other case, of the State of Bihar;
and all rights and liabilities which have accrued, or may accrue under any such contract shall, to the extent to which they would have been rights or liabilities of the existing State of Bihar, be rights or liabilities of the State of Jharkhand or the State of Bihar, as the case may be:
Provided that in any such case as is referred to in clause (b), the initial allocation of rights and liabilities made by this sub-section shall be subject to such financial adjustment as may be agreed upon between the successor States of Bihar and Jharkhand or in default of such agreement, as the Central Government may, by order, direct.

- (2) For the purposes of this section, there shall be deemed to be included in the liabilities which have accrued or may accrue under any contract,—
- (a) any liability to satisfy an order or award made by any court or other tribunal in proceedings relating to the contract; and
 - (b) any liability in respect of expenses incurred in or in connection with, in any such proceedings.
- (3) This section shall have effect subject to the other provisions of this Part relating to the apportionment of liabilities in respect of loans, guarantees and other financial obligations; and bank balances and securities shall, notwithstanding that they partake of the nature of contractual rights, be dealt with under those provisions.

55. Liability in respect of actionable wrong:—

Where, immediately before the appointed day, the existing State of Bihar is subject to any liability in respect of any actionable wrong other than breach of contract, that liability shall,—

- (a) if the cause of action arose wholly within the territories which, as from that day; are the territories of either of the successor States of Bihar and Jharkhand, be a liability of that successor State; and
- (b) in any other case, be initially a liability of the State of Bihar, but subject to such financial adjustment as may be agreed upon between the States of Bihar and Jharkhand or, in default of such agreement, as the Central Government may; by order, direct.

56. Liability as guarantor:—

Where, immediately before the appointed day, the existing State of Bihar is liable as guarantor in respect of any liability of a registered co-operative society or other person, that liability of the existing State of Bihar shall,—

- (a) if the area of operations of such society or persons is limited to the territories which, as from that day, are the territories of either of the States of Bihar or Jharkhand, be a liability of that successor State; and
- (b) in any other case, be initially a liability of the State of Bihar, subject to such financial adjustment as may be agreed upon between the States of Bihar and Jharkhand or, in default of such agreements, as the Central Government may; by order, direct.

57. Items in suspense:—

If any item in suspense is ultimately found to affect an asset or liability of the nature referred to in any of the foregoing provisions of this Part, it shall be dealt with in accordance with that provision.

58. Residuary provision:—

The benefit or burden of any asset or liability of the existing State of Bihar not dealt with in the foregoing provisions of this Part shall pass to the State of Bihar in the first instance, subject to such financial adjustment as may be agreed upon between the States of Bihar and Jharkhand or, in default of such agreement, as the Central Government may, by order, direct.

59. Apportionment of assets or liabilities by agreement:—

Where the successor States of Bihar and Jharkhand agree that the benefit or burden of any particular asset or liability should be apportioned between them in a manner other than that provided for in the foregoing provisions of this Part, notwithstanding anything contained therein, the benefit or burden of that asset or liability shall be apportioned in the manner agreed upon.

60. Power of Central Government to order allocation or adjustment in certain cases:—

Where, by virtue of any of the provisions of this Part, any of the successor States of Bihar and Jharkhand becomes entitled to any property or obtains any benefits or becomes subject to any liability, and the Central Government is of opinion, on a reference made within a period of three years from the appointed day by either of the States, that it is just and equitable that property or those benefits should be transferred to, or shared with, the other successor State, or that a contribution towards that liability should be made by the other successor State, the said property or benefits shall be allocated in such manner between the two States, or the other State shall make to the State subject to the liability such contribution in respect thereof, as the Central Government may, after consulting with the two State Governments, by order, determine.

61. Certain expenditure to be charged on Consolidated Fund:—

All sums payable either by the State of Bihar or by the State of Jharkhand to the other States or by the Central Government to either of those States, by virtue of the provisions of this Act, shall be charged on the Consolidated Fund of the State by which such sums are payable or, as the case may be, the Consolidated Fund of India.

PART VII

PROVISIONS AS TO CERTAIN CORPORATIONS

62. Provisions as to Bihar State Electricity Board, State Warehousing Corporation and State Road Transport Corporation:—

(1) The following bodies corporate constituted for the existing State of Bihar, namely:-

- (a) the State Electricity Board constituted under the Electricity (Supply) Act, 1948;

- (b) the State Warehousing Corporation established under the Warehousing Corporations Act, 1962;
- (c) the State Road Transport Corporation established under the Road Transport Act, 1950,

shall, on and from the appointed day, continue to function in those areas in respect of which they were functioning immediately before that day, subject to the provisions of this section and to such directions as may, from time to time, be issued by the Central Government.

- (2) Any directions issued by the Central Government under sub-section (1) in respect of the Board or the Corporation shall include a direction that the Act under which the Board or the Corporation was constituted shall, in its application to that Board or Corporation, have effect subject to such exceptions and modifications as the Central Government thinks fit.
- (3) The Board or the Corporation referred to in sub-section (1) shall cease to function as from, and shall be deemed to be dissolved on such date as the Central Government may, by order, appoint; and upon such dissolution, its assets, rights and liabilities shall be apportioned between the successor States of Bihar and Jharkhand in such manner as may be agreed upon between them within one year of the dissolution of the Board or the Corporation, as the case may be, or if no agreement is reached, in such manner as the Central Government may, by order, determine:

Provided that, any liabilities of the said Board relating to the unpaid dues of the coal supplied to the Board by any public sector coal company shall be provisionally apportioned between the State Electricity Boards constituted respectively in the successor States of the existing State of Bihar or after the date appointed for the dissolution of the Board under this sub-section in such manner as may be agreed upon between the Governments of the successor States within one month of such dissolution or if no agreement is reached, in such manner as the Central Government may, by order, determine subject to reconciliation and finalisation of the liabilities which shall be completed within three months from the date of such dissolution by the mutual agreement between the successor States or failing such agreement by the direction of the Central Government:

Provided further that, an interest at the rate of two percent higher than the Cash Credit interest shall be paid on outstanding unpaid dues of the coal supplied to the Board by the public sector coal company till the liquidation of such dues by the concerned State Electricity Board constituted in the successor States on or after the date appointed for the dissolution of the Board under this sub-section.

- (4) Nothing in the preceding provisions of this section shall be construed as preventing the Government of the State of Bihar, or, as the case may be, the Government of the State of Jharkhand from constituting, at any time on or after the appointed day, a State Electricity Board or a State Warehousing Corporation or a Road Transport Corporation for the State under the provisions of the Act relating to such Board or Corporation; and if such a Board or Corporation is so constituted in either of the States before the dissolution of the Board or the Corporation referred to in sub-section (1),-
- (a) provision may be made by order of the Central Government enabling the new Board or the new Corporation to take over from the existing Board or Corporation all or any of its undertakings, assets, rights and liabilities in that State, and
 - (b) upon the dissolution of the existing Board or Corporation,-
 - (i) any assets, rights and liabilities which would otherwise have passed to that State by or under the provisions of sub-section (3) shall pass to the new Board or the new Corporation instead of to that State;
 - (ii) any employee who would otherwise have been transferred to or re-employed by that State under sub-section (3) read with clause (i) of sub-section (5), shall be transferred to or re-employed by the new Board or the new Corporation instead of to or by that State.
- (5) An agreement entered into between the successor States under sub-section (3) and an order made by the Central Government under that sub-section or under clause (a) of sub-section (4) may provide for the transfer or re-employment of any employee of the Board or the Corporation referred to in sub-section (1),-
- (i) to or by the successor States, in the case of an agreement under subsection (4) or an order made under that sub-section;
 - (ii) to or by the new Board or the new Corporation constituted under sub-section (4), in the case of an order made under clause (a) of that sub-section,
- and, subject to the provisions of section 65, also for the terms and conditions of service applicable to such employees after such transfer or re-employment.

63. Continuance of arrangements in regard to generation and supply of electric power and supply of water:—

If it appears to the Central Government that the arrangement in regard to the generation or supply of electric power or the supply of water for any area or

in regard to the execution of any project for such generation or supply has been or is likely to be modified to the disadvantage of that area by reason of the fact that it is, by virtue of the provisions of Part II of this Act, outside the State in which the power stations and other installations for the generation and supply of such power, or the catchment area, reservoirs and other works for the supply of water, as the case may be, are located, the Central Government may give such directions as it deems proper to the State Government or other authority concerned for the maintenance, so far as practicable, of the previous arrangement.

64. Provisions as to Bihar State Financial Corporation:—

- (1) The Bihar State Financial Corporation established under the State Financial Corporation Act, 1951 shall, on and from the appointed day, continue to function in those areas in respect of which it was functioning immediately before that day, subject to the provisions of this section and to such directions as may, from time to time, be issued by the Central Government.
- (2) Any directions issued by the Central Government under sub-section (1) in respect of the Corporation may include a direction that the said Act, in its application to the Corporation, shall have effect subject to such exceptions and modifications as may be specified in the direction.
- (3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Board of Directors of the Corporation may, with the previous approval of the Central Government and shall, if so required by the Central Government, convene at any time after the appointed day meeting for the consideration of a scheme for the reconstitution or reorganisation or dissolution, as the case may be, of the Corporation, including proposals regarding the formation of new Corporation, and the transfer thereto of the assets, rights and liabilities of the existing Corporation, and if such a scheme is approved at the general meeting by a resolution passed by a majority of the shareholders present and voting, the scheme shall be submitted to the Central Government for its sanction.
- (4) If the scheme is sanctioned by the Central Government either without modifications or with modifications which are approved at a general meeting, the Central Government shall certify the scheme, and upon such certification, the scheme shall, notwithstanding anything to the contrary contained in any law for the time being in force, be binding on the corporations affected by the scheme as well as the shareholders and creditors thereof.
- (5) If the scheme is not approved or sanctioned, the Central Government may refer the scheme to such Judge of the High Court at Patna and Jharkhand as may be nominated in this behalf by the Chief Justice thereof, and the

decision of the Judge in regard to the scheme shall be final and shall be binding on the corporations affected by the scheme as well as the shareholders and creditors thereof.

- (6) Nothing in the preceding provisions of this section shall be construed as preventing the Government of the States of Bihar and Jharkhand from constituting, at any time on or after the appointed day, a State Financial Corporation for that State under the State Financial Corporations Act, 1951.

65. Provisions as to certain Companies:—

- (1) Notwithstanding anything contained in the foregoing provisions of this Part, each of the companies specified in the Ninth Schedule to this Act shall, on and from the appointed day and until otherwise provided for in any law, or in any agreement among the successor States, or in any direction issued by the Central Government, continue to function in the areas in which it was functioning immediately before that day; and the Central Government may, from time-to-time, issue such directions in relation to such functioning as it may deem fit, notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law.
- (2) Any directions issued under sub-section (1), in respect of a company referred to in that sub-section, may include directions,-
- (a) regarding the division of the interests and shares of existing State of Bihar in the company among the successor States;
 - (b) requiring the reconstitution of the Board of Directors of the company so as to give adequate representation to both the successor States.

66. General provision as to statutory corporations:—

- (1) Save as otherwise expressly provided by the foregoing provisions of this Part, where any body corporate constituted under a Central Act, State Act or Provisional Act for the existing State of Bihar or any part thereof has, by virtue of the provisions of Part II of this Act, become an inter-State body corporate, then, the body corporate shall, on and from the appointed day, continue to function and operate in those areas in respect of which it was functioning and operating immediately before that day, subject to such directions as may from time to time be issued by the Central Government, until other provision is made by law in respect of the said body corporate.
- (2) Any directions issued by the Central Government under sub-section (1) in respect of any such body corporate shall include a direction that any law by which the said body corporate is governed shall, in its application to that body corporate, have effect subject to such exceptions and modifications as may be specified in the direction.

67. Temporary provisions as to continuance of certain existing road transport permits:—

- (1) Notwithstanding anything contained in section 88 of the Motor Vehicles Act, 1988, a permit granted by the State Transport Authority of the existing State of Bihar or any Regional Transport Authority in that State shall, if such permit was, immediately before the appointed day, valid and effective in any area in the transferred territory, be deemed to continue to be valid and effective in that area after that day subject to the provisions of that Act as for the time being in force in that area; and it shall not be necessary for any such permit to be countersigned by the State Transport Authority of Jharkhand or any Regional Transport Authority therein for the purpose of validating it for use in such area:

Provided that, the Central Government may, after consultation with the successor State Government or Governments concerned add to, amend or vary the conditions attached to the permit by the Authority by which the permit was granted.

- (2) No tolls, entrance fees or other charges of a like nature shall be levied after the appointed day in respect of any transport vehicle for its operations in any of the successor States under any such permit, if such vehicle was, immediately before that day, exempt from the payment of any such toll, entrance fees or other charges for its operations in the transferred territory:

Provided that, the Central Government may, after consultation with the State Government or Governments concerned, authorise the levy of any such toll, entrance fees or other charges, as the case may be.

68. Special provisions relating to retrenchment compensation in certain cases:—

Where on account of the reorganisation of the existing State of Bihar under this Act, any body corporate constituted under a Central Act, State Act or Provincial Act, any co-operative society registered under any law relating to co-operative societies or any commercial or industrial undertaking of that State is reconstituted or reorganised in any manner whatsoever or is amalgamated with any other body corporate, co-operative society or undertaking, or is dissolved, and in consequence of such reconstitution, reorganisation, amalgamation or dissolution, any workman employed by such body corporate or in any such co-operative society or undertaking, is transferred to, or re-employed by any other body corporate, or in any co-operative society or undertaking, then notwithstanding anything contained in section 25F, 25FF or 25FFF of the Industrial Disputes Act, 1947, such transfer or re-employment shall not entitle him to any compensation under that section:

Provided that,-

- (a) the terms and conditions of service applicable to the workman after such transfer or re-employment are not less favourable to the workman than those applicable to him immediately before the transfer or re-employment;
- (b) the employer in relation to the body corporate, the co-operative society or the undertaking where the workman transferred or re-employed is, by agreement or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation under section 25F, 25FF or 25FFF of the Industrial Disputes Act, 1947 on the basis that his service has been continuous and has not been interrupted by the transfer or re-employment.

69. Special provision as to income-tax:—

Where the assets, rights and liabilities of any body corporate carrying on business are, under the provisions of this Part, transferred to any other bodies corporate which after the transfer carry on the same business, the losses or profits or gains sustained by the body corporate first mentioned which, but for such transfer, would have been allowed to be carried forward and set-off in accordance with the provisions of Chapter VI of the Income-tax Act, 1961 shall be apportioned amongst the transferee bodies corporate in accordance with the rules to be made by the Central Government in this behalf and, upon such apportionment, the shares of loss allotted to each transferee body corporate shall be dealt with in accordance with the provisions of Chapter VI of the said Act, as if the transferee body corporate had itself sustained such loss in a business carried on by it in the years in which these losses were sustained.

70. Continuance of facilities in certain State institutions:—

- (1) The Government of State of Bihar or Jharkhand, as the case may be, shall, in respect of the institutions specified in the Tenth Schedule to this Act, located in that State, continue to provide facilities to the people than what were being provided to them before the appointed day; for such period and upon such terms and conditions as may be agreed upon between the two State Governments before the 1st day of December, 2001 or if no agreement is reached by the said date as may be fixed by order of the Central Government.
- (2) The Central Government may, at any time before the 1st day of December, 2001 by notification in the Official Gazette, specify in the Tenth Schedule any other institution existing on the appointed day in the States of Bihar and Jharkhand and on the issue of such notification, the Schedule shall be deemed to be amended by the inclusion of the said institution therein.

*PART VIII***PROVISIONS AS TO SERVICES****71. Provisions relating to All India Services:—**

- (1) In this section, the expression "State Cadre", -
- (a) in relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954;
 - (b) in relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954; and
 - (c) in relation to the Indian Forest Service, has the meaning assigned to it in the Indian Forest Service (Cadre) Rules, 1966.
- (2) In place of the cadres of the Indian Administrative Service, Indian Police Service and Indian Forest Service for the existing State of Bihar, there shall on and from the appointed day, be two separate cadres, one for the State of Bihar and the other for the State of Jharkhand in respect of each of these services.
- (3) The initial strength and composition of the State cadres referred to in sub-section (2) shall be such as the Central Government may, 'by order, determine before the appointed day.
- (4) The members of each of the said service borne on the Bihar cadre thereof immediately before the appointed day shall be allocated to the State cadres of the same service constituted under sub-section (2) in such manner and with effect from such date or dates as the Central Government may, by order, specify.
- (5) Nothing in this section shall be deemed to affect the operation, on or after the appointed day, of the All-India Service Act, 1951, or the rules made thereunder.

72. Provisions relating to services in Bihar and Jharkhand:—

- (1) Every person who immediately before the appointed day is serving in connection with the affairs of the existing State of Bihar shall, on and from that day provisionally continue to serve in connection with the affairs of the State of Bihar unless he is required, by general or special order of the Central Government to serve provisionally in connection with the affairs of the State of Jharkhand:
- Provided that, no direction shall be issued under this Section after the expiry of a period of one year from the appointed day.
- (2) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the successor State to which every person referred to in sub-section (1) shall be finally allotted for service

and the date with effect from which such allotment shall take effect or be deemed to have taken effect.

- (3) Every person who is finally allotted under the provisions of sub-section (2) to a successor State shall, if he is not already serving therein be made available or serving in the successor State from such date as may be agreed upon between the Governments concerned or in default of such agreement, as may be determined by the Central Government.

73. Other provisions relating to services:—

- (1) Nothing in section 72 shall be deemed to affect on or after the appointed day the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to determination of the conditions of service of persons serving in connection with the affairs of the Union or any State: Provided that the conditions of service applicable immediately before the appointed day in the case of any person deemed to have been allocated to the State of Bihar or to the State of Jharkhand under section 72 shall not be varied to his disadvantage except with the previous approval of the Central Government.
- (2) All services prior to the appointed day rendered by a person,—
- (a) if he is deemed to have been allocated to any State under section 72, shall be deemed to have been rendered in connection with the affairs of that State;
- (b) if he is deemed to have been allocated to the Union in connection with the administration of the Jharkhand shall be deemed to have been rendered in connection with the affairs of the Union, for the purposes of the rules regulating his conditions of service.
- (3) The provisions of Section 72, shall not apply in relation to members of any All India Service.

74. Provisions as to continuance of officers in same post:—

Every person who, immediately before the appointed day is holding or discharging the duties of any post or office in connection with the affairs of the existing State of Bihar in any area which on that day falls within any of the successor States shall continue to hold the same post or office in that successor State, and shall be deemed, on and from that day, to have been duly appointed to the post or office by the Government of, or any other appropriate authority in, that successor State:

Provided that nothing in this section shall be deemed to prevent a competent authority on and from the appointed day, from passing in relation to such person any order affecting the continuance in such post or office.

75. Advisory Committees:—

The Central Government may by order establish one or more Advisory Committees for the purpose of assisting it in regard to,-

- (a) the discharge of any of its functions under this part; and
- (b) the ensuring of fair and equitable treatment to all persons affected by the provisions of this Part and the proper consideration of any representations made by such persons.

76. Power of Central Government to give directions:—

The Central Government may give such directions to the State Government of Bihar and the State Government of Jharkhand as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this Part and the State Government shall comply with such directions.

77. Provisions as to State Public Service Commission:—

- (1) The Public Service Commission for the existing State of Bihar shall, on and from the appointed day, be the Public Service Commission for the State of Bihar.
- (2) The persons holding office immediately before the appointed day as Chairman or other member of the Public Service Commission for the existing State of Bihar shall, as from the appointed day, be the Chairman or, as the case may be, the other member of the Public Service Commission for the State of Bihar.
- (3) Every person who becomes Chairman or other member for the Public Service Commission for the State of Bihar on the appointed day under sub-section (2), shall,
 - (a) be entitled to receive from the Government of the State of Bihar conditions of service not less favourable than those to which he was entitled under the provisions applicable to him;
 - (b) subject to the proviso to clause (2) of article 316, hold office or continue to hold office until the expiration of his term of office as determined under the provisions applicable to him immediately before the appointed day.
- (4) The report of the Bihar Service Commission as to the work done by the Commission in respect of any period prior to the appointed day shall be presented under clause (2) of article 323 to the Governors of the States of Bihar and Jharkhand, and the Governor of the State of Bihar shall, on receipt of such report, cause a copy thereof together with a memorandum explaining as far as possible, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before the Legislature of the State of Bihar and it

shall not be necessary to cause such report or any such memorandum to be laid before the Legislative Assembly of the State of Jharkhand.

PART IX

MANAGEMENT AND DEVELOPMENT OF WATER RESOURCES

78. Water Resources Development and its Management:—

(1) Notwithstanding anything contained in this Act but subject to the provisions of Section 79, all rights and liabilities of the existing State of Bihar in relation to water resource projects in relation to,—

(i) Ganga and its tributaries; and

(ii) Sone and its tributaries,

shall, on the appointed day be the rights and liabilities of the successor States in such proportion as may be fixed and subject to such adjustments as may be made, by agreement entered into by the said States after consultation with the Central Government, or, if no such agreement is entered into within two years of the appointed day, then the Central Government may by order, determine within one year having regard to the purposes of the project.

Provided that the order so made by the Central Government may be varied by any subsequent agreement entered into by the successor States after consultation with the Central Government.

(2) An agreement or order referred to in sub-section (1) shall, where an extension or further development of any of the projects referred to in that sub-section after the appointed day is undertaken, be the rights and liabilities of the successor States in relation to such extension or further development.

(3) The rights and liabilities referred to in sub-sections (1) and (2) shall include,—

(a) the right to receive and utilise the water available or distribution as a result of the projects; and

(b) the right to receive and utilise the power generated as a result of the projects,

but shall not include the rights and liabilities under any contract entered into before the appointed day by the Government of the existing State of Bihar with any person or authority other than Government.

79. Constitution and functions of Management Board:—

(1) The Central Government shall constitute a Board to be called the Ganga and Sone Management Board (hereinafter referred to as the 'Board')

for administration, construction, maintenance and operation of projects referred to in sub-section (1) of section 78 for any or for a combination of following purposes, namely:—

- (i) Irrigation;
- (ii) Rural and Urban Water Supply;
- (iii) Hydro Power generation;
- (iv) Navigation;
- (v) Industries; and
- (vi) for any other purpose which the Central Government may, by notification in the Official Gazette, specify.

(2) The Board shall consist of—

- (a) a whole-time Chairman and two whole time members to be appointed by the Central Government;
- (b) a representative each of the Government of the States of Uttar Pradesh, Bihar, Jharkhand and Madhya Pradesh to be nominated by the respective Governments;
- (c) two representatives of the Central Government to be nominated by that Government.

(3) The functions of the Board shall include—

- (a) the regulation of supply of water from the projects referred to in sub-section (1) of section 78 to States of Uttar Pradesh, Bihar, Jharkhand and Madhya Pradesh having regard to,
 - (i) any agreement entered into or arrangement made covering the Governments of existing State of Bihar and the States of Uttar Pradesh, Bihar, Jharkhand and Madhya Pradesh, and
 - (ii) the agreement or the order referred to in sub-section (2) of section 78;
- (b) the regulation of supply of power generated at the projects referred to in sub-section (1) of section 78, to any Electricity Board or other authority incharge of the distribution of power having regard to—
 - (i) any agreement entered into or arrangement made covering the Governments of existing State of Bihar and the States of Uttar Pradesh, Bihar, Jharkhand and Madhya Pradesh, and
 - (ii) the agreement or the order referred to in sub-section (2) of section 78;
- (c) the examination of the requirement of funds for various projects in terms of the programme laid down for such projects and to advise

the apportionment of the expenditure to the participating States keeping in view the agreement on the sharing of costs;

- (d) to decide the withdrawal of water from the reservoirs during the construction period for irrigation and power purposes with a view to securing better use of available water;
- (e) the responsibility of devising programme of resettlement for persons displaced as a result of Irrigation Projects;
- (f) construction of such of the remaining or new works connected with the development of the water resource project relating to the rivers or their tributaries as the Central Government may specify by notification in the Official Gazette; and
- (g) such other functions as the Central Government may after consultation with the Governments of the States of Uttar Pradesh, Bihar, Jharkhand and Madhya Pradesh entrust to it.

80. Staff of the Management Board:—

- (1) The Board may employ such staff, as it may consider necessary for the efficient discharge of its functions under this Act:

Provided that every person who immediately before the constitution of the said Board was engaged in the construction, maintenance or operation of the works relating to the projects referred to in sub-section (1) of section 78 shall continue to be so employed under the Board in connection with the said works on the same terms and conditions of the service as were applicable to him before such constitution until the Central Government by order, directs otherwise:

Provided further that the said Board may at any time in consultation with the State Governments or the Electricity Board concerned and with prior approval of the Central Government retain any such person for service under that State Government or Board.

- (2) The Government of the States of Uttar Pradesh, Bihar, Jharkhand and Madhya Pradesh shall at all times provide the necessary funds to the Board to meet all expenses (including the salaries and allowances of the staff) required for the discharge of its functions and such amounts shall be apportioned among the States concerned in such proportion as the Central Government may having regard to the benefits to each of the said States specify.
- (3) The Board shall be under the control of the Central Government and shall comply with such directions, as may from time to time, be given to it by that Government.

- (4) The Board may, with the approval of the Central Government delegate such of its powers, functions and duties as it may deem fit to the Chairman of the said Board or to any officer subordinate to the Board.
- (5) The Central Government may; for the purpose of enabling the Board to function efficiently; issue such directions to the State Governments concerned, or any other authority; and the State Governments, or the other authority shall comply with such directions.

81. Jurisdiction of the Board:—

- (1) The Board shall, ordinarily exercise jurisdiction in regard to any of the projects referred to in sub-section (1) of section 78 over headwork (barrages, dams, reservoir, regulating construction), part of canal network and transmission lines necessary to deliver water or power to the States concerned.
- (2) If any question arises as to whether the Board has jurisdiction under sub-section (1) over any project referred thereto; the same shall be referred to the Central Government for decision thereon.

82. Power to make regulations:—

The Board may, with the prior approval of the Central Government by notification in the Official Gazette, make regulations consistent with this Act and orders made thereunder, to provide for,-

- (a) regulating the time and place of meetings of the Board and the procedure to be followed for the transaction of business of such meetings;
- (b) delegation of powers and duties to the Chairman or any officer of the Board;
- (c) the appointment and regulation of the conditions of service of the officers and other staff of the Board; and
- (d) any other matter for which regulations are considered necessary by the Board.

PART X

LEGAL AND MISCELLANEOUS PROVISIONS

83. Amendment of Act 37 of 1956:—

On and from the appointed day, in Section 15 of the States Reorganisation Act, 1956, in clause (c), for the words "Bihar", the word "*Bihar and Jharkhand*" shall be substituted.

84. Territorial extent of laws:—

The provisions of Part II of this Act shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and territorial references in any such law to

the State of Bihar shall, until otherwise provided by a competent Legislature or other competent authority be construed as meaning the territories within the existing State of Bihar before the appointed day.

85. Power to adapt laws:—

For the purpose of facilitating the in relation to the State of Bihar or Jharkhand of any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Explanation-In this section, the expression "*appropriate Government*" means as respects any law relating to a matter enumerated in the Union List, the Central Government, and as respects any other law in its application to a State, the State Government.

86. Power to construe laws:—

Notwithstanding that no provision or insufficient provision has been made under section 65 for the adaptation of a law made before the appointed day; any court, tribunal or authority, required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Bihar or Jharkhand, construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority.

87. Power to name authorities etc., for exercising statutory functions:—

The Government of the State of Jharkhand, as respects the transferred territory may, by notification in the Official Gazette, specify the authority, officer or person who, on or after the appointed day, shall be competent to exercise such functions exercisable under any law in force on that day as may be mentioned in that notification and such law shall have effect accordingly.

88. Legal proceedings:—

Where immediately before the appointed day, the existing State of Bihar is a party to any legal proceedings with respect to any property, rights or liabilities subject to apportionment between the States of Bihar and Jharkhand under this Act, the State of Bihar or Jharkhand which succeeds to, or acquires a share in, that property or those rights or liabilities by virtue of any provision of this Act shall be deemed to be substituted for the existing State of Bihar or added as a party to those proceedings, and the proceedings may continue accordingly.

89. Transfer of pending proceedings:—

(1) Every proceeding pending immediately before the appointed day before a court (other than the High Court), tribunal, authority or officer in

any area which on that day falls within the State of Bihar shall, if it is a proceeding relating exclusively to the territory, which as from that day is the territory of Jharkhand State, stand transferred to the corresponding court, tribunal, authority or officer of that State.

- (2) If any question arises as to whether any proceeding should stand transferred under sub-section (1), it shall be referred to the High Court at Patna and the decision of that High Court shall be final.
- (3) In this section,—
- (a) "*proceeding*" includes any suit, case or appeal; and
- (b) "*corresponding court, tribunal authority or officer*" in the State of Jharkhand means-
- (i) the court, tribunal, authority or officer in which, or before whom, the proceeding would have laid if it had been instituted after the appointed day; or
- (ii) in case of doubt, such court, tribunal, authority, or officer in that State, as may be determined after the appointed day by the Government of that State or the Central Government, as the case may be, or before the appointed day by the Government of the existing State of Bihar to be the corresponding court, tribunal, authority or officer.

90. Right of pleader to practise in certain cases:—

Any person who, immediately before the appointed day, is enrolled as a pleader entitled to practise in any subordinate courts in the existing State of Bihar shall, for a period of one year from that day, continue to be entitle to practise in those courts, notwithstanding that the whole or any part of the territories within the jurisdiction of those courts has been transferred to the State of Jharkhand.

91. Effect of provisions of the Act inconsistent with other laws:—

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

92. Power to remove difficulties:—

- (1) If any difficulty arises in giving effect to the provisions of this Act, the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the appointed day.

- (2) Every order made under this section shall be laid before each House of Parliament.

THE FIRST SCHEDULE*(See section 8)*

- (i) Of the seven sitting members whose term of office will expire on 9th April, 2002, namely, Maulana Obaidullah Khan Azmi, Ven'ble Dhammaviriya, Shri Nagendra Nath Ojha, Shri Prem Chand Gupta, Shri Ranjan Prasad Yadav, Shri Shatrughan Sinha and Shri Ram Deo Bhandari, Maulana Obaidullah Khan Azmi and Ven'ble Dhammaviriya, shall be deemed to have been elected to fill two of the seats allotted to the State of Jharkhand and the other five sitting members shall be deemed to have been elected to fill five of the seats allotted to the State of Bihar.
- (ii) Of the seven sitting members whose term of office will expire on 7th July, 2004, namely, Shri Shibu Soren, Shri Gaya Singh, Shri Parmeshwar Kumar Agrawala, Shri Anil Kumar, Dr R.K. Yadav Ravi, Shri Kapil Sibal, Smt. Saroj Dubey, Shri Shibu Soren and Shri Parmeshwar Kumar Agrawala shall be deemed to have been elected to fill two of the seats allotted to the State of Jharkhand and the other five sitting members shall be deemed to have been elected to fill five of the seats allotted to the State of Bihar.
- (iii) Of the eight sitting members whose term of office will expire on 2nd April, 2006, namely, Shri S.S. Ahluwalia, Smt. Kum Kum Rai, Shri Faguni Ram, Shri Mahendra Prasad, Shri Ravi Shankar Prasad, Shri Rajiv Ranjan Singh, Shri Ram Kumar Anand and Shri Vijay Singh Yadav, shall be deemed to have been elected to fill two of the seats allotted to the State of Jharkhand and the other six sitting members shall be deemed to have been elected to fill six of the seats allotted to the State of Bihar.

THE SECOND SCHEDULE*(See section 10)*

In the Delimitation of Parliamentary and Assembly Constituencies Order, 1976,—

(i) in Schedule :—

(a) for serial number 3 and the entries relating thereto, the following shall be substituted, namely:-

1	2	3	4	5	6	7
"3 Bihar	53	7	5	40	7";

(b) after serial number 21, the following serial number and entries shall be inserted, namely:-

1	2	3	4	5	6	7
"21A	Jharkhand	...	...	14	1	5";

(ii) in Schedule II,-

(a) for serial number 3 and the entries relating thereto, the following shall be substituted, namely:-

1	2	3	4	5	6	7
"3 Bihar	318	45	29	243	39	";

- (b) after serial number 21, the following serial number and entries shall be inserted, namely:-

1	2	3	4	5	6	7
"21A	Jharkhand	...	...	81	9	28";

(iii) in Schedule V,-

(a) in Part A-Parliamentary Constituencies,-

- (A) serial numbers 26 to 28, 44 to 54 and the entries relating thereto shall be omitted;
- (B) against serial number 29,-
- (1) the entry "158 Deoghar (SC)" shall be omitted;
- (2) after entry "176-Katoria", the entry "177-Chakai" shall be inserted;
- (C) against serial number 30, the entry "164-Mahagama" shall be omitted;
- (D) against serial number 30, for entry "171-Sultanganj" the entry "173 Dhuraiya" shall be inserted;
- (E) against serial number 40, after entry "241-Goh", the entry "251-Imamganj (SC)" shall be inserted;
- (F) against serial number 42, for entry "256-Atri", the entry "255-Fatehpur (SC), 256.Atri" shall be substituted;
- (G) against serial number 43, after entry "253-Bodhgaya (SC)", the entry "254-Barachatti (SC) shall be inserted.

(b) in Part B-Assembly Constituency, serial numbers 147 to 164, 262 to 324 and the entries relating thereto shall be omitted.

(iv) after Schedule XXII, the following Schedule shall be inserted, namely:-

"SCHEDULE XXIIA JHARKHAND

Part A -Parliamentary Constituencies

Serial No.	Name and extent in terms of assembly constituencies
1	Rajmahal (ST) -1-Rajmahal, 2-Boiro (ST), 3-Barhait (ST), 4-Litipara (ST), 5-Pakaur, 6-Maheshpur (ST).
2	Dumka (ST) - 7-Sikaripara (ST), 8-Nala, 9-Jamtara, 14-Sarath, 10-Dumka (ST), 11-Jama (ST).

Serial No.	Name and extent in terms of assembly constituencies
3	Godda-13 -Madhupur, 15-Deoghar (SC), 12-Jarmundi, 16-Poreyahat, 17-Godda, 18-Mahagama.
4	Chatra - 27-Chatra (SC), 26-Simaria (SC), 74-Latehar (SC), 75-Panki, 73-Manika (ST).
5	Kodarma - 19-Kodarma, 20-Barkatha, 28-Dhanwar, 29-Bagodar, 30-Jamua (SC), 31-Gandey.
6	Giridih - 32-Giridih, 33-Dumri, 34-Gomia, 35-Bermo, 42- Tundi, 43-Baghmara.
7	Dhanbad - 36-Bokaro, 38-Sindri, 39-Nirsa, 40-Dhanbad, 41-Jharia, 37-Chandankiyari (SC).
8	Ranchi - 50-Ichagarh, 61-Silli, 62-Khijri (ST), 63-Ranchi; 64-Hatia, 65-Kanke (SC).
9	Jamshedpur - 41-Bahragora, 45-Ghatsila (ST), 46-Potka (ST), 47-Jugsalai (SC), 48-Jamshedpur-East, 49-Jamshedpur-West.
10	Singhbhum (ST) - 51-Seraikela (ST), 52-Chaibasa (ST), 53-Majhgaon (ST), 54-Jagannathpur (ST), 55-Manoharpur (ST), 56-Chakaradharpur (ST).
11	Khunti (ST) - 57-Kharsawan (ST), 58-Tamar (ST), 59-Torpa (ST), 60-Khunti (ST); 71-Kolebira (ST), 70-Simdega (ST).
12	Lohardaga (ST) - 66-Mandar (ST), 67-Sisai (ST), 68-Gumla (ST), 69-Bishunpur (ST), 72-Lohardagga (ST).
13	Palamu (SC) - 76-Daltonganj, 80-Garhwa, 81-Bhawanathpur, 77-Bishrampur; 78-Chhatarpur (SC), 79-Hussainabad. .
14	Hazaribagh - 21-Barhi, 22-Barkagaon, 23-Ramgarh, 24-Mandu, 25-Hazaribagh.

PART B -ASSEMBLY CONSTITUENCIES

Serial No.	Name and Extent of constituencies
SAHEBGANJ DISTRICT	
1	Rajmahal- Rajmahal and Sahebganj Police Stations in Rajmahal sub-division.
2	Borio (ST)- Borio and Taljhari Police Stations in Rajmahal sub-division; and Boarigor Police Station (excluding GPs Rajabhita, Kero, Kairasol, Bara Telo and Barapipra) in Godda sub-division. Barhait (ST)- Barhait and Ranga Police Stations in Rajmahal sub-division; and Sundarpahari Police Station and GPs. Rajabhita, Kero, Kairasol, Bara Telo and Barapipra in Boarigor Police Station in Godda sub-division.
PAKUR DISTRICT	
4	Litipara (ST)- Litipara, Amrapara and Hiranpur Police Stations in Pakur sub-division; and Gopikandar Police Station in Dumka Sadar sub-division.
5	Paaur- Pakur Police Station in Pakur sub-division; and Barharwa Police Station in Rajmahal sub-division.
6	Maheshpur (ST)- Maheshpur and Pakuria Police Stations in Pakur sub-division.
DUMKA DISTRICT	
7	Sikaripara (ST)- Sikaripara, Raneshwar and Kathikund Police Stations in Dumka Sadar sub-division.
8	Nala- Nala and Kundahit Police Stations in Jamtara sub-division.
9	Jamtara- Jamtara Police Station (excluding GPs. Karmatanr, Sahajpur, Pindari, Lakhanpur, Rataniya, Rampurbhitra and Kajra) and Narayanpur Police Station in Jamtara sub-division.
10	Dumka (ST)- Dumka Town, Dumka Muffassil and Masalia Police Stations in Dumka Sadar sub-division.
11	Jama (ST)- Jama and Ramgarh Police Stations in Dumka Sadar sub-division.
12	Jarmundi- Jarmundi Police Station in Dumka Sadar sub-division; and Sarawan Police Station in Deoghar sub-division.
DEOGHAR DISTRICT	
13	Madhupur- Madhupur and Karon Police Stations and GPs. Kusmil, Chanddih, Pathra and Basbariya in Jasidih Police Station in Deoghar sub-division.
14	Sarath- Sarath and Palojori Police Stations in Deoghar sub-division; and GPs. Karmatanr, Shahajpur, Pindari, Lakhanpur, Rataniya, Rampurbhitra and Kajra in Jamtara Police Station in Jamtara sub-division.
15	Deoghar (SC)- Deoghar town and Mohanpur Police Stations and Jasidih Police Station (excluding GPs. Kusmil, Chanddih, Pathra and Basbariya) in Deoghar sub-division.

Serial No.	Name and Extent of constituencies
GODDA DISTRICT	
16	Poreyahat- Poreyahat Police Station and G.Ps. Burhikura, Dammajhilua, Sandmara, Nonbatta, Makhni, Pathra and Punsiya in Godda Police Station in Godda sub-division; and Saraiyaha Police Station in Dumka Sadar sub-division.
17	Godda- Godda Police Station (excluding GPs. Burhikura, Dammajhilua, Sandmara, Nonbatta, Makhni, Pathra and Punsiya) and Pathargama Police Station in Godda sub-division.
18	Mahagama- Mahagama and Meherma Police Stations in Godda sub-division.
KODARMA DISTRICT	
19	Kodarma- Kodarma and Sorgawan Police Stations in Kodarma sub-division.
HAZARIBAGH DISTRICT	
20	Barkatha- Barkatha and Jainagar Police Stations in Kodarma sub-division; and Ichak Police Stations in Kodarma sub-division; and Ichak Police Station in Hazaribagh Sadar sub-division.
21	Barhi- Barhi Police Station in Hazaribagh Sadar sub-division; and Chauparan Police Station in Kodarma sub-division.
22.	Barkagaon- Barakgaon Police Station and GPs Terpa, Patratu, Koto, Palani, Hapuhua, Harijarpu Gegda, Deoria, Bargama, Pali, Salgo, Sanki, Jabo, Chaingara, Chikor, Lapanga, Ghutua, Barkakana and Sidhwar-Kalan in Ramgarh Police Station in Hazaribagh Sadar sub-division.
23.	Ramgarh- Ramgarh Police Station (excluding GP.s. Terpa, Patratu, Koto, Palani, Hapuhua, Hairokarpur, Gegda, Deoria, Bargama, Pali, Salgo, Sanki, Jabo, Chaingarh, Chikor, Lapanga, Ghutua, Barkakana and Sidhwar-Kalan) and Gola Police Station in Hazaribagh Sadar sub-division.
24.	Mandu- Mandu and Bishangarh Police Stations in Hazaribagh Sadar sub-division.
25.	Hazaribagh- Hazaribagh Police Station in Hazaribagh Sadar sub-division.
CHATRA DISTRICT	
26.	Simaria (SC)- Simaria, Itkhori and Tandwa Police Stations in Chatra sub-division.
27.	Chatra (SC)- Chatra, Pratappur and Hunterganj Police Stations in Chatra sub-division.
GIRIDIH DISTRICT	
28.	Dhanwar- Dhanwar and Gawan Police Stations in Giridih Sadar sub-division.
29	Bagodar- Bagodar and Birni Police Stations in Giridih Sadar sub-division.
30.	Jamua (SC)- Jamua and Deori Police Stations in Giridih Sadar sub-division.
31.	Gandey- Gandey and Bengabad Police Stations and GPs Leda, Semaria, Badgunda, Palmo, Sathibad, Senadoni, Dhanaidih, Guro, Jitpur, Telodih, Ranidih and Karharbari in Giridih Mufassil Police Station in Giridih Sadar sub-division.

Serial No.	Name and Extent of constituencies
32.	Giridih- Giridih Town Police Station and Giridih Mufassil Police Station (excluding GPs Leda, Semaria, Badgunda, Palmo, Sathibad Senadoni, Dhanaidih, Guro, Jitpur, Telodih, Ranidih and Karharbari) and Pitaur Police Station in Giridih Sadar sub-division.
33.	Dumri- Dumri Police Station in Giridih Sadar sub-division; and Nawadih Police Station in Bermo sub-division.
BOKARO DISTRICT	
34.	Gomia- Gomia Police Station and Petarbar Police Station (excluding GPs Champi, Rohar, Chando, Pichhri, Angwali and Chalkari) in Bermo sub-division.
35.	Bermo- Jaridih and Bermo Police Stations and GPs Champ, Rohar, Chando, Pichhri, Angwali and Chalkari in Petarbar Police Station in Bermo sub-division.
36.	Bokaro- Chas Police Station (excluding GPs Bijulia, Alkusa, Buribinor, Khamarbendi, Dughigajar, Kura, Dabartupara, Jaitara, Pundru and Sardaha) in Baghmara sub-division.
37.	Chandankiyari (SC)- Chandankiyari Police Station and GPs Bijulia, Alkusa, Buribinor, Khamarbendi, Dudhigajar, Kura, Dabartupara, Jaitara, Pundru and Sardaha in Chas Police Station in Baghmara sub-division.
DHANBAD DISTRICT	
38.	Sindri- Sindri, Baliapur and Gobindpur Police Station in Dhanbad Sadar sub-division.
39.	Nirsa- Nirsa and Chirkunda Police Stations in Dhanbad Sadar sub-division.
40.	Dhanbad- Dhanbad, Putki and Kenduadih Police Stations in Dhanbad Sadar sub-division.
41.	Jharia- Jharia and Jorapokhar Police Stations in Dhanbad Sadar sub-division.
42.	Tundi- Tundi Police Station in Dhanbad Sadar sub-division; Topchanchi Police Station and G.Ps. Dharkiro, Daludih, Rajganj, Bagdaha, Dhawachita, Nagri Kalan and Ramkanalichandur in Katras Police Station in Baghmara sub-division.
43.	Baghmara- Baghmara Police Station and Katras Police Station (excluding GPs Dharkiro, Daludih, Rajganj, Bagdaha, Dhawachita, Nagri Kalan and Ramakanchandur) in Baghmara sub-division; and Jogta Police Station in Dhanbad Sadar sub-division.
(EAST) SINGHBHUM DISTRICT	
44.	Baharagora- Baharagora and Chakulia Police Stations in Dhalbhum sub-division.
45.	Ghatsila (ST)- Ghatsila Police Station and Musabnai Police Station (excluding GPs Palasbani, Asta Koyali, Nunia, Kumarasol, Barakanjiya, Bomaro Bangoriya and Damudih) in Dhalbhum sub-division.
46.	Potka (ST)- Potka Police Station, G.Ps. Palasbani, Asta Koyali, Nunia, Kumarasol, Barankanjiya, Bomaro Bangoriya and Damudih in Musabnai Police Station, Bagbera town and GPs Karandih -Purihasa, Hargarghutu, Bagebra and village 1167 - Kitadih in Jugsalai Police Station in Dhalbhum sub-division.

Serial No.	Name and Extent of constituencies
47.	Jugsalai (SC) - Jugsalai Police Station (excluding Bagbera Town and GPs Karandih -Purihasa, Hargarghutu, Bagbera and village 1167 -Kitadih) Golmuri and Patamda Police Station in Dhalbhum sub-division.
48.	Jamshedpur East - Census wards 20 and 23 to 40 in Jarnshedpur Notified Area Committee in Dhalbhum sub-division.
49.	Jamshedpur West - Jamshedpur Notified Area Committee (excluding census wards 20 and 23 to 40) in Dhalbhum sub-division.
(WEST) SINGHBHUM DISTRICT	
50.	Ichagarh - Ichagarh, Chandil and Nimdih Police Stations in Seraikella sub-division.
51.	Seraikella (ST) - Seraikella municipality and GPs Govindpur, Pandra, Manik Bazar, Tangrani, Pathanmara, Jordiha, Gurgudia and Badakakda in Seraikella Police Station, Rajnagar Police Station (excluding village 98-Dighi) and Adityapur Police Station in Seraikella sub-division.
52.	Chaibasa (ST) - Chaibasa Sadar and Jhinkpani Police Stations and Chaibasa Mufassil Police Station (excluding GPs Bhoya, Keadchalam, Domra-Parnia, Lota, Thakuragutu, Dopai-Gamhariya, Sarada, Makamhatu, Khuntpani, Chiru and Rajabasa) in Chaibasa Sadar sub-division.
53.	Majhgaon (ST) - Majhgaon and Manjhari Police Stations in Chaibasa Sadar sub-division.
54.	Jaganathpur (ST) - Naomundi and Gua Police Stations and GPs Kurtabera, Urkiya, Makaramda, Thalkobad (Part I) and Chhotanagra (Part 1) in Manoharpur Police Station in Chaibasa Sadar sub-division.
55.	Manoharpur (ST) - Manoharpur Police Station [excluding GPs Kurtabera, Urkiya, Makaramda, Thalkobad (Part I) and Chhotanagra (Part I)] and GPs Beralumin, Jojoda, Serengda, Orenga, Jhilrua, Goilkera, Kuira, Kadamdih, Dalaikele, Sonua-Jorapokhar, Porahat, Sogoisai, Gudri Jarakel, Asantaliya, Dalki-Gobindpur, Bhalurangi, Harimara, Tunian Gajpur, Bandu, Poronger, Koloeda, Kulda, Bari, Lonjo, Bera Kayam, Mamail, Piring, Komrora, Komrora-Dairyo, Dura-Jante and Banskata and Chakradharpur Police Station in Chaibasa Sadar sub-division.
56.	Chakradharpur (ST) - Chakradharpur Police Station (excluding G.Ps. Beralumin, Jojoda, Serengda, Orenga, Jhilrua, Goilkera, Kuira, Kadamdih, Dalaikele, Sonua-Jorapokhar, Porahat, Sogoisai, Gudri Jarakel, Asantaliya, Dalki-Gobindpur, Bhalurangi, Harimara, Tunian Gajpur, Bandu, Poronger, Koloeda, Kulda, Bari, Lonjo, Bera Kayam, Mamail, Piring, Komrora, Komrora-Dariyo, Dura-Jante and Banskata) in Chaibasa Sadar sub-division.
57.	Kharsawan (ST) - Kharsawan and Kuchai Police Stations and Seraikella Police Station (excluding Serikella municipality and GPs Govindpur, Para, Manik Bazar, Tangrani, Pathanmara, Jordiha Guragudia and Badakakda) and village 98-Dighi in Rajnagar Police Station in Seraikella sub-division; and GPs Bhoya Keadchalam, Domra-Parnia, Lota, Thakurgutu, Dopai-Gamhariya, Sarada, Matkamhatu-Khuntpani, Chiru and Rajabasa in Chaibasa Mufassil Police Station in Chaibasa Sadar sub-division.

Serial No.	Name and Extent of constituencies
RANCHI DISTRICT	
58.	Tamar (ST) - Tamar, Erki and Bundu Police Stations in Khunti sub-divisions.
59.	Torpa (ST) - Torpa and Rania Police Stations and GPs Gumru, Gobindpur, Tilmi, Lapa, Jariagarh, Urkel and Hutub and Karra Police Stations in Khunti sub-division; and Bano Police Station in Simdega sub-division.
60.	Khunti (ST) - Khunti and Murhu Police Stations and Karra Police Station (excluding GPs Gumru, Gobindpur, Tilmi, Lapa, Jariagarh, Urikel and Hutub) in Khunti sub-division.
61.	Silli - Silli Police Station, GPs Barwadag, Tati, Jonha, Kashidih, Merha, Ambajharia and Kontatoli and Angara Police Station in Ranchi Sadar sub-division; and Sonahatu Police Station in Khunti sub-division.
62.	Khijri (ST) - Ormanjhi, Namkum and Hatia Police Stations and Angara Police Station (excluding GPs Barwadag, Tati, Jonha, Kashidih, Merha, Ambajharia and Kontatoli) in Ranchi Sadar sub-division.
63.	Ranchi - Ranchi municipality in Ranchi Kotwali Police Station in Ranchi Sadar sub-division.
64.	Hatia - Jaganathpur, Ratu and Doranda Police Stations and Ranchi Kotwali Police Station (excluding Ranchi municipality) in Ranchi Sadar sub-division.
65.	Kanke (SC) - Kanke, Ranchi Sadar, Burmu and Khelari Police Stations in Ranchi Sadar sub-division.
66.	Mandar (ST) - Bero, Mandar and Lapung Police Stations in Ranchi Sadar subdivision.
GUMLA DISTRICT	
67.	Sisai (ST) - Sisai, Kamdara and Basia Police Stations in Gumla sub-division.
68.	Gumla (ST) - Gumla Municipality, GPs Hurhuria, Ghatagaon, Asani, Chandali, Telgaon, Pugu, Bangaru, Karaundi, Dumardih and Murkunda in Gumla Police Station and Raidih, Chainpur and Dumri Police Stations in Gumla sub-division.
69.	Bishunpur (ST) - Bishunpur and Ghaghra Police Stations and Gumla Police Station (excluding Gumla municipality and GPs Hurhuria, Ghatagaon, Asani, Chandali, Telgaon, Pugu, Bangaru, Karaundi, Dumardih and Murkunda) in Gumla sub-division; and Senha Police Station in Lohardaga sub-division.
70.	Simdega (ST) - Simdega and Kurdeg Police Stations in Simdega sub-division; and Palkot Police Station in Gumla sub-division.
71.	Kolebira (ST) - Kolebira, Thethatangar and Bolba Police Stations in Simdega sub-division.
LOHARDAGA DISTRICT	
72.	Lohardaga (ST) - Lohardaga, Kuru and Kisko Police Stations in Lohardaga sub-division.

Serial No.	Name and Extent of constituencies
PALAMAU DISTRICT	
73.	Manika (ST) - Latehar Police Station (excluding Latehar (NAC) and GPs Pochra, Luti, Kaima, Kura, Bishunpur, Mungar, Nindir, Laharpur and Zalim), Barwadih, Garoo and Mahuadnr Police Stations in Latehar sub-division.
74.	Latehar (SC) - Latehar (NAC), GPs Pochra, Luti, Kaima, Kura, Bishunpur, Mungar, Nindir, Laharpur and Zalim in Latehar Police Stations Chandwa and Balumath Police Station in Latehar sub-division.
75.	Panki - Panki, Lesliganj and Manatu Police Station in Palamu Sadar sub-division.
76.	Daltonganj - Daltonganj and Chainpur Police Station in Palamu Sadar sub-division; and Bhandaria Police Station in Garhwa sub-division.
77.	Bishrampur - Bishrampur Police Station in Palamu Sadar sub-division; and Majhiaon Police Station in Garhwa sub-division.
78.	Chhatarpur (SC) - Chhatarpur and Patan Police Station in Palamu Sadar sub-division.
79.	Hussainabad - Hussainabad and Hariharganj Police Station in Palamau Sadar sub-division.
GARHWA DISTRICT	
80.	Garhwa - Garhwa Police Station (excluding GPs Jarhi Balekhar, Raro, Sonchara and Dandai) and Ranka Police Station in Garhwa sub-division.
81.	Bhawanathpur - Bhawanathpur and Nagar Untari Police Station and GPs Jarhi, Balekhar, Raro, Sonehara and Dandai in Garhwa Police Station in Garhwa sub-division."

THE THIRD SCHEDULE

(See section 17)

SITTING MEMBERS WHO SHALL CONTINUE TO BE MEMBERS OF THE BIHAR LEGISLATIVE COUNCIL TILL THEIR RESPECTIVE PRESENT TERMS OF OFFICE

- (i) Members representing any of the eleven Constituencies specified in item (i) of the Third Schedule.
- (ii) The following members elected by the members of the Bihar Legislative Assembly, namely:-
1. Shri Sarfaraj Ahmed
 2. Shri Saryu Rai
 3. Shri Mahavir Lal Vishwakarma
 4. Shri Bhutnath Soren
 5. Shri Rajendranath Shahdev
 6. Smt. Vibha Ranjan

7. Shri Badri Narayan Lal
8. Shri Praveen Singh".

THE FOURTH SCHEDULE

(See section 18)

AMENDMENTS TO THE DELIMITATION OF COUNCIL CONSTITUENCIES (BIHAR) ORDER, 1951

- (1)** In the Table, omit the entries relating to,-
- (i) Bhagalpur-cum-North Chhotanagpur (Graduates) Constituency;
 - (ii) South Chhotanagpur (Graduates) Constituency;
 - (iii) Bhagalpur-cum-North Chhotanagpur (Teachers) Constituency;
 - (iv) South Chhotanagpur (Teachers) Constituency;
 - (v) Santhal Parganas (Local Authorities) Constituency; .
 - (vi) Hazaribagh (Local Authorities) Constituency;
 - (vii) Giridih (Local Authorities) Constituency;
 - (viii) Ranchi (Local Authorities) Constituency;
 - (ix) Palamau (Local Authorities) Constituency;
 - (x) Dhanbad (Local Authorities) Constituency;
 - (xi) East Singhbhum-cum-West Singhbhum (Local Authorities) Constituency.
- (2)** In the Table, in column 2,-
- (i) against "Kosi (Graduates) Constituency" in column 1, after the word "Khagaria", insert the words "Bhagalpur Monghyr";
 - (ii) against "Kosi (Teachers) Constituency" in column I, after the word "Khagaria", insert the words "Bhagalpur Monghyr".

THE FIFTH SCHEDULE

(See Section 23)

AMENDMENT OF THE CONSTITUTION (SCHEDULED CASTES) ORDER, 1950

In the Constitution (Scheduled Castes) Order, 1950, in the Schedule—

- (i)** in Part III relating to State of Bihar, in item No.5, the brackets and words "(excluding North Chhotanagpur and South Chhotanagpur divisions and Santhal Parganas district)" shall be omitted;
- (ii)** after Part VI, Himachal Pradesh, the following shall be inserted, namely:-

"Part VIA -Jharkhand

- | | |
|-----------|---------------|
| 1. Bantar | 12. Halalkhor |
|-----------|---------------|

- | | |
|---------------------------|--------------------------|
| 2. Bauri | 13. Hair, Mehtar, Bhangi |
| 3. Bhogta | 14. Kanjar |
| 4. Bhuiya | 15. Kuraiar |
| 5. Chamar, Mochi | 16. Lalbegi |
| 6. Choupal | 17. Musahar |
| 7. Dabajar | 18. Nat |
| 8. Dhobi | 19. Pan, Sawasi |
| 9. Dom, Dhangad | 20. Pasi |
| 10. Dusadh, Dhari, Dharhi | 21. Rajwar |
| 11. Ghasi | 22. Turi. |

THE SIXTH SCHEDULE

(See section 24)

AMENDMENT TO THE CONSTITUTION (SCHEDULED TRIBES) ORDER, 1950

In the Constitution (Scheduled Tribes) Order, 1950,-

(1) in paragraph 2, for the figures "XXI", the figures "XXII" shall be substituted;

(2) in the Schedule,-

(i) in Part III relating to State of Bihar, the item No.6 and the entries relating thereto, shall be omitted, and the item Nos. 7 to 30 shall be renumbered as item Nos. 6 to 29;

(ii) after Part XXI, the following Part shall be inserted, namely:-

"Part XXII -Jharkhand

- | | |
|------------------|--------------------|
| 1. Asur | 16. Kharwar |
| 2. Baiga | 17. Khond |
| 3. Banjara | 18. Kisan |
| 4. Bathudi | 19. Kora |
| 5. Bedia | 20. Korwa |
| 6. Binjhia | 21. Lohra |
| 7. Birhor | 22. Mahli |
| 8. Birjia | 23. Mal Pahariya |
| 9. Chero | 24. Munda |
| 10. Chick Baraik | 25. Oraon |
| 11. Gond | 26. Parhaiya |
| 12. Gorait | 27. Santhal |
| 13. Ho | 28. Sauria Paharia |

14. Karmali

29. Savar

15. Kharia

30. Bhumij."

THE SEVENTH SCHEDULE*[See section 46 (1)]***INVESTMENTS AND CREDITS IN CERTAIN FUNDS**

1. State Provident Funds.	22. Deposits for work done for Public bodies or private individuals.
2. Trusts and Endowments.	23. Deposits of fees received by Government servants for works done for private bodies.
3. Insurance and Pensions Funds.	24. Deposits in connection with Elections.
4. Depreciation Reserve Funds - relating to Government Commercial Departments and Undertakings.	25. Mines Labour Welfare Deposits.
5. Famine Relief Funds.	26. Deposits of Educational Institutions.
6. Investment Account.	27. Unclaimed Deposits in the General Provident Fund.
7. Development Fund for Educational Purposes.	28. Unclaimed Deposits in other Provident Funds.
8. General Reserve Funds of Government Commercial Departments and Undertakings.	29. Deposits on account of cost price of Liquor, Ganja and Bhang.
9. Zamindari Abolition Funds.	30. District Funds.
10. Calamity Relief Fund Investment Account.	31. Municipal Funds.
11. Revenue Deposits.	32. Cantonment Funds.
12. Security Deposits.	33. Funds of Insurance Association.
13. Civil Courts Deposits.	34. State Transport Corporation Fund.
14. Criminal Courts Deposits.	35. State Electricity Boards Working.
15. Personal Deposits.	36. State Housing Funds.
16. Trust Interest Funds.	37. Panchayats Bodies Funds.
17. Public Works Deposits.	38. Education Funds.
18. Forest Deposits.	39. Medical and Charitable Funds.
19. Deposits of Public Funds.	40. Other Funds.
20. Other Departmental Deposits.	41. Subventions from Central Road Fund.
21. Deposits under various Central and State Acts.	42. Miscellaneous Deposits.

THE EIGHTH SCHEDULE*(See section 53)***APPORTIONMENT OF LIABILITY IN RESPECT OF PENSIONS AND OTHER RETIREMENT BENEFITS**

1. Subject to the adjustments mentioned in paragraph 3, each of the successor State shall in respect of pension and other retirement benefits sanctioned before the appointed date, pay from their respective treasuries.
2. Subject to the said adjustment, the liability in respect of pensions and other retirement benefits of officers serving in connection with the affairs of the existing State of Bihar who retire or proceed on leave preparatory to retirement before the appointed day, but whose claims for pensions and other retirement benefits are outstanding immediately before that day, shall be the liability of the State of Bihar.
3. Subject to the said adjustments, sanctions of such pension and other retirement benefits by the competent authority may be given in those cases, in which their office falls in the territory of Jharkhand State.
4. There shall be computed, in respect of the period commencing on the appointed day and ending on the 31st day of March of the financial year and in respect of each subsequent financial year, the total payments made in the successor States in respect of pensions and other retirement benefits referred to in paragraphs 1 and 2. The total representing the liability of the existing State of Bihar in respect of pensions and other retirement benefits shall be apportioned between the successor States in the ratio of number of employees of each successor State and any successor State paying more than its due share shall be reimbursed the excess amount by the successor State or State paying less.
5. The liability of the existing State of Bihar in respect of pensions and other retirement benefits granted before the appointed day and drawn in any area outside the territories of the existing State shall be the liability of the State of Bihar paying subject to adjustments, to be made in accordance with paragraph 3 as if such pensions and other retirement benefits had been drawn in any treasury in the State of Bihar under paragraph 1.
6. The liability in respect of the pensions and other retirement benefits of any officer serving immediately before the appointed day in connection with the affairs of the existing State of Bihar and retiring on or after that day, shall be that of the successor State granting him the pension and other retirement benefits, but the portion of the pension and other retirement benefits attributable to the service of any such officer before the appointed day in connection with the affairs of the existing State of Bihar shall be allocated between the successor States in the population ratio and the Government granting the pension and

other retirement benefits shall be entitled to receive from each of the other successor States its share of this liability.

7. Any reference in this Schedule to a pension and other retirement benefits shall be construed as including a reference to the commuted value of the pension and other retirement benefits.

THE NINTH SCHEDULE

[See section 65(1)]

LIST OF STATE OWNED CORPORATIONS/COMPANIES

1. Bihar State Industries Development Corporation.	30. Bihar State Hill Area and Irrigation Development Limited.
2. Bihar State Leather Development Corporation.	31. Patna Industrial Area Development Authority.
3. Bihar State Electronics Development Corporation.	32. Bokaro Industrial Area Development Authority.
4. Bihar State Sugar Corporation Limited	33. Ranchi Industrial Area Development Authority
5. Bihar State Medicine and Chemical Corporation. Development Corporation.	34. Adityapur Industrial Area Development Authority
6. Bihar State Fruit and Vegetable Development Corporation.	35. North Bihar Industrial Area Development Authority
7. Bihar State Dairy Corporation Limited	36. Darbhanga Industria Area Development Authority
8. Bihar State Agro Industries Corporation	37. Patna Area Development Authority
9. Bihar State Textiles Corporation Limited	38. Ranchi Area Development Authority
10. Bihar State Small Industries Corporation Limited	39. Muzaffarpur Area Development Authority
11. Bihar State Handloom and Handicrafts Corporation	40. Darbhanga Area Development Authority
12. Bihar State Khadi Gramudyog Board	41. Gaya Area Development Authority
13. Bihar State Agriculture Marketing Board.	42. Bihar State Pollution Control Board
14. Bihar State Forest Development Corporation Limited	43. Bihar State Water and Sewage Disposal Board.
15. Bihar State Export Development Corporation Limited	44. Bihar State Financial Corporation

16. Bihar State Seeds Corporation Limited	45. Bihar State Credit and Investment Corporation Limited
17. Bihar State Fish Seeds Development Corporation Limited	46. Bihar State Panchayati Raj Finance Development Corporation Limited
18. Bihar State Warehousing Corporation	47. Bihar State Minorities Finance Corporation Limited
19. Bihar State Tourism Development Corporation Limited	48. Bihar State Film Development and Finance Corporation Limited
20. Bihar State Road Transport Corporation	49. Electricity Corporation Limited
21. Bihar State Food and Civil Supplies Corporation	50. Mines Area Development Authority, Dhanbad
22. Bihar State Text Book Publishing Corporation Limited	51. Hazaribagh Mines Board
23. Bihar State Construction Corporation Limited	52. Bhagalpur Regional Development Authority, Bhagalpur
24. Bihar State Mineral Development Corporation Limited	53. Women's Development Corporation
25. Bihar State Housing Board	54. Backward Classes Development Corporation
26. Bihar State Bridge Construction Corporation Limited	55. Scheduled Castes Development Corporation
27. Bihar State Police Building Construction Corporation Limited	56. Schedule Tribes Development Corporation
28. Bihar State Electricity Board	
29. Bihar State Hydroelectric Power Corporation Limited	

THE TENTH SCHEDULE

(See section 70)

CONTINUANCE OF FACILITIES IN CERTAIN STATE INSTITUTIONS

List of Training Institution/Centres

1. Sri Krishna Institute of Public Administration.
2. Police Training College.
3. Bihar Institute of Rural Development.
4. Village Handicrafts Training Centre.
5. Tribal Village Handicraft Training Centres.
6. Training-cum-Production Centres for Toys, Ceramic Goods, Embroidery and Applique, Hornmade goods and Cutting and Tailoring.

7. Ideal Wood work Workshops/Iron Workshops.
8. Indo Danish Tool Room and Training Centre, Jamshedpur.
9. All Government Industrial Institutes
 - Affiliated with N.C.V.T.
 - Unaffiliated.
10. All Private Industrial Institutes
 - Affiliated with N.C.V.T.
 - Unaffiliated.
11. B.I.T., Sindri.
12. R.I. T., Jamshedpur.
13. Government Polytechnic, Dhanbad.
14. Government Polytechnic, Ranchi.
15. Government Polytechnic, Adityapur.
16. Government Polytechnic, Khutri.
17. Government Polytechnic, Lathehar.
18. Government Women's Polytechnic, Jamshedpur.
19. Government Women's Polytechnic, Ranchi.
20. Government Women's Polytechnic, Bokaro.
21. Mines Institution, Dhanbad.
22. Mines institution, Bagha.
23. Mines Institution, Koderma.
24. Government Polytechnic, Dumka.
25. Government Women's Industrial School, Ranchi.
26. Government Women's Industrial School, Hazaribagh.
27. Government Women's Industrial School, Daltonganj.
28. Sainik School, Tilaiya.
29. Netarhat School.
30. Indira Gandhi Girls School, Hazaribagh.

NOTES ON SECTIONS¹

Section 2, sub-section (h)- According to 1991 census, the population of the existing State of Bihar is 863.74 lakhs, the population of residuary State of Bihar is about 645.30 lakhs and that of Jharkhand is 218.44 lakhs. The population ratio between the States has been indicated as 645.30:218.44 on that basis. Section 3 provides for

¹ Based on Notes on Clauses of the Bihar Reorganisation Bill, 2000, as introduced in Lok Sabha.

the formation of the new State of Jharkhand by transfer thereof 18 districts of the existing State of Bihar.

Section 5 seeks to make consequential amendments in the First Schedule to the Constitution.

Section 6 expressly saves the power of the State Government of successor States to alter thereafter the name, area or boundaries of any district or other territorial division within the State.

Sections 7 and 8 deal with the representation of Bihar and Jharkhand in the Council of States (Rajya Sabha). At present there are 22 members representing the existing State of Bihar in Rajya Sabha. Considering the population of the proposed new State, it is proposed that 6 out of 22 seats may be allocated to Jharkhand. There are, at present only 3 members representing the Jharkhand region. These members along with three more members out of the remaining members (to be decided as prescribed in the First Schedule) will be deemed to have been allocated to Jharkhand.

Sections 9 and 11 deal with the representation of successor States; Bihar and Jharkhand, in the House of the People. There are at present 54 members representing the existing State of Bihar in the House of the People. The number of seats proposed to be allocated to Jharkhand is 14 and the remaining 40 members will continue to represent the State of Bihar. Consequential amendments will be made in the First Schedule to the Representation of the People Act, 1950.

Section 10 seeks to make modifications in the First Schedule to the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 in view of the formation of the new State of Jharkhand and the transfer of certain territories from the existing State of Bihar.

Sections 12 and 16- At present there are 324 elected members in the Legislative Assembly of Bihar and one member is nominated under article 333 of the Constitution. Out of 324 members, 243 members have been allotted to the residuary State of Bihar and 81 members to the successor State of Jharkhand. The nominated member may be deemed to have been nominated to the Legislative Assembly of Jharkhand. The allocation of seats in this case also has been based on the territorial location of the constituencies concerned. Necessary consequential amendments have been made in the Second Schedule to the Representation of the People Act, 1950.

Sections 17 to 20 and the Third and Fourth Schedules deal with the Legislative Council of Bihar. At present there are 96 members in that Council. It is proposed not to have any Legislative Council in the State of Jharkhand and the strength of the Legislative Council of Bihar has been reduced from 96 to 75.

The present term of MLC's representing Jharkhand region has been protected. Suitable safeguards have been provided in the Third and Fourth Schedules also.

Sections 21 and 22 are meant to empower the Election Commission to determine the reservation status of Assembly seats and the adjustments in boundaries

and description of the extent of Assembly and Parliamentary Constituencies in both the successor States.

Sections 23 and 24 and the Fifth and Sixth Schedules- In view of the formation of the new State of Jharkhand, amendments providing for the lists of SCs and STs applicable to Jharkhand are necessary in the Constitution (Scheduled Castes) Order, 1950, and the Constitution (Scheduled Tribes) Order, 1950. Necessary modifications have been set out in the Fifth and Sixth Schedules to the Bill.

Sections 25 to 37 deal with the provisions for separate High Courts for the States of Bihar and Jharkhand, their powers and functions, jurisdiction and the practice and procedure to be followed by them.

Section 38- In order that the administration of the new State of Jharkhand can be carried on until the Legislature of that State has sanctioned expenditure from the Consolidated Fund of that State, and passed the necessary Appropriation Act, provision has been made in this clause for the Governor of Bihar to authorise at any time before the appointed day such expenditure as he thinks necessary for a period of six months from that date. A similar power is conferred on the Governor of Jharkhand after the appointed day;

Section 39 contains the usual provision that the reports of the Comptroller and Auditor -General of India for any period prior to the appointed day should be submitted to the Governors of Bihar and Jharkhand and empowers the President to take such further action as may be appropriate under the circumstances.

Section 40 seeks to empower the President to determine the share of the States of Bihar and Jharkhand in the total amount payable to the existing State of Bihar on the recommendations of the Finance Commission constituted under article 280 of the Constitution, in such manner as he thinks fit.

Sections 41 to 61 relate to apportionment of assets and liabilities of the State of Bihar among the successor States and are guided by the following principles:-

- (i) going by natural, cardinal principles of succession, all the assets and liabilities should be apportioned in the ratio of population. The particular assets and liabilities to be transferred should be identified on considerations of nexus, proximity and expediency consistent with the requirement that the successor States should have fully and mutually exclusive executive/legislative control on all subjects having a direct territorial nexus within their territories, all the physical assets and liabilities, may not be suitable for allocation of financial assets and liabilities which should preferably be allocated by overall valuation and apportionment on the basis of population ratio. Further, the financial assets in the nature of rights to receive moneys (whether by way or arrears of tax or non-tax revenue or by way or recovery of loans) are to be apportioned on considerations of territorial nexus with the persons

from whom the moneys are receivable. Other assets and liabilities may be apportioned primarily on the basis of territorial nexus, failing which on the basis of population.

- (ii) the apportionment of assets and liabilities would be subject to such financial adjustment as may be necessary to secure just, reasonable and equitable apportionment of assets and liabilities amongst the successor States.
- (iii) all liabilities on account of Public Debt and Public Account of the existing State of Bihar outstanding immediately before the appointed day shall be apportioned in the ratio of population of the successor States unless a different mode of apportionment is adopted under specific provisions of this Act. The individual items of liabilities to be allocated to the successor States and the amount- of contribution required to be made by one successor State of another shall be such as may be ordered by the Central Government in consultation with the Comptroller and Auditor -General of India. nll such orders are issued, the liabilities on account of Public Debt and Public Account of the existing State of Bihar shall continue to be the liabilities of the successor State of Bihar. As an exception, the liability on account of loans raised and re-lent by the predecessor Government to such entities as are notified by the Central Government and whose area of operation is confined to either of the successor States would devolve on the respective States.
- (iv) any dispute regarding the amount of financial assets and liabilities shall be settled through mutual agreement, failing which by order by Central Government on the advise of the Comptroller and Auditor - General of India.
- (v) the outstanding Public Debt attributable to loans raised by the issue of Government securities and held by (General) public is sought to be retained in the books of Bihar (Successor) and Jharkhand is expected to contribute its share of servicing and repayment of the debt. The outstanding Public Debt attributable to loans received from Central Government agencies and re-lent to other bodies in the State is sought to be allocated on the basis of ultimate borrowers.
- (vi) Subject to legislation by competent legislature, the successor States would be entitled to receive benefits arising out of the decisions taken by the predecessor State and the successor States would be liable to bear the responsibilities and liabilities arising out of the decisions taken by the predecessor State.
- (vii) The liability of paying Retirement Benefits and Provident Fund balances to employees should be allocated on the basis of permanent allocation of the Government servants.

- (viii) Contractual liabilities other than those of loans, guarantees, bank balances, securities and other financial obligations are sought to be allocated on the basis of the exclusive purpose of the contract or through agreement.
- (ix) The right to recovery of loans and taxes would vest in the State according to the principal place of business / occupation of the loanee or assessee. The liabilities to refund any tax or duty on property including land revenue as also the right to collect arrears of tax or duty on property including land revenue would be allocated on the basis of the location of the taxed property.
- (x) Items lying in suspense which are ultimately found to affect assets or liabilities may be dealt with according to the allocation of that asset/liability.
- (xi) The liability on account of loans raised from any source and re-lent by the existing State of Bihar to such entities as are notified by the Central Government and whose area of operation is confined to either of the successor States shall devolve on the respective States.
- (xii) The balances in the Reserve Funds in the Public Account of Bihar created wholly out of appropriations from the Consolidated Fund of Bihar, to the extent the balances have not been invested outside Government account should not be carried forward to similar Reserve Funds in the Public Account of Bihar and Jharkhand.. The securities held in respect of investments made from Cash Balance Investment Account or from any fund in the Public Account of Bihar shall be apportioned in the ratio of population of the successor States.

Section 62 enables the Bihar State Electricity Board, Bihar State Road Transport Corporation and the Bihar State Warehousing Corporation to continue to function in the same manner as at present, even after the formation of the State of Jharkhand, i.e., on or after the appointed day. As and when the State of Jharkhand and the residuary State of Bihar set up their own Electricity Board, Road Transport Corporation, and Warehousing Corporation, etc., the existing entities will be dissolved and their assets and liabilities shall be transferred to the corresponding new entities in a manner specified in the Act.

Section 63 empowers the Central Government to give direction to the State Government or other Authority concerned to ensure continuance of arrangements of supply of electric power and supply of water.

Section 64 contemplates that the existing Bihar State Financial Corporation will continue to function in the same areas as at present, even after the appointed days until a scheme is framed in this behalf for the reconstitution, reorganisation or dissolution of the corporation, including proposals regarding the formation of new corporations and transfer thereto of all the assets, right and liabilities of the

existing corporation. Such a scheme has to be approved at a general meeting of all the shareholders and sanctioned by the Central Government. In case of disagreement, the Central Government may refer the scheme to a Judge of the High Court of Bihar or Jharkhand whose decision thereon shall be final.

Section 65 provides for continuance of functioning on and from the appointed day of the Companies specified in the Ninth Schedule, in the areas in which they were functioning before the appointed day and until otherwise provided for in any law, or in any agreement among successor States or in any direction of the Central Government including those for division of interests and shares in the Companies between successor States, or reconstitution of the Board of Directors so as to ensure adequate representation to the successor States. Therefore, there would be no need to go to the High Court for reconstitution of companies as otherwise required under the Companies Act, 1956.

Section 66 specifies that in case any body corporate become an inter-State Corporate body, the same shall continue to function and operate subject to directions as may be issued by the Central Government, until any other provision is made by law in respect of the said body corporate.

Section 67, inter alia, protects the rights of existing road transport permit holders. Any permit holder or undivided Bihar would not be required to again get it countersigned by the State Transport Authority or the successor States for use within the validity period. However, Central Government can give directions in this regard, if necessary.

Section 68 contemplates that in case terms and conditions of service of an existing workman do not change to his disadvantage in the event of his absorption in any State organisation consequent to reorganisation, he would not be entitled to any compensation under the Industrial Disputes Act, 1947.

Section 69 Under Section 24 of the Indian Income Tax Act, 1924, an assessee who sustains a loss of profits or gains is entitled to have the amount of loss set off against his income under certain circumstances. It is proposed to extend the benefit of this section to a body corporate to which the assets, rights and liabilities of any existing body corporate, including any loss sustained by it, are transferred under the provisions of Part VII.

Section 70 provides that facilities in certain State Institutions as listed in the Tenth Schedule will continue to be available to both the successor States for such period as may be agreed upon between the two State Governments.

Sections 71 to 77 concern provisions relating to Services, Section 71 provides for creation of two separate cadres for the State of Bihar and the new State of Jharkhand for the All India Services, in place of the existing cadre of Bihar in respect of these three services. It also confers power on the Central Government to determine the strength and composition of the new cadres and allocate individual officers thereto

in consultation with the State Governments concerned. Sections 72 to 74 provide for allocation of officers, etc., serving under the Government of Bihar between the States of Bihar and Jharkhand. Section 77 provides that the Public Service Commission of existing State of Bihar would serve the successor State of Bihar after the appointed day. The new State of Jharkhand can constitute its own Public Service Commission under the provisions of Article 315 of the Constitution of India.

Section 78 envisages that all rights and liabilities relating to water resources projects be the rights and liabilities of the successor States by agreement entered into by such States after consultation with the Central Government and if no agreement is reached within two years of the creation of the two States then the Central Government may determine within one year, having regard to the purpose of the projects. The rights and liabilities will include the right to receive and utilise the water available for distribution and to utilise the power generated as a result of such projects.

Section 79 provides for the construction of the Ganga and Sone Management Board for administration, construction, maintenance and operation of water resources projects relating to river systems mentioned in section 78, for irrigation, power, water supply, etc., this section also provides that the Chairman shall be appointed by the Central Government besides giving the composition and functions of the Board.

Section 80 provides for the manner of staffing, protection of terms and conditions of employment of staff after reorganisation of the State of Bihar, share of the States in management cost, delegation of powers and power of Central Government to give directions to the Board for efficient functioning.

Section 81 defines the jurisdiction of the Board and further provides that any question on jurisdiction shall be referred to the Central Government for decision thereon.

Section 82 provides for regulation making powers to the Board consistent with the Act and rules made thereunder.

Sections 83 to 92 are of miscellaneous and legal nature and they generally follow the corresponding provisions of the States Reorganisation Act, 1956.

ANNEXURE¹

EXTRACTS FROM THE CONSTITUTION OF INDIA

FIRST SCHEDULE

(Articles 1 and 4)

1. THE STATES

Name	Territories
*	*
3. Bihar	The territories which immediately before the commencement of this Constitution were either comprised in the Province of Bihar or were being administered as if they formed part of that Province and the territories specified in clause (a) of sub-section (1) of section .3 of Bihar and Uttar Pradesh (Alteration of Boundaries) Act, 1968, but excluding the territories specified in sub-section (1) of section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956, and the territories specified in clause (b) of subsection (1) section 3 of the first-mentioned Act

FOURTH SCHEDULE

[Articles 4(1) and 80(2)]

ALLOCATION OF SEATS IN THE COUNCIL OF STATES

To each State or Union territory specified in the first column of the following Table, there shall be allotted the number of seats-specified in the second column thereof opposite to that State or that Union territory, as the case may be.

TABLE

*	*	*	*	*
3. Bihar				22
*	*	*	*	*

EXTRACTS FROM THE REPRESENTATION OF THE PEOPLE

ACT, 1950

(43 of 1950)

* * * * *

¹ Based on the Bihar Reorganisation Bill, 2000, as introduced in Lok Sabha.

Jharkhand State Bar Council
THE FIRST SCHEDULE
(See section 3)

ALLOCATION OF SEATS IN THE HOUSE OF THE PEOPLE

Name of the State/ Union territory	Number of seats in the House as constituted on 1-1-1973			Number of seats in the House as subsequently constituted		
	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes
1	2	3	4	5	6	7
I. STATES :	*					
4. Bihar	53	7	5	54	8	5
	*					

THE SECOND SCHEDULE
(See section 7 and 7 A)

TOTAL NUMBER OF SEATS IN THE LEGISLATIVE ASSEMBLIES

Name of the State/ Union territory	Number of seats in the Legislative Assembly as constituted on 1-1-1973			Number of seats in the Legislative Assembly as subsequently constituted		
	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes
	2	3	4	5	6	7
I. STATES :	*					
4. Bihar	318	45	29	324	48	28
	*				*	

THE THIRD SCHEDULE*(See section 10)***ALLOCATION OF SEATS IN THE LEGISLATIVE COUNCIL**

Number to be elected or nominated under article 171(3)

Name of State	Total number of seats	Sub-Clause (a)	Sub-clause (b)	Sub-clause (c)	Sub-clause (d)	Sub-clause (e)
1	2	3	4	5	6	7
				*		
2. Bihar	96	34	8	8	34	12
				*		

EXTRACT FROM THE DELIMITATION OF PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES ORDER, 1976*SCHEDULE I***NUMBER OF SEATS IN LOK SABHA**

Sl. No.	Name of the State/ Union territory	As on 1.1.1974			Subsequently constituted		
		Total	SC	ST	Total	SC	ST
1	2	3	4	5	6	7	8
	States						
	*	*					
3.	Bihar	53	7	5	54	8	5
	*	*					

*SCHEDULE II***NUMBER OF SEATS IN STATE LEGISLATIVE ASSEMBLIES**

Sl. No.	Name of the State/ Union territory	As on 1.1.1974			Subsequently constituted		
		Total	SC	ST	Total	SC	ST
1	2	3	4	5	6	7	8
	States						
	*	*					
3.	Bihar	318	45	29	324	46	28
	*	*					

*SCHEDULE V***BIHAR****PART A -PARLIAMENTARY CONSTITUENCIES**

Serial No.	Name and extent in terms of assembly constituencies
1	2
26.	Rajmahal (ST) - 147-Rajmahal, 148-Borio (SR), 149-Barhait (ST), 150-Litipara (ST), 151-Pakur, 152-Maheshpur (ST).
27.	Dumka (ST) - 152-Sikaripara (ST), 154-Nala, 155-Jamtara, 156-Sarath, 160-Dumka (ST) and 161-Jama (ST).
28.	Godda - 157-Madhupur, 159-Jarmundi, 162-Poreyahat, 163-Godda, 173-Dhuraiya (SC) & 177-Chakai.
29.	Banka - 158-Deoghar(SC), 172-Amarpur, 174-Banka, 175-Belhar, 176-Katoria and 178-Jhajha.
30.	Bhagalpur - 164-Mahagama, 165-Pirpainti, 166-Colgong, 167-Nathanagar, 168-Bhagalpur and 171-Sultanganj. * * * * *
32.	Monghyr - 179- Tarapur, 180-Kharagpur, 185-Monghyr, 186-Jamalpur, 187-Surajgarha and 188-Jamui. * * * * *
40.	Aurangabad - 236-Nabinagar, 237-Deo (SC), 238-Aurangabad, 239-Rafiganj, 240-Obra and 241-Goh. * * * * *
42.	Nawada (SC) - 256-Atri, 257-Nawada, 258-Rajauli (SC), 259-Gobindpur, 260-Warsaliganj and 261-Hisua.
43.	Gaya (SC) - 247-Belaganj, 248-Konch, 249-Gaya Mufassil, 250-Gaya Town, 252-Gurua and 253-Bodh Gaya (SC).
44.	Chatra - 251-Imamganj (SC), 254-Barachatti (SC), 255-Fatehpur (SC), 264-Chatra, 316-Latehar (SC) and 318-Panki.
45.	Kodarma - 262-Kodarma, 270-Barkatha, 271-Dhanwar, 272-Bagodar, 273-Jamua (SC) and 274-Gandey.
46.	Giridih - 275-Giridih, 276-Dumri, 277-Gomia, 278-Bermo, 280-Tundi, and 281-Baghmara.
47.	Dhanbad - 279-Bokaro, 282-Sindri, 283-Nirsa, 284-Dhanbad, 285-Jharia and 286-Chandankiyari (SC).
48.	Hazaribagh - 263-Barhi, 26S-5imaria (SC), 266-Barkagaon, 267-Ramgarh, 268-Mandu and 269-Hazaribagh.

Serial No.	Name and extent in terms of assembly constituencies
1	2
49.	Ranchi - 293-Ichagarh, 304-5illi, 30S-Khijri (ST), 306-Ranchi, 307-Hatia and 308-Kanke (SC).
50.	Jamshedpur - 287-Baharagora, 288-Ghatsila (ST), 289-Potka (ST), 290-Jugsalai (SC), 291-Jamshedpur East and 292-Jamshedpur West.
51.	Singhbhum (ST) - 294-5eraikella (ST), 29S-Chaibasa (ST), 296-Majhgaon (ST), 297-Jaganathpur (ST), 298-Manoharpur (ST) and 299-Chakradharpur (ST).
52.	Khunti (ST) - 300-Kharsawan (ST), 301-Tamar (ST), 302-Torpa (ST), 303-Khunti. (ST), 311-Kolebira (ST) and 312-5imdega (ST).
53.	Lohardaga (ST)- 309-Mandar (ST), 310-Sisai (ST), 313-Gumla (ST), 314-Bishunpur (ST), 315-Lohardaga (ST) and 317-Manika (ST).
54.	Palamau (SC) - 319-Daltonganj, 320-Garhwa, 321-Bhawanathpur, 322-Bishrampur, 323-Chhatarpur (SC) and 324-Hussainabad.
	* * * * *

PART B — ASSEMBLY CONSTITUENCIES

Serial No.	Name and extent of constituencies
SANTHAL PARGANAS DISTRICT	
147.	Rajmahal - Rajmahal and 5ahibganj Police Stations in Rajmahal sub-division.
148.	Borio (ST) - Borio and Taljhari Police Stations in Rajmahal sub-division, and Boarijor Police Station (excluding G.Ps. Rajabhita, Kero, Kairaso, Bara Telo and Barapipra) in Godda sub-division.
149.	Barhait (ST) - Barhait and Ranga Police Stations in Rajmahal sub-division, and Sundarpahari Police Station and G.Ps. Rajabhita, Kero, Kairasol, Bara Telo and Barapipra in Boarijar Police Station in Godda sub-division.
150.	Litipara (ST) - Litipara, Amrapara and Hiranpur Police Stations in Pakaur subdivision, and Gopikandar Police Station in Dumka Sadar sub-division.
151.	Pakaur - Pakaur Police Station in Pakaur sub-division, and Barharwa Police Station in Rajmahal sub-division.
152.	Maheshpur (ST) - Maheshpur and Pakuria Police Stations in Pakaur sub-division.
153.	Sikaripara (ST) - Sikaripara, Raneshwar and Kathikund Police Stations in Dumka Sadar sub-division.
154.	Nala - Nala and Kundahit Police Stations in Jamtara sub-division.
155.	Jamtara - Jamtara Police Station (excluding G.Ps. Karmatanr, Sahajpur, Pindari, Lakhanpur, Rataniya, Rampurbhitra and Kajra) and Narayanpur Police Station in Jamtara sub-division.

156.	Sarath- Sarath and Palojori police stations in Deoghar sub-division, and G.Ps. Karmatanr, Sahajpur, Pindari, Lakhanpur, Rataniya, Rampurbhitra and Kajra in Jamtara police station in Jamtara sub-division.
157.	Madhupur- Madhupur and Karon police stations and G.Ps. Kusmil, Chanddhih, Pathra and Basbariya in Jasidih police station in Deoghar sub-division.
158.	Deoghar (SC)- Deoghar town and Mohanpur police stations and Jasidih police station (excluding G.Ps. Kusmil, Chanddih, Pathra and Basbariya) in Deoghar sub-division.
159.	Jarmundi- Jarmundi police station in Dumka Sadar sub-division, and Sarawan police station in Deogharin sub-division.
160.	Dumka (ST)- Dumka Town, Dumka Muffassil and Masalia Police Stations in Dumka Sadar sub-division.
161.	Jama (ST)- Jama and Ramgarh Police Stations in Dumka Sadar sub-division.
162.	Poreyahat- Poreyahat Police Station and G.Ps. Burhikura, Dammajhilua, Sandmara, Nonbatta, Makhni, Pathra and Punsiya in Godda Police Station in Godda sub-division, and Saraiyahat Police Station in Dumka Sadar sub-division.
163.	Godda- Godda Police Station (excluding G.Ps. Burhikura, Dammajhilua, Sandmara, Nonatta, Makhni, Pathra and Punsiya) and Pathargama Police Station in Godda sub-division.
164.	Mahagama- Mahagama and Meherma Police Stations in Godda sub-division.
HAZARIBAGH DISTRICT	
262.	Kodarma- Kodarma and Sargawan Police Stations in Kodarma sub-division.
263.	Barhi- Barhi Police Station in Hazaribagh Sadar sub-division; and Chauparan Police Station in Kodarma sub-division.
264.	Chatra (SC)- Chatra, Pratappur and Hunterganj Police Stations in Chatra sub-division.
265.	Simaria (SC)- Simaria, Itkhori and Tandwa Police Stations in Chatra sub-division.
266.	Barkagaon- Barakgaon Police Station and G.Ps. Terpa, Patratu, Koto, Palani, Haphua, Hariharpu Gegda, Deoria, Bargama, Pali, Salgo, Sanki, Jabo, Chaingara, Chikor, Lapanga, Ghutua, Barkakana and Sidhwar-Kalan in Ramgarh Police Station in Hazaribagh Sadar sub-division.
267.	Ramgarh- Ramgarh Police Station (excluding G.Ps. Terpa, Patratu, Koto, Palani, Haphua, Hariharpur, Gegda, Deoria, Bargama, Pali, Salgo, Sanki, Jabo, Chaingara, Chikor, Lapanga, Ghutua, Barkakana and Sidhwar-Kalan) and Gola Police Station in Hazaribagh Sadar sub-division.
268.	Mandu- Mandu and Bishungarh Police Stations in Hazaribagh Sadar sub-division.
269.	Hazaribagh- Hazaribagh Police Station in Hazaribagh Sadar sub-division.
270.	Barkatha- Barkatha and Jainagar police stations in Kodarma sub-division; and Ichak police station in Hazaribagh Sadar sub-division.
GIRDIH DISTRICT	
271.	Dhanwar- Dhanwar and Gawan Police Stations in Giridih Sadar sub-division.

272.	Bagodar- Bagodar and Birni Police Stations in Giridih Sadar sub-division.
273.	Jamua (SC)- Jamua and Deori Police Stations in Giridih Sadar sub-division.
274.	Gandey- Gandey and Bengabad Police Stations and G.Ps. Leda, Semaria, Badgunda, ralmo, Sathibad, Senadoni, Dhanaidih, Guro, Jitpur, Telodih, Ranidih and Karharbari in Giridih Mufassil Police Station in Giridih Sadar sub-division.
275.	Giridih- Giridih Town Police Station and Giridih Mufassil Police Station (excluding G.Ps. Leda, Semaria, Badgunda, Palmo, Sathibad Senadoni, Dhanaidih, Guro, jitpur, Telodih, Ranidih and Karharbari) and Pirtanr Police Station in Giridih Sadar sub-division.
276.	Dumri- Dumri Police Station in Giridih Sadar sub-division; and Nawadih Police Station in Bermo sub-division.
277.	Gomia- Gomia Police Station and Petarbar Police Station (excluding G.Ps. Champi, Rohar, Chando, Pichhri, Angwali and Chalkari) in Berroo sub-division.
278.	Bermo- Jaridih and Bermo Police Stations and G.Ps. Champi, Rohar, Chando, Pichhri, Angwali and Chalkari in Petarbar Police Station in Bermo sub-division.
DHANBAD DISTRICT	
279.	Bokaro- Chas Police Station (excluding G.Ps. Bijulia, Alkusa, Buribinor, Khamarbendi, Dudhigajar, Kura Dabartupara, Jaitara, Pundru and Sardaha) in Baghmara sub-division.
280.	Tundi- Tundi Police Station in Dhanbad Sadar sub-division; Topchanchi Police Station and G.Ps. Dharkiro, Daludih, Rajganj, Bagdaha, Dhawachita, Nagri Kalan and Ramkanalichandur in Katras Police Station in Baghmara sub-division.
281.	Baghmara- Baghmara Police Station and Katras Police Station (excluding G.Ps. Dharkiro, Daludih, Rajganj, Bagdaha, Dhawachita, Nagri Kalan and Ramkanalichandur) in Baghmara sub-division; and Jogta Police Station in Dhanbad Sadar sub-division.
282.	Sindri- Sindri, Baliapur and Gobindpur Police Stations in Dhanbad Sadar sub-division.
283.	Nirsa- Nirsa and Chikunda Police Stations in Dhanbad Sadar sub-division.
284.	Dhanbad- Dhanbad, Putki and Kenduadih Police Stations in Dhanbad Sadar sub-division.
285.	Jharia- Jharia and Jorapokhar Police Stations in Dhanbad Sadar sub-division.
286.	Chandankiyari (SC)- Chandankiyari Police Station and G.Ps. Bijulia, Alkusa, Buribinor, Khamarbendi, Dhudhigajar, Kura, Dabartupara, Jaitara, Pudru and Sardaha in Chas Police Station in Baghmara sub-division.
SINGHBHUM DISTRICT	
287.	Baharagora- Baharagora and Chakulia police stations in Dhalbhum sub-division.
288.	Ghatsila (ST)- Ghatsila Police Station and Musabani Police Station (excluding G.Ps. Palasbani, Asta Koyali, Nunia, Kumarasol, Barakanjiya, Bomaro Bangoriya and Damudih) in Dhalbhum sub-division.

289.	Potka (ST) - Potka Police Station, G.Ps. Palasbani, Asta Koyali, Nunia, Kumarasol, Barakanjiya, Bomaro Bangoriya and Damudih in Musabnai Police Station, Bagbera town and G.Ps. Karandih -Purihasa, Hargarghutu, Bagbera and village 1167 -Kitadih in Jugsalai Police Station in Dhalbhum sub-division.
290.	Jussalai (SC) - Jugsalai Police Station (excluding Bagbera Town and G.Ps. Karandih -Purihasa, Hargarghutu, Bagbera and village (1167 -Kitadih), Golmuri and Patamda Police Station in Dhalbhum sub-division.
291.	Jamshedpur East - Census wards 20 and 23 to 40 in Jamshedpur Notified Area Committee in Dhalbhum sub-division.
292.	Jamshedpur West - Jamshedpur Notified Area Committee (excluding census wards 20 and 23 to 40) in Dhalbhum sub-division.
293.	Ichagarh - Ichagarh, Chandil and Nimdih Police Stations in Seraikella sub-division.
294.	Seraikella (ST) - Seraikella municipality and G.Ps. Govindpur, Pandra, Manik Bazar, Tangrani, Pathanmara, Joridhi, Gurgudia and Badakakda in Seraikella Police Station, Rajnagar Police Station (excluding village 98-Dighi) and Adityapur Police Station in Seraikella sub-division.
295.	Chaibasa (ST) - Chaibasa Sadar and Jhinkpani Police Stations and Chaibasa Mufassil Police Station (excluding G.Ps. Bhoya, Keadchalam, Domra-Parnia, Lota, Thakuragutu, Dopai-Gamhariya, Sar ~ a, Matkamhatu, Khuntpani, Chiru and Rajabasa) in Chaibasa Sadar sub-division.
296.	Majhgaon (ST) - Majhgaon and Manjhari Police Stations in Chaibasa Sadar sub-division.
297.	Jaganathpur (ST) - Naomundi and Gua Police Stations and G.Ps. Kurtabera, Urkiya, Makaramda, Thalkobad, (Part I) and Chhotanagra (Part I) in Manoharpur Police Station in Chaibasa Sadar sub-division.
298.	Manoharpur (ST) - Manoharpur Police Station [excluding G.Ps. Kurtabera, Urkiya, Makaramda, Thalkobad (Part I) and Chhotanagra (Part I)] and G.Ps. Beralumin, Jojoda, Serengda, Orenga, Jhilrui, Goilkeri, Kuira, Kadamdiha, Dalaikela, Sonua-Jorapokhar, Porahat, Sogoisai, Gudri Jarakel, Asantaliya, Dalki-Gobindpur, Bhalurangi, Harimara, Tunian Gajpur, Bandu, Poronger, Koloeda, Kulda, Bari, Lonjo Bera Kayam, Mamail, Piring, Komrora, Komrora-Dariyo, Duralante and Banskata and Chakradharpur Police Station in Chaibasa Sadar sub-division.
299.	Chakradharpur (ST) - Chakradharpur Police Station (excluding G.Ps. Beralumin, Jojoda, Serengda, Orenga, Jhilrui, Goilkeri, Kuira, Kadamdiha, Dalaikela, Sonua- Jorapokhar, Porahat, Sogoisai, Gudri Jarakel, Asantaliya, Dalki-Gobindpur, Bhalurangi, Harimara, Tunian Gajpur, Bandu, Poronger, Koloeda, Kulda, Bari, Lonjo, Bera Kayam, Mamail, Piring, Komrora, Komrora-Dariyo, Dura-Jante and Banskata) in Chaibasa Sadar sub-division.

300.	Kharsawan (ST) - Kharsawan and Kuchai Police Stations and Seraikella Police Station (excluding Seraikella municipality and G.Ps. Govindpur, Para, Manik Bazar, Tangrani, Pathanmara, Joridha Gurugudia and Badakakda) and village 98-Dighi in Rajnagar Police Station in Seraikella sub-division; and G.Ps. Bhoya Keadchalam, Domra-Parnia, Lota, Thakurgutu, Dopai-Gamhariya, Sarda, Matkamhatu-Khuntpani, Chiru and Rajabasa in Chaibasa Mufassil Police Station in Chaibasa Sadar sub-division.
RANCHI DISTRICT	
301.	Tamar (ST) - Tamar, Erki and Bundu Police Stations in Khunti sub-divisions.
302.	Torpa (ST) - Torpa and Rania Police Stations and G.Ps. Gumru, Gobindpur, Tilmi, Lapa, Jariagarh, Urikel and Hutub in Karra Police Station in Khunti sub-division; and Bano Police Station in Simdega sub-division.
303.	Khunti (ST) - Khunti and Murhu Police Stations and Karra Police Station (excluding G.Ps. Gumru, Gobindpur, Tilmi, Lapa, Jariagarh, Urikel and Hutub) in Khunti sub-division.
304.	Silli - Silli Police Station, G.Ps. Barwadag, Tati, Jonha, Kashidih, Merha, Ambajharia and Kontatoli in Angara Police Station in Ranchi Sadar sub-division; and Sonahatu Police Station in Khunti sub-division.
305.	Khijri (ST) - Ormanjhi, Namkum and Hatia Police Stations and Angara Police Station (excluding G.Ps. Barwadag, Tati, Jonha, Kashidih, Merha, Ambajharia and Kontatoli) in Ranchi Sadar sub-division.
306.	Ranchi - Ranchi municipality in Ranchi Kotwali Police Station in Ranchi Sadar sub-division.
307.	Hatia - Jaganathpur, Ratu and Doranda Police Stations and Ranchi Kotwali Police Station (excluding Ranchi municipality) in Ranchi Sadar sub-division.
308.	Kanke (SC) - Kanke, Ranchi Sadar, Burmu and Khelari Police Stations in Ranchi Sadar sub-division. .
309.	Mandar (ST) - Bero, Mandar and Lapung Police Stations in Ranchi Sadar sub-division.
310.	Sisai (ST) - Sisai, Kamdara and Basia police stations in Gumla sub-division.
311.	Kolebira (ST) - Kolebira, Thethaitangar and Bolba police stations in Simdega sub-division.
312.	Simdega (ST) - Simdega and Kurdeg police stations in Simdega sub-division; and Palkot police station in Gumla sub-division.
313.	Gumla (ST) - Gumla municipality, G.Ps. Hurhuria, Ghatagaon, Asani, Chandali, Telgaon, Pugu, Bangaru, Karaundi, Dumardih and Murkunda in Gumla police station and Raidih, Chainpur and Dumri police stations in Gumla sub-division.
314.	Bishunpur (ST) - Bishunpur and Ghaghra police stations and Gumla police station (excluding Gumla municipality and G.Ps. Hurhuria, Ghatagaon, Asani, Chandali, Telgaon, Pugu, Bangaru, Karaundi, Dumardih and Murkunda) in Gumla sub-division; and Senha police station in Lohardaga sub-division.
315.	Lohardaga (ST) - Lohardaga, Kuru and Kisko police stations in Lohardaga sub-division.

PALAMAU DISTRICT	
316.	Latehar (SC) - Latehar (N.A.C.), G.Ps. Pochra, Luti, Kaima, Kura, Bishunpur, Mungar, Nindir, Laharpur and Zalim in Latehar Police Station, Chandwa and Balurath Police Stations in Latehar sub-division.
317.	Manika (ST) - Latehar Police Station [excluding Latehar (N.A.C.) and G.Ps. Pochra, Luti, Kaima, Kura, Bishunpur, Mungar, Nindir, Laharpur and Zalim, Barwadiah, Garoo and Mahuadarn Police Stations in Latehar sub-division.
318.	Panki - Panki, Lesliganj and Manatu police stations in Palamau Sadar sub-division.
319.	Daltonganj - Daltonganj and Chainpur police stations in Palamau Sadar subdivision, and Bhandaria police station in Garhwa sub-division.
320.	Garhwa - Garhwa police station (excluding G.Ps. Jarhi Balekehar, Raro, Sonehara and Dandai) and Ranka police station in Garhwa sub-division.
321.	Bhawanathpur - Bhawanathpur and Nagar Untari police stations in G.Ps., Jarhi, Balekhar, Raro, Sonehara and Dandai in Garhwa police station in Garhwa subdivision.
322.	Bishrampur - Bishrampur police station in Palamau Sadar sub-division, and Majhiaon police station in Garhwa sub-division.
323.	Chhatarpur (SC) - Chhatarpur and Patan police stations in Palamau Sadar subdivision.
324.	Hussainabad - Hussainabad and Hariharganj police stations in Palamau Sadar sub-division.
*	* * * * *

EXTRACT FROM THE CONSTITUTION (SCHEDULED TRIBES) ORDER, 1950

(C.O.22)

* * * * *

In exercise of the powers conferred by clause (1) article 342 of the Constitution of India, the President, after consultation with the Governors and Rajpramukhs of the States concerned, is pleased to make the following Order, namely:-

1. This Order may be called the Constitution (Scheduled Tribes) Order, 1950
2. The Tribes or tribal communities, or parts of, or groups within, tribes or tribal communities, specified in Parts I to XIX of the Schedule to this Order shall, in relation to the States to which those parts respectively relate, be deemed to be Scheduled Tribes so far as regards members thereof residents in the localities specified in relation to them respectively in those Parts of that Schedule.

* * * * *

PART II
STATUTORY ORDERS
EXTRACTS FROM THE DELIMITATION OF COUNCIL CONSTITUENCIES
(BIHAR) ORDER, 1951

In pursuance of section 11 of the Representation of the People Act, 1950 (43 of 1950), the President is pleased to make the following Order, namely:-

1. This Order may be called the Delimitation of Council Constituencies (Bihar) Order, 1951.
2. The constituencies into which the State of Bihar shall be divided for the purpose of elections to the Legislative Council of the State from (a) the graduates' constituencies, (b) the teachers' constituencies, and (c) the local authorities' constituencies in the said State, the extent of each such constituency and the number of seats allotted to each such constituency shall be as shown in the following Table:-

TABLE

1	2
*	*
*	*
*	*
*	*
6. Saharsa, Medhepura, Purnea, Arariya, Kishanganj, Katihar and Khagaria districts	
7. Bhagalpur-cum-North Chota Nagpur	Bhagalpur, Godda, Sahebganj, Deoghar, Dumka, Monghyr, Giridih, Dhanbad and Hazaribagh districts
8. South Chota Nagpur	Palamua, Ranchi, Lohardaga, Gumla, East Singhbhum and West Singhbhum districts
*	*
*	*
*	*
*	*
<i>Teachers' Constituencies</i>	
*	*
*	*
*	*
*	*
6. Kosi	Saharsa, Madhepura, Purnea, Arariya, Kishanganj, Katihar and Khagaria districts
7. Bhagalpur-cum-North Chota Nagpur	Bhagalpur, Godda, Sahebganj, Deoghar, Dumka, Monghyr, Giridih, Dhanbad and Hazaribagh districts
8. South Chota Nagpur	Palamua, Ranchi, Lohardaga, Gumla, East Singhbhum and West Singhbhum districts
*	*
*	*
*	*
*	*
<i>Local Authorities Constituencies</i>	
25. Santhal Parganas	Godda, Sahebganj, Deoghar and Dumka districts
26. Hazaribagh	Hazaribagh district

27.	Giridih	Giridih district
28.	Ranchi	Ranchi, Lohardaga and Gurnla districts
29.	Palamau	Palamau district
30.	Dhanbad	Dhanbad district
31.	East Singhbhum-cum-West Singhbhum	East Singhbhum and West Singhbhum districts
	* * * * *	

**EXTRACT FROM THE ADVOCATES ACT, 1961
(25 OF 1961)**

CHAPTER II

BAR COUNCILS

- 3. State Bar Councils:—**(1) There shall be a Bar Council
- (a) for each of the States of Andhra Pradesh, Bihar, Gujarat, Jammu and Kashmir, Madhya Pradesh, Karnataka, Orissa, Rajasthan and Uttar Pradesh, to be known as the Bar Council of that State;
- * * * * *

**EXTRACT FROM THE STATE REORGANISATION ACT, 1956
(37 OF 1956)**

- 15. Establishment of Zonal Councils:—** As from the appointed day, there shall be a Zonal Council each of the following five zones, namely:-
- (c) the Eastern Zone, comprising the States of Bihar, West Bengal, Orissa and Sikkim;



APPENDIX

THE ADVOCATES ACT, 1961

(25 OF 1961)

[19th May, 1961]

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

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

Statement of Objects and Reasons:—The Bill seeks to implement the recommendations of the All-India Bar Committee made in 1953, after taking into account the recommendations of the Law Commission on the subject of Reform of Judicial Administration insofar as the recommendations relate to the Bar and to legal education.

The main features of the Bill are,—

- (1) the establishment of an All-India Bar Council and a common roll of advocates, and advocate on the common roll having a right to practise in any part of the country and in any Court, including the Supreme Court;
- (2) the integration of the bar into a single class of legal practitioners known as advocates;
- (3) the prescription of a uniform qualification for the admission of persons to be advocates;
- (4) the division of advocates into senior advocates and other advocates based on merit;
- (5) the creation of autonomous Bar Councils, one for the whole of India and one for each State.

Following the recommendations of the All-India Bar Committee and the Law Commission, the Bill recognises the continued existence of the system known as the dual system now prevailing in the High Courts of Calcutta and Bombay, by making suitable provisions in that behalf. It would, however, be open to the two High Courts, if they so desire, to discontinue this system at any time.

The Bill, being a comprehensive measure, repeals the Indian Bar Councils Act, 1926, and all other laws on the subject.

The Notes on clauses explain, wherever necessary, the various provisions of the Bill.

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement:**—(1) This Act may be called THE ADVOCATES ACT, 1961.

¹[(2) It extends to² the whole of India.]

(3) It ³[shall, in relation to the territories other than those referred to in sub-section (4), come into force] on such date⁴ as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

⁵[(4) This Act shall, in relation to the State of Jammu and Kashmir⁶ and the Union territory of Goa, Daman and Diu, come into force on such date⁶ as the Central Government may, by notification in the Official Gazette, appoint in this behalf, and different dates may be appointed for different provisions of this Act.]

2. **Definitions:**—⁷[(1)] In this Act, unless the context otherwise requires-

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

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

⁸[***]

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

1 Substituted by Act 60 of 1973, S. 2, for sub-S. (2) (w.e.f. 31-1-1974).

2 The Act has been extended to the Union territory of Dadra and Nagar Haveli by Regn. 8 of 1963 and Union territory of Pondicherry by Act 26 of 1968, S. 3 and Sch.

3 Substituted by Act 60 of 1973, S. 2, for "shall come into force" (w.e.f. 31-1-1974).

4 The following are the Notifications by which different dates have been appointed for different provisions of this Act:—

Notification	Date	Provisions
S.O. 1870, dated 7th August, 1961	16-8-1961	Chapters I, II and VII.
S.O. 2790, dated 24th November, 1961	1-12-1961	Chapter III and sub-section (2) of section 50.
S.O. 2919, dated 13th December, 1961	15-12-1961	Sub-section (1) of section 50.
S.O. 297, dated 24th January 1962	24-1-1962	Sections 51 and 62.
S.O. 958, dated 29th March, 1962	29-3-1962	Section 46.
S.O. 50, dated 4-1-1963	4th January, 1963	Section 32 and Chapter VI [except section 46, sub-sections (1) and (2) of section 50, sections 51 and 52.]
S.O. 2509, dated 31st August, 1963	1-9-1963	Chapter V.
S.O. 63, dated 7th June 1968 in Union territory of Pondicherry	10-6-1968	Chapters I, II and III, section 32, Chapters IV, V, VI, VII and VIII.
S.O. 1500, dated 5th April, 1969	1-6-1969	Sections 29,31,33 and 34 of Chapter IV in the Union territory of Goa, Daman and Diu except section 30.
G.S.R. 84(E), dated 21st February, 1979	1-6-1979	

5 Inserted by Act 60 of 1973, S. 2 (w.e.f. 3H-1974).

6 The Act, except section 30 thereof, came into force in the Union territory of Goa, Daman and Diu w.e.f. 1-6-1979 vide Noti. No. G.S.R. 84(E), dated 21-2-1979, published in the Gazette of India, 1979, Pt. II, S. 3(i), p. 168. The Act, except section 30 thereof, came into force in the State of Jammu and Kashmir w.e.f. 1-8-1986 vide Noti. No. G.S.R. 1946 (E), dated 15-7-1986.

7 S. 2 renumbered as sub-S. (1) thereof by Act 60 of 1973, S. 3 (w.e.f. 31-1-1974).

8 Cl. (c) omitted by Act 107 of 1976, S. 2 (w.e.f. 15-10-1976).

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

⁹[***]

(g) "High Court", except in sub-section (1) ¹⁰[and sub-section (1-A)] of section 34 and in sections 42 and 43, does not include a Court of the Judicial Commissioner, and, in relation to a State Bar Council, means, —

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

(ii) in the case of the Bar Council constituted for Delhi, ¹¹[the High Court of Delhi];

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

(i) "legal practitioner" means an advocate, ¹²[or vakil] of any High Court, a pleader, mukhtar or revenue agent;

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

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

(l) "State" does not include a Union territory;

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

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

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

CHAPTER II BAR COUNCILS

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

* Goa is now a State, see Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), S. 3 (w.e.f. 30-5-1987).

9 Cl. (f) omitted by Act 60 of 1973, S. 3 (w.e.f. 31-1-1974).

* Goa is now a State, see Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), S. 3 (w.e.f. 30.5.1987).

10 Inserted by Act 60 of 1973, S. 3 (w.e.f. 31-1-1974).

11 Substituted by Act 60 of 1973, S. 3, for "the High Court of Punjab" (w.e.f. 31-1-1974).

12 Substituted by Act 107 of 1976, S. 2, for "vakil or attorney" (w.e.f. 15-10-1976).

13 Inserted by Act 60 of 1973, S. 3 (w.e.f. 31-1-1974).

- (a) for each of States of Andhra Pradesh, Bihar, Gujarat, ¹⁴[Jammu and Kashmir], ¹⁵[Jharkhand], ¹⁶[Madhya Pradesh and Chhattisgarh], ¹⁷[***], ¹⁸[***], ¹⁹[Karnataka], Orissa, Rajasthan, ²⁰[Uttar Pradesh and Uttaranchal] to be known as the Bar Council of that State;
- ²¹[(b) for the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura to be known as the Bar Council of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh;]
- (c) for the State of Kerala and the Union territory of ²²[Lakshadweep], to be known as the Bar Council of Kerala;
- ²³[(cc) for the ²⁴[State of Tamil Nadu] and the Union territory of Pondicherry, to be known as the Bar Council of Madras**;]
- ²⁵[(ccc) for the States of Maharashtra and Goa and the Union territories of Dadra and Nagar Haveli and Daman and Diu, to be known as the Bar Council of Maharashtra and Goa;]
- ²⁶[(d) for the States of Punjab and Haryana and the Union territory of Chandigarh, to be known as the Bar Council of Punjab and Haryana;
- (dd) for the State of Himachal Pradesh, to be known as the Bar Council of Himachal Pradesh;]
- (e) for the State of West Bengal and the ²⁷[Union territory of Andaman and Nicobar Islands], to be known as the Bar Council of West Bengal; and
- (f) for the Union territory of Delhi, to be known as the Bar Council of Delhi.

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

-
- 14 Inserted by Act 60 of 1973, S. 4 (w.e.f. 31-1-1974).
- 15 Inserted by Act 30 of 2000, S. 28 (w.e.f. 15-11-2000).
- 16 Substituted by Act 28 of 2000, S. 24, for "and Madhya Pradesh" (w.e.f. 1-11-2000).
- 17 The word "Madras" omitted by Act 26 of 1968, S. 3 and Sch.
- 18 The word "Maharashtra" omitted by Regulation 8 of 1963, S. 12 (w.e.f. 1-7-1965).
- 19 Substituted by the Mysore State (Alteration of Name) Adaptation of Laws on Union Subjects) Order, 1974, for "Mysore" (w.e.f. 1-11-1973).
- 20 Substituted by Act 29 of 2000, S. 29, for "and Uttar Pradesh" (w.e.f. 9-11-2000).
- ** Now Tamil Nadu.
- 21 Substituted by Act 69 of 1986, S. 19, for Cl. (b) as earlier amended by Act 81 of 1971, S. 34 (w.e.f. 21-1-1972) and 34 of 1986, S. 16 (w.e.f. 20-2-1987).
- 22 Substituted by Act 34 of 1973, S. 5, for "Laccadive, Minicoy and Amindivi islands".
- 23 Inserted by Act 26 of 1968, S. 3 and Sch.
- 24 Substituted by the Madras State (Alteration of Name) (Adaptation of Laws on Union Subjects) Order, 1970, for "State of Madras" (w.e.f. 14-1-1969).
- 25 Substituted by Act 18 of 1987, S. 21, for Cl. (ccc) as initially inserted by Regn. 8 of 1963, S. 12 and relettered by Act 26 of 1968, S. 3 and Sch. and subsequently amended by Act 60 of 1973, S. 4.
- 26 Substituted by Act 53 of 1970, S. 24, for Cl. (d) (w.e.f. 25-1-1971).
- 27 Substituted by Act 81 of 1971, S. 34, for "Union territories of Tripura and the Andaman and Nicobar Islands" (w.e.f. 21-1-1972).

(a) in the case of the State Bar Council of Delhi, the Additional Solicitor-General of India, *ex officio*,²⁸[in the case of the State Bar Council of Assam, Nagaland, Meghalaya, Manipur and Tripura, the Advocate-General of each of the States of Assam, Manipur, Meghalaya, Nagaland and Tripura, *ex officio*; in the case of the State Bar Council of Punjab and Haryana, the Advocate-General of each of the States of Punjab and Haryana, *ex officio*;] and in the case of any other State Bar Council, the Advocate-General of the State, *ex officio*;

²⁹[(b) in the case of a State Bar Council with an electorate not exceeding five thousand, fifteen members, in the case of a State Bar Council with an electorate exceeding five thousand but not exceeding ten thousand, twenty members, and in the case of the State Bar Council with an electorate exceeding ten thousand, twenty-five members, elected in accordance with the system of proportional representation by means of the single transferable vote from amongst advocates on the electoral roll of the State Bar Council:]

³⁰[Provided that as nearly as possible one-half of such elected members shall subject to any rules that may be made in this behalf by the Bar Council of India, be persons who have for at least ten years been advocates on a State roll, and in computing the said period of ten years in relation to any such person, there shall be included any period during which the person has been an advocate enrolled under the Indian Bar Councils Act, 1926 (38 of 1926).]

³¹(3) There shall be a Chairman and a Vice-Chairman of each State Bar Council elected by the Council in such manner as may be prescribed.

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

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

³²[(4) An advocate shall be disqualified from voting at an election under subsection (2) or for being chosen as, and for being, a member of a State Bar Council, unless he possesses such qualifications or satisfies such conditions as may be prescribed in this behalf by the Bar Council of India,

28 Inserted by Act 60 of 1973, S. 4 (w.e.f. 31-1-1974)

29 Substituted by Act 60 of 1973, S. 4, for Cl. (b) (w.e.f. 31-1-1974).

30 Inserted by Act 21 of 1964, S. 2 (w.e.f. 16-5-1964).

31 Substituted by Act 38 of 1977, S. 2, for sub-Ss. (3) and (3-A) (w.e.f. 31-10-1977).

32 Inserted by Act 21 of 1964, S. 2 (w.e.f. 16-5-1964).

and subject to any such rules that may be made, an electoral roll shall be prepared and revised from time to time by each State Bar Council.

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

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

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

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

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

³⁴[***]

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

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

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

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

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

³⁷[(3) The term of office of a member of the Bar Council of India elected by the State Bar Council shall—

33 Inserted by Act 60 of 1973, S. 4 (w.e.f. 31-1-1974).

34 Cl. (bb) omitted by Act 38 of 1977, S. 3 (w.e.f. 31-10-1977).

35 Inserted by Act 60 of 1973, S. 5 (w.e.f. 31-1-1974).

36 Substituted by Act 38 of 1977, S. 3, for sub-Ss. (2) and (2-A) (w.e.f. 31-10-1977).

37 Inserted by Act 21 of 1964, S. 3.

- (i) in the case of a member of a State Bar Council who holds office *ex officio*, be two years from the date of his election ³⁸[or till he ceases to be a member of the State Bar Council, whichever is earlier]; and
- (ii) in any other case, be for the period for which he holds office as a member of the State Bar Council:

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

5. **Bar Council to be body corporate:**—Every Bar Council shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and to contract, and may by the name by which it is known sue and be sued.
6. **Functions of State Bar Councils:**—(1) The functions of a State Bar Council shall be—
- (a) to admit persons as advocates on its roll;
 - (b) to prepare and maintain such roll;
 - (c) to entertain and determine cases of misconduct against advocates on its roll;
 - (d) to safeguard the rights, privileges and interests of advocates on its roll;
- ³⁹[(*dd*) to promote the growth of Bar Associations for the purposes of effective implementation of the welfare schemes referred to in clause (a) of sub-section (2) of this section and clause (a) of sub-section (2) of section 7;]
- (e) to promote and support law reform;
- ⁴⁰[(*ee*) to conduct seminars and organise talks on legal topics by eminent jurists and publish journals and paper of legal interest;
- (*eee*) to organise legal aid to the poor in the prescribed manner;]
 - (f) to manage and invest the funds of the Bar Council;
 - (g) to provide for the election of its members;
- ³⁹[(*ee*) to visit and inspect Universities in accordance with the directions given under clause (i) of sub-section (1) of section 7;]
- (h) to perform all other functions conferred on it by or under this Act;
 - (f) to do all other things necessary for discharging the aforesaid functions.

38 Inserted by Act 60 of 1973, S. 5 (w.e.f. 31-1-1974).

39 Inserted by Act 70 of 1993, S. 2 (w.e.f. 26-1-1993).

40 Inserted by Act 60 of 1973, S. 6 (w.e.f. 31-1-1974).

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

- (a) giving financial assistance to organise welfare schemes for the indigent, disabled or other advocates;
- (b) giving legal aid or advice in accordance with the rules made in this behalf;

⁴²[(c) establishing law libraries.]

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

7. **Functions of Bar Council of India:**—⁴³[(1)] The functions of the Bar Council of India shall be—

⁴⁴[***]

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

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

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

(e) to promote and support law reform;

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

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

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

(i) to recognise Universities whose degree in law shall be a qualification for enrolment as an advocate and for that purpose to visit and inspect Universities ⁴⁵[or cause the State Bar Councils to visit and inspect Universities in accordance with such directions as it may give in this behalf];

⁴⁶[(ia) to conduct seminars and organise talks on legal topics by eminent jurists and publish journals and papers of legal interest;

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

41 Substituted by Act 60 of 1973, S. 6, for sub-S. (2) (w.e.f. 31-1-1974).

42 Inserted by Act 70 of 1993, S. 2 (w.e.f. 26-12-1993).

43 S. 7 renumbered as sub-S. (1) thereof by Act 60 of 1973, S. 7 (w.e.f. 31-1-1974).

44 Cl. (a) omitted by Act 60 of 1973, S. 7 (w.e.f. 31-1-1974).

45 Inserted by Act 70 of 1993, S. 3 (w.e.f. 26-12-1993).

46 Inserted by Act 60 of 1973, S. 7 (w.e.f. 31-1-1974).

- (ic) to recognise on a reciprocal basis foreign qualifications in law obtained outside India for the purpose of admission as an advocate under this Act;]
- (j) to manage and invest the funds of the Bar Council;
- (k) to provide for the election of its members;
- (l) to perform all other functions conferred on it by or under this Act;
- (m) to do all other things necessary for discharging the aforesaid functions;

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

- (a) giving financial assistance to organise welfare schemes for indigent, disabled or other advocates;
- (b) giving legal aid or advice in accordance with the rules made in this behalf;]

⁴⁸[(c) establishing law libraries.]

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

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

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

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

8-A. Constitution of Special Committee in the absence of election:— (1) Where a State Bar Council fails to provide for the election of its members before the expiry of the term of five years or the extended term, as the case may be, referred

47 Inserted by Act 60 of 1973, S. 7 (w.e.f. 31-1-1974).

48 Inserted by Act 70 of 1993, S. 3 (w.e.f. 26-12-1993).

49 Inserted by Act 60 of 1973, S. 8 (w.e.f. 31-1-1974).

50 Substituted by Act 70 of 1993, S. 4, for S. 8 (w.e.f. 26-12-1993).

to in section 8, the Bar Council of India shall, on and from the date immediately following the day of such expiry, constitute a Special Committee consisting of—

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

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

(ii) two members to be nominated by the Bar Council of India from amongst advocates on the electoral roll of the State Bar Council, to discharge the functions of the State Bar Council until the Bar Council is constituted under this Act.

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

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

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

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

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

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

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

- ⁵²[9-A. **Constitution of legal aid committees:**—(1) A Bar Council may constitute one or more legal aid committees each of which shall consist of such number of members, not exceeding nine but not less than five, as may be prescribed.
- (2) The qualifications, the method of selection and the term of office of the members of legal aid committee shall be such as may be prescribed.]
10. **Constitution of committees other than disciplinary committees:**—(1) A State Bar Council shall constitute the following standing committees, namely:—
- (a) an executive committee consisting of five members elected by the Council from amongst its members;
- (b) an enrolment committee consisting of three members elected by the Council from amongst its members.
- (2) The Bar Council of India shall constitute the following standing committees, namely:—
- (a) an executive committee consisting of nine members elected by the Council from amongst its members;
- (b) a legal education committee consisting of ten members, of whom five shall be persons elected by the Council from amongst its members and five shall be persons co-opted by the Council who are not members thereof.
- (3) A State Bar Council and the Bar Council of India may constitute from amongst its members such other committees as it may deem necessary for the purpose of carrying out the provisions of this Act.
- ⁵³[10-A. **Transaction of business by Bar Councils and committees thereof:**—⁵⁴(1) The Bar Council of India shall meet at New Delhi or at such other place as it may, for reasons to be recorded in writing, determine.
- (2) A State Bar Council shall meet at its headquarters or at such other place as it may, for reasons to be recorded in writing, determine.]
- (3) The committees other than disciplinary committees constituted by the Bar Councils shall meet at the headquarters of the respective Bar Councils.
- (4) Every Bar Council and every committee thereof except the disciplinary committees shall observe such rules of procedure in regard to the transaction of business at their meetings as may be prescribed.
- (5) The disciplinary committees constituted under section 9 shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at their meetings as may be prescribed.]

52 Inserted by Act 60 of 1973, S. 9 (w.e.f. 31-1-1974).

53 Inserted by Act 60 of 1973, S. 10 (w.e.f. 31-1-1974).

54 Substituted by Act 70 of 1993, S. 5, for sub-S. (1) (w.e.f. 26-12-1993).

⁵⁵/⁵⁶[**10-B.]Disqualification of Members of Bar Council:**—An elected member of a Bar Council shall be deemed to have vacated his office if he is declared by the Bar Council of which he is a member to have been absent without sufficient excuse from three consecutive meetings of such Council, or if his name is, for any cause, removed from the roll of advocates or if he is otherwise disqualified under any rule made by the Bar Council of India.]

11. Staff of Bar Council:—(1) Every Bar Council shall appoint a Secretary and may appoint an accountant and such number of other persons on its staff as it may deem necessary.

(2) The Secretary and the accountant, if any, shall possess such qualifications as may be prescribed.

12. Accounts and audit:—(1) Every Bar Council shall cause to be maintained such books of accounts and other books in such form and in such manner as may be prescribed.

(2) The accounts of a Bar Council shall be audited by auditors duly qualified to act as auditors of companies under the Companies Act, 1956 (1 of 1956), at such times and in such manner as may be prescribed.

⁵⁷[(3) As soon as may be practicable at the end of each financial year, but not later than the 31st day of December of the year next following, a State Bar Council shall send a copy of its accounts together with a copy of the report of the auditors thereon to the Bar Council of India and shall cause the same to be published in the Official Gazette.

(4) As soon as may be practicable at the end of each financial year, but not later than the 31st day of December of the year next following, the Bar Council of India shall send a copy of its accounts together with a copy of the report of the auditors thereon to the Central Government and shall cause the same to be published in the Gazette of India.

13. Vacancies in Bar Council and committees thereof not to invalidate action taken:—No acts done by a Bar Council or any committee thereof shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Council or committee, as the case may be.

14. Election to Bar Councils not to be questioned on certain grounds:—No election of a member to a Bar Council shall be called in question on the ground merely that due notice thereof has not been given to any person entitled to vote thereat, if notice of the date has, not less than thirty days before that date, been published in the Official Gazette.

15. Power to make rules:—(1) A Bar Council may make rules to carry out the purposes of this Chapter.

⁵⁵ Inserted by Act 21 of 1964, S. 6.

⁵⁶ S. 10-A renumbered as S. 10-B by Act 60 of 1973, S. 10 (w.e.f. 31-1-1974).

⁵⁷ Substituted by Act 60 of 1973, S. 11, for sub-S. (3) (w.e.f. 31-1-1974).

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

⁵⁸[(a) the election of members of the Bar Council by secret ballot including the conditions subject to which persons can exercise the right to vote by postal ballot, the preparation and revision of electoral rolls and the manner in which the result of election shall be published;]

⁵⁹[* * *]

⁶⁰[(c) the manner of election of the Chairman and the Vice-Chairman of the Bar Council;]

(d) the manner in which and the authority by which doubts and disputes as to the validity of an election to the Bar Council ^tor to the office of the Chairman or Vice-Chairman] shall be finally decided;

⁶¹[* * *]

(f) the filling of casual vacancies in the Bar Council;

(g) the powers and duties of the Chairman and the Vice-Chairman of the Bar Council;

⁶²[(ga) the constitution of one or more funds by a Bar Council for the purpose of giving financial assistance or giving legal aid or advice referred to in sub-section (2) of section 6 and sub-section (2) of section 7;

(gb) organisation of legal aid and advice to the poor, constitution and functions of committees and sub-committees for that purpose and description of proceedings in connection with which legal aid or advice may be given;]

(h) the summoning and holding of meetings of the Bar Council, ⁶³[* * *] the conduct of business thereat, and the number of members necessary to constitute a quorum;

(i) the constitution and functions of any committee of the Bar Council and the term of office of members of any such committee;

(j) the summoning and holding of meetings, the conduct of business of any such committee, and the number of members necessary to constitute a quorum;

(k) the qualifications and the conditions of service of the secretary, the accountant and the other employees of the Bar Council;

58 Substituted by Act 60 of 1973, S. 12, for Cl. (a) (w.e.f. 31-1-1974).

59 Cl. (b) omitted by Act 60 of 1973, S. 12 (w.e.f. 31-1-1974).

60 Inserted by Act 38 of 1977, S. 5 (w.e.f. 30-10-1977).

61 Cl. (e) omitted by Act 23 of 1966, S. 3.

62 Inserted by Act 60 of 1973, S. 12 (w.e.f. 31-1-1974).

63 The words "the times and places where such meetings are to be held" omitted by Act 60 of 1973, S. 12 (w.e.f. 31-1-1974).

- (l) the maintenance of books of accounts and other books by the Bar Council;
 - (m) the appointment of auditors and the audit of the accounts of the Bar Council;
 - (n) the management and investment of the funds of the Bar Council.
- (3) No rules made under this section by a State Bar Council shall have effect unless they have been approved by the Bar Council of India.

CHAPTER III

ADMISSION AND ENROLMENT OF ADVOCATES

- 16. Senior and other advocates:—**(1) There shall be two classes of advocates, namely, senior advocates and other advocates.
- (2) An advocate may, with his consent, be designated as senior advocate if the Supreme Court or a High Court is of opinion that by virtue of his ability⁶⁴ [standing at the Bar or special knowledge or experience in law] he is deserving of such distinction.
- (3) Senior advocates shall, in the matter of their practice, be subject to such restrictions as the Bar Council of India may, in the interest of the legal profession, prescribe.
- (4) An advocate of the Supreme Court who was a senior advocate of that Court immediately before the appointed day shall, for the purposes of this section, be deemed to be a senior advocate:
⁶⁵[Provided that where any such senior advocate makes an application before the 31st December, 1965 to the Bar Council maintaining the roll in which his name has been entered that he does not desire to continue as a senior advocate, the Bar Council may grant the application and the roll shall be altered accordingly.]
- 17. State Bar Councils to maintain roll of advocates:—**(1) Every State Bar Council shall prepare and maintain a roll of advocates in which shall be entered the names and addresses of—
- (a) all persons who were entered as advocates on the roll of any High Court under the Indian Bar Councils Act, 1926 (38 of 1926), immediately before the appointed day⁶⁶ [including persons, being citizens of India, who before the 15th day of August, 1947, were enrolled as advocates under the said Act in any area which before the said date was comprised within India as defined in the Government of India Act, 1935, and who at any time] express an intention in

64 Substituted by Act 60 of 1973, S. 13, for "experience and standing at the Bar" (w.e.f. 31-1-1974).

65 Inserted by Act 21 of 1964, S. 8.

66 Substituted by Act 60 of 1973, S. 14, for "and who, within the prescribed time" (w.e.f. 31-1-1974).

the prescribed manner to practise within the jurisdiction of the Bar Council;

- (b) all other persons who are admitted to be advocates on the roll of the State Bar Council under this Act on or after the appointed day.
- (2) Each such roll of advocates shall consist of two parts, the first part containing the names of senior advocates and the second part, the names of other advocates.
- (3) Entries in each part of the roll of advocates prepared and maintained by a State Bar Council under this section shall be in the order of seniority,⁶⁷[and, subject to any rule that may be made by the Bar Council of India in this behalf, such seniority shall be determined] as follows:—
- (a) the seniority of an advocate referred to in clause (a) sub-section (1) shall be determined in accordance with his date of enrolment under the Indian Bar Councils Act, 1926 (38 of 1926);
- (b) the seniority of any person who was a senior advocate of the Supreme Court immediately before the appointed day shall, for the purposes of the first part of the State roll, be determined in accordance with such principles as the Bar Council of India may specify;
- ⁶⁸[* * *]
- (d) the seniority of any other person who, on or after the appointed day, is enrolled as a senior advocate or is admitted as an advocate shall be determined by the date of such enrolment or admission, as the case may be;
- ⁶⁹[(e) notwithstanding anything contained in clause (a), the seniority of an attorney enrolled [whether before or after the commencement of the Advocates (Amendment) Act, 1980 (47 of 1980)] as an advocate shall be determined in accordance with the date of his enrolment as an attorney.]
- (4) No person shall be enrolled as an advocate on the roll of more than one State Bar Council.

18. Transfer of name from one State roll to another:—(1) Notwithstanding anything contained in section 17, any person whose name is entered as an advocate on the roll of any State Bar Council may make an application in the prescribed form to the Bar Council of India for the transfer of his name from the roll of that State Bar Council to the roll of any other State Bar Council and, on receipt of any such application the Bar Council of India shall direct that the

67 Substituted by Act 21 of 1964, S. 9, for "and such seniority shall be determined".

68 Cl. (c) omitted by Act 60 of 1973, S. 14 (w.e.f. 31-1-1974).

69 Inserted by Act 47 of 1980, S. 2 (w.e.f. 29-11-1980).

name of such person shall, without the payment of any fee, be removed from the roll of the first mentioned State Bar Council and entered in the roll of the other State Bar Council and the State Bar Councils concerned shall comply with such direction:

⁷⁰[Provided that where any such application for transfer is made by a person against whom any disciplinary proceeding is pending or where for any other reason it appears to the Bar Council of India that the application for transfer has not been made bonafide and that the transfer should not be made, the Bar Council of India may, after giving the person making the application an opportunity of making a representation in this behalf, reject the application.]

(2) For the removal of doubts it is hereby declared that where on an application made by an advocate under sub-section (1), his name is transferred from the roll of one State Bar Council to that of another, he shall retain the same seniority in the latter roll to which he was entitled in the former roll.

19. State Bar Councils to send copies of rolls of advocates to the Bar Council of India:—Every State Bar Council shall send to the Bar Council of India an authenticated copy of the roll of advocates prepared by it for the first time under this Act and shall thereafter communicate to the Bar Council of India all alterations in, and additions to, any such roll, as soon as the same have been made.

⁷¹[**20. Special provision for enrolment of certain Supreme Court advocates:**—(1) Notwithstanding anything contained in this Chapter, every 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 the prescribed time, express his intention in the prescribed form to the Bar Council of India for the entry of his name in the roll of a State Bar Council and on receipt thereof the Bar Council of India shall direct that the name of such advocate shall, without payment of any fee, be entered in the roll of that State Bar Council, and the State Bar Council concerned shall comply with such direction.

(2) Any entry in the State roll made in compliance with the direction of the Bar Council of India under sub-section (1) shall be made in the order of seniority determined in accordance with the provisions of sub-section (3) of section 17.

(3) Where an advocate referred to in sub-section (1) omits or fails to express his intention within the prescribed time, his name shall be entered in the roll of the State Bar Council or Delhi.]

⁷⁰ Added by Act 21 of 1964, S. 10.

⁷¹ Substituted by Act 60 of 1973, S. 15, for S. 20 (w.e.f. 31-1-1974).

21. Disputes regarding seniority:—(1) Where the date of seniority of two or more persons is the same, the one senior in age shall be reckoned as senior to the other.

⁷²[(2) Subject as aforesaid, if any dispute arises with respect to the seniority of any person, it shall be referred to the State Bar Council concerned for decision.]

⁷³**[22. Certificate of enrolment:**—(1) There shall be issued a certificate of enrolment in the prescribed form by the State Bar Council to every person whose name is entered in the roll of advocates maintained by it under this Act.

(2) Every person whose name is so entered in the State roll shall notify any change in the place of his permanent residence to the State Bar Council concerned within ninety days of such change.]

23. Right of pre-audience:—(1) The Attorney-General of India shall have pre-audience over all other advocates.

(2) Subject to the provisions of sub-section (1), the Solicitor-General of India shall have pre-audience over all other advocates.

(3) Subject to the provisions of sub-sections (1) and (2), the Additional Solicitor-General of India shall have pre-audience over all other advocates.

⁷⁴[(3-A) Subject to the provisions of sub-sections (1), (2) and (3), the second Additional Solicitor-General of India shall have pre-audience over all other advocates.]

(4) Subject to the provisions of sub-sections (1), ⁷⁵[(2), (3) and (3-A)], the Advocate-General of any State shall have pre-audience over all other advocates, and the right of pre-audience among Advocates-General inter se shall be determined by their respective seniority.

(5) Subject as aforesaid—

(i) senior advocates shall have pre-audience over other advocates, and

(ii) the right of pre-audience of senior advocates and other advocates inter se shall be determined by their respective seniority.

24. Persons who may be admitted as advocates on a State roll:—(1) Subject to the provisions of this Act, and the rules made thereunder, a person shall be qualified to be admitted as an advocate on a State roll, if he fulfils the following conditions, namely:—

(a) he is a citizen of India:

⁷² Substituted by Act 60 of 1973, S. 16, for sub-S. (2) (w.e.f. 31-1-1974).

⁷³ Substituted by Act 60 of 1973, S. 17, for S. 22 (w.e.f. 31-1-1974).

⁷⁴ Inserted by Act 47 of 1980, S. 3 (w.e.f. 29-11-1980).

⁷⁵ Substituted by Act 47 of 1980, S. 3, for "(2) and (3)" (w.e.f. 29-11-1980).

Provided that subject to the other provisions contained in this Act, a national of any other country may be admitted as an advocate on a State roll, if citizens of India, duly qualified, are permitted to practise law in that other country;

- (b) he has completed the age of twenty-one years;
- (c) he has obtained a degree in law—
 - (i) before the ⁷⁶[12th day of March, 1967], from any University in the territory of India; or
 - (ii) before the 15th August, 1947, from any University in any area which was comprised before that date within India as defined by the Government of India Act, 1935; or
 - ⁷⁷[(iii) after the 12th day of March, 1967, save as provided in sub-clause (iii-a), after undergoing a three year course of study in law from any University in India which is recognised for the purposes of this Act by the Bar Council of India; or
 - (iii-a) after undergoing a course of study in law, the duration of which is not less than two academic years commencing from the academic year 1967-68 or any earlier academic year from any University in India which is recognised for the purposes of this Act by the Bar Council of India; or]
 - ⁷⁸[(iv) in any other case, from any University outside the territory of India, if the degree is recognised for the purposes of this Act by the Bar Council of India or;]
 - ⁷⁹[he is a barrister and is called to the Bar on or before the 31st day of December, 1976; ⁸⁰[or has passed the article clerks examination or any other examination specified by the High Court at Bombay or Calcutta for enrolment as an attorney of that High Court;] or has obtained such other foreign qualification in law as is recognised by the Bar Council of India for the purpose of admission as an advocate under this Act;]
- ⁸¹[* * *]
- (e) he fulfils such other conditions as may be specified in the rules made by the State Bar Council under this Chapter;

76 Substituted by Act 60 of 1973, S. 18, for "28th day of February, 1963" (w.e.f. 31-1-1974).

77 Substituted by Act 60 of 1973, S. 18, for sub-Cl. (Hi) (w.e.f. 31-1-1974).

78 Inserted by Act 21 of 1964, S. 13.

79 Substituted by Act 60 of 1973, S. 18, for "he is a barrister" (w.e.f. 31-1-1974).

80 Inserted by Act 107 of 1976, S. 6 (w.e.f. 15-10-1976).

81 Cl. (d) omitted by Act 60 of 1973, S. 18 (w.e.f. 31-1-1974).

⁸²[(f) he has paid, in respect of the enrolment, stamp duty, if any, chargeable under the Indian Stamp Act, 1899 (2 of 1899), and an enrolment fee payable to the State Bar Council ⁸³[six hundred rupees and to the Bar Council of India, one hundred and fifty rupees by way of a bank draft drawn in favour of that Council]:

Provided that where such person is a member of the Scheduled Castes or the Scheduled Tribes and produces a certificate to that effect from such authority as may be prescribed, the enrolment fee payable by him to the State Bar Council shall be ⁸⁴[one hundred rupees and to the Bar Council of India, twenty-five rupees].

⁸⁵[*Explanation*:—For the purposes of this sub-section, a person shall be deemed to have obtained a degree in law from a University in India on the date on which the results of the examination for that degree are published by the University on its notice board or otherwise declaring him to have passed that examination.]

(2) Notwithstanding anything contained in sub-section (1), ⁸⁶[a vakil or a pleader who is a law graduate] may be admitted as an advocate on a State roll, if he—

- (a) makes an application for such enrolment in accordance with the provisions of this Act, not later than two years from the appointed day; and
- (b) fulfils the conditions specified in clauses (a), (b), (e) and (f) of sub-section (1).

⁸⁷[(3) Notwithstanding anything contained in sub-section (1) a person who—

(a) ⁸⁸[* * *] has, for at least three years, been a vakil or a pleader or a mukhtar, or, was entitled at any time to be enrolled under any law ⁸⁹[* * *] as an advocate of a High Court (including a High Court of a former Part B State) or of a Court of Judicial Commissioner in any Union territory; or

⁹⁰[(aa) before the 1st day of December, 1961, was entitled otherwise than as an advocate to practise the profession of law (whether by way of pleading or acting or both) by virtue of the provisions of any

82 Substituted by Act 60 of 1973, S. 18, for Cl. (f) (w.e.f. 31-1-1974).

83 Substituted by Act 70 of 1993, S. 6, for "two hundred and fifty rupees" (w.e.f. 26-12-1993).

84 Substituted by Act 70 of 1993, S. 6, for "one hundred and twenty-five rupees" (w.e.f. 26-12-1993).

85 Inserted by Act 14 of 1962, S. 2.

86 Substituted by Act 21 of 1964, S. 64, S. 13, for certain words.

87 Inserted by Act 21 of 1964, S. 13.

88 The words and figures "before the 31st day of March, 1964" omitted by Act 33 of 1968, S. 2 (w.e.f. 5-6-1968).

89 The words "then in force" omitted by Act 33 of 1968, S. 2 (w.e.f. 5-6-1968).

90 Inserted by Act 60 of 1973, S. 18 (w.e.f. 31-1-1974).

law, or who would have been so entitled had he not been in public service on the said date; or]

⁹¹[* * *]

(c) before the 1st day of April, 1937, has been an advocate of any High Court in any area which was comprised within Burma as defined in the Government of India Act, 1935; or

(d) is entitled to be enrolled as an advocate under any rule made by the Bar Council of India in this behalf, may be admitted as an advocate on a State roll if he—

(i) makes an application for such enrolment in accordance with the provisions of this Act; and

(ii) fulfils the conditions specified in clauses (a), (b), (e) and (/) of sub-section (1).]

⁹²[* * *]

⁹³**[24-A. Disqualification for enrolment:—**(1) No person shall be admitted as an advocate on a State roll—

(a) if he is convicted of an offence involving moral turpitude;

(b) if he is convicted of an offence under the provisions of the Untouchability (Offences) Act, 1955 (22 of 1955);

⁹⁴[(c) if he is dismissed or removed from employment or office under the State on any charge involving moral turpitude.

*Explanation:—*In this clause, the expression "State" shall have the meaning assigned to it under article 12 of the Constitution:]

Provided that the disqualification for enrolment as aforesaid shall cease to have effect after a period of two years has elapsed since his ⁹⁵[release or dismissal or, as the case may be, removal].

(2) Nothing contained in sub-section (1) shall apply to a person who having been found guilty is dealt with under the provisions of the Probation of Offenders Act, 1958 (20 of 1958).]

25. Authority to whom applications for enrolment may be made:—An application for admission as an advocate shall be made in the prescribed form to the State Bar Council within whose jurisdiction the applicant proposes to practise.

26. Disposal of applications for admission as an advocate:—(1) A State Bar Council shall refer every application for admission as an advocate to its enrolment

91 Cl. (b) omitted by Act 60 of 1973, S. 18 (w.e.f. 31-1-1974).

92 Sub-S. (4) omitted by Act 107 of 1976, S. 6 (w.e.f. 15-10-1976).

93 Inserted by Act 60 of 1973, S. 19 (w.e.f. 31-1-1974).

94 Inserted by Act 70 of 1993, S. 7 (w.e.f. 26-12-1993).

95 Substituted by Act 70 of 1993, S. 7, for "release" (w.e.f. 26-12-1993).

committee, and subject to the provisions of sub-sections (2) and (3) 96[and to any direction that may be given in writing by the State Bar Council in this behalf], such committee shall dispose of the application in the prescribed manner:

⁹⁶[Provided that the Bar Council of India may, if satisfied, either on a reference made to it in this behalf or otherwise, that any person has got his name entered on the roll of advocates by misrepresentation as to an essential fact or by fraud or undue influence, remove the name of such person from the roll of advocates after giving him an opportunity of being heard.]

(2) Where the enrolment committee of a State Bar Council proposes to refuse any such application, it shall refer the application for opinion to the Bar Council of India and every such reference shall be accompanied by a statement of the grounds in support of the refusal of the application.

(3) The enrolment committee of a State Bar Council shall dispose of any application referred to the Bar Council of India under sub-section (2) in conformity with the opinion of the Bar Council of India.

⁹⁶[(4) Where the enrolment committee of a State Bar Council has refused any application for admission as an advocate on its roll, the State Bar Council shall, as soon as may be, send intimation to all other State Bar Councils about such refusal stating the name, address and qualifications of the person whose application was refused and the grounds for the refusal.]

⁹⁷[26-A. **Power to remove names from roll:**—A State Bar Council may remove from the State roll the name of any advocate who is dead or from whom a request has been received to that effect.]

27. Application once refused not to be entertained by another Bar Council except in certain circumstances:—Where a State Bar Council has refused the application of any person for admission as an advocate on its roll, no other State Bar Council shall entertain an application for admission of such person as an advocate on its roll, except with the previous consent in writing of the State Bar Council which refused the application and of the Bar Council of India.

28. Power to make rules:—(1) A State Bar Council may make rules to carry out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

⁹⁸[(a) the time within which and form in which an advocate shall express his intention for the entry of his name in the roll of a State Bar Council under section 20;]

⁹⁹[* * *]

96 Inserted by Act 21 of 1964, S. 14.

97 Substituted by Act 60 of 1973, S. 20, for S. 26-A (w.e.f. 31-1-1974).

98 Substituted by Act 60 of 1973, S. 21, for Cl. (a) (w.e.f. 31-1-1974).

99 Cl. (b) omitted by Act 60 of 1973, S. 21 (w.e.f. 31-1-1974).

- (c) the form in which an application shall be made to the Bar Council for admission as an advocate on its roll and the manner in which such application shall be disposed of by the enrolment committee of the Bar Council;
 - (d) the conditions subject to which a person may be admitted as an advocate on any such roll;
 - (e) the instalments in which the enrolment fee may be paid.
- (3) No rules made under this Chapter shall have effect unless they have been approved by the Bar Council of India.

CHAPTER IV RIGHT TO PRACTISE

- 29. Advocates to be the only recognised class of persons entitled to practise law:**—Subject to the provisions of this Act and any rules made thereunder, there shall, as from the appointed day, be only one class of persons entitled to practise the profession of law, namely, advocates.
- 30. Right of advocates to practise:**—Subject to provisions of this Act, every advocate whose name is entered in the ¹⁰⁰[State roll] shall be entitled as of right to practise throughout the territories to which this Act extends,—
- (i) in all Courts including the Supreme Court;
 - (ii) before any tribunal or person legally authorised to take evidence; and
 - (iii) before any other authority or person before whom such advocate is by or under any law for the time being in force entitled to practise.
- 31. Special provision for attorneys:**—*[Repealed by the Advocates (Amendment) Act, 1976 (107 of 1976), section 7 (w.e.f. 1-1-1977)].*
- 32. Power of Court to permit appearances in particular cases:**— Notwithstanding anything contained in this Chapter, any Court, authority, or person may permit any person, not enrolled as an advocate under this Act, to appear before it or him in any particular case.
- 33. Advocates alone entitled to practise:**—Except as otherwise provided in this Act or in any other law for the time being in force, no person shall, on or after the appointed day, be entitled to practise in any Court or before any authority or person unless he is enrolled as an advocate under this Act.
- 34. Power of High Courts to make rules:**—(1) The High Court may make rules laying down the conditions subject to which an advocate shall be permitted to practise in the High Court and the Courts subordinate thereto.

¹⁰⁰ Substituted by Act 60 of 1973, S. 22, for "common roll" (w.e.f. 31-1-1974).

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

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

¹⁰³[* * *]

CHAPTER V CONDUCT OF ADVOCATES

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

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

(2) The disciplinary committee of a State Bar Council ¹⁰⁵[* * *] shall fix a date for the hearing of the case and shall cause a notice thereof to be given to the advocate concerned and to the Advocate-General of the State.

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

- (a) dismiss the complaint or, where the proceedings were initiated at the instance of the State Bar Council, direct that the proceedings be filed;
- (b) reprimand the advocate;
- (c) suspend the advocate from practice for such period as it may deem fit;
- (d) remove the name of the advocate from the State roll of advocates.

¹⁰¹ Inserted by Act 60 of 1973, S. 23 (w.e.f. 31-1-1974).

¹⁰² Sub-S. (2) omitted by Act 107 of 1976, S. 8 (w.e.f. 1-1-1977) and again inserted by Act 38 of 1977, S. 6 (w.e.f. 30-10-1977).

¹⁰³ Sub-S. (3) omitted by Act 107 of 1976, S. 8 (w.e.f. 1-1-1977).

¹⁰⁴ Inserted by Act 60 of 1973, S. 24 (w.e.f. 31-1-1974).

¹⁰⁵ The words "if it does not summarily reject the complaint" omitted by Act 60 of 1973, S. 24 (w.e.f. 31-1-1974).

- (4) Where an advocate is suspended from practice under clause (c) of sub-section (3), he shall, during the period of suspension, be debarred from practising in any Court or before any authority or person in India.
- (5) Where any notice is issued to the Advocate-General under sub-section (2), the Advocate-General may appear before the disciplinary committee of the State Bar Council either in person or through any advocate appearing on his behalf.

¹⁰⁶[*Explanation*:—In this section, ¹⁰⁷[section 37 and section 38], the expressions "Advocate-General" and "Advocate-General of the State" shall, in relation to the Union territory of Delhi, mean the Additional Solicitor General of India.

36. Disciplinary powers of Bar Council of India:—(1) Where on receipt of a complaint or otherwise the Bar Council of India has reason to believe that any advocate ¹⁰⁸[* * *] whose name is not entered on any State roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee.

- (2) Notwithstanding anything contained in this Chapter, the disciplinary committee of the Bar Council of India may, ¹⁰⁹[either of its own motion or on a report by any State Bar Council or on an application made to it by any person interested], withdraw for inquiry before itself any proceedings for disciplinary action against any advocate pending before the disciplinary committee of any State Bar Council and dispose of the same.
- (3) The disciplinary committee of the Bar Council of India, in disposing of any case under this section, shall observe, so far as may be, the procedure laid down in section 35, the references to the Advocate-General in that section being construed as references to the Attorney-General of India.
- (4) In disposing of any proceedings under this section the disciplinary committee of the Bar Council of India may make any order which the disciplinary committee of a State Bar Council can make under sub-section (3) of section 35, and where any proceedings have been withdrawn for inquiry ¹¹⁰[before the disciplinary committee of the Bar Council of India], the State Bar Council concerned shall give effect to any such order.

¹¹¹[**36-A. Changes in constitution of disciplinary committees:**—Whenever in respect of any proceedings under section 35 or section 36, a disciplinary committee of the State Bar Council or a disciplinary committee of the Bar Council of India ceases to exercise jurisdiction and is succeeded by another

¹⁰⁶ Inserted by Act 21 of 1964, S. 17.

¹⁰⁷ Inserted by Act 60 of 1973, S. 24 (w.e.f. 31-1-1974).

¹⁰⁸ The words "on the common roll" omitted by Act 60 of 1973, S. 25 (w.e.f. 31-1-1974).

¹⁰⁹ Substituted by Act 60 of 1973, S. 25, for "of its own motion" (w.e.f. 31-1-1974).

¹¹⁰ Substituted by Act 60 of 1973, S. 25, for "before the Bar Council of India" (w.e.f. 31-1-1974).

¹¹¹ Inserted by Act 60 of 1973, S. 26 (w.e.f. 31-1-1974).

committee which has and exercises jurisdiction, the disciplinary committee of the State Bar Council or the disciplinary committee of the Bar Council of India, as the case may be, so succeeding may continue the proceedings from the stage at which the proceedings were so left by its predecessor committee.

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

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

37. **Appeal to the Bar Council of India:**—(1) Any person aggrieved by an order of the disciplinary committee of a State Bar Council made ¹¹²[under section 35] ¹¹³[or the Advocate-General of the State] may, within sixty days of the date of the communication of the order to him, prefer an appeal to the Bar Council of India.

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

¹⁴[Provided that no order of the disciplinary committee of the State Bar Council shall be varied by the disciplinary committee of the Bar Council of India so as to prejudicially affect the person aggrieved without giving him reasonable opportunity of being heard.]

38. **Appeal to the Supreme Court:**—Any person aggrieved by an order made by the disciplinary committee of the Bar Council of India under section 36 or section 37 ¹¹⁴[or the Attorney-General of India or the Advocate-General of

112 Substituted by Act 21 of 1964, S. 18, for "under sub-section (3) of section 35".

113 Inserted by Act 60 of 1973, S. 27 (w.e.f. 31-1-1974).

114 Inserted by Act 60 of 1973, S. 28 (w.e.f. 31-1-1974).

the State concerned, as the case may be], may, within sixty days of the date on which the order is communicated to him, prefer an appeal to the Supreme Court and the Supreme Court may pass such order "[including an order varying the punishment awarded by the disciplinary committee of the Bar Council of India]] thereon as it deems fit:

¹⁵[Provided that no order of the disciplinary committee of the Bar Council of India shall be varied by the Supreme Court so as to prejudicially affect the person aggrieved without giving him a reasonable opportunity of being heard.]

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

40. Stay of order:—¹¹⁶[(1)] An appeal, made under section 37 or section 38, shall not operate as a stay of the order appealed against, but the disciplinary committee of the Bar Council of India, or the Supreme Court, as the case may be, may, for sufficient cause, direct the stay of such order on such terms and conditions as it may deem fit.

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

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

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

¹¹⁷[* * *]

and where any order is made removing an advocate from practice, his name shall be struck off the State roll ¹¹⁸[* * *].

¹¹⁹[* * *]

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

115 Substituted by Act 60 of 1973, S. 29 (w.e.f. 31-1-1974).

116 S. 40 renumbered as sub-S. (1) thereof and sub-S. (2) inserted by Act 60 of 1973, S. 30 (w.t.f. 31-1-1974).

117 Cl. (b) omitted by Act 60 of 1973, S. 31 (w.e.f. 31-1-1974).

* Now see the Code of Criminal Procedure, 1973 (2 of 1974), Ss. 345(1), 346 and 349.

118 The words "or the common roll, as the case may be" omitted by Act 60 of 1973, S. 31 (w.e.f. 31-1-1974).

119 ab-S. (2) omitted by Act 60 of 1973, S. 31 (w.e.f. 31-1-1974).

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

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring discovery and production of any documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copies thereof from any Court or office;
- (e) issuing commissions for the examination of witnesses or documents; and
- (f) any other matter which may be prescribed:

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

- (a) any presiding officer of a Court except with the previous sanction of the High Court to which such Court is subordinate;
- (b) any officer of a revenue Court except with the previous sanction of the State Government.

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

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

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

* Now see the Code of Criminal Procedure, 1973 (2 of 1974), Ss. 345 (1), 345 and 349.
120 Inserted by Act 60 of 1973, S. 32 (w.e.f. 31-1-1974).

be invalid merely by reason of the absence of the Chairman or member thereof on any such date:

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

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

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

43. Cost of proceedings before a disciplinary committee:—The disciplinary committee of a Bar Council may make such order as to the costs of any proceedings before it as it may deem fit and any such order shall be executable as if it were an order—
- (a) in the case of an order of the disciplinary committee of the Bar Council of India, of the Supreme Court;
- (b) in the case of an order of the disciplinary committee of a State Bar Council, of the High Court.

44. **Review of orders by disciplinary committee:**—The disciplinary committee of a Bar Council may of its own motion or otherwise review any order ¹²²[within sixty days of the date of that order] passed by it under this Chapter:

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

¹²¹ Inserted by Act 60 of 1973, S. 33 (w.e.f. 31-1-1974).

¹²² Inserted by Act 60 of 1973, S. 34 (w.e.f. 31-1-1974).

CHAPTER VI
MISCELLANEOUS

- 45. Penalty for persons illegally practising in Courts and before other authorities:**—Any person who practises in any Court or before any authority or person, in or before whom he is not entitled to practise under the provisions of this Act, shall be punishable with imprisonment for a term which may extend to six months.
46. Payment of part of enrolment fees to the Bar Council of India:— [*Omitted by the Advocates (Amendment) Act, 1993 (70 of 1993), section 8 (w.e.f. 26-12-1993).*]
- ¹²³**[46-A. Financial assistance to State Bar Council:**—The Bar Council of India may, if it is satisfied that any State Bar Council is in need of funds for the purpose of performing its functions under this Act, give such financial assistance as it deems fit to that Bar Council by way of grant or otherwise.]
47. Reciprocity:—(1) Where any country, specified by the Central Government in this behalf by notification in the Official Gazette, prevents citizens of India from practising the profession of law or subjects them to unfair discrimination in that country, no subject of any such country shall be entitled to practise the profession of law in India.
- (2) Subject to the provisions of sub-section (1), the Bar Council of India may prescribe the conditions, if any, subject to which foreign qualifications in law obtained by persons other than citizens of India shall be recognised for the purpose of admission as an advocate under this Act.
- 48. Indemnity against legal proceedings:**— No suit or other legal proceeding shall lie against any Bar Council or any committee thereof or a member of a Bar Council ¹²⁴[or any committee thereof] for any act in good faith done or intended to be done in pursuance of the provisions of this Act or of any rules made thereunder.
- ¹²⁵**[48-A. Power of revision:**— (1) The Bar Council of India may, at any time, call for the record of any proceeding under this Act which has been disposed of by a State Bar Council or a committee thereof, and from which no appeal lies, for the purpose of satisfying itself as to the legality or propriety of such disposal and may pass such orders in relation thereto as it may think fit.
- (2) No order which prejudicially affects any person shall be passed under this section without giving him a reasonable opportunity of being heard.]

123 Inserted by Act 60 of 1973, S. 35 (w.e.f. 31-1-1974).

124 Inserted by Act 60 of 1973, S. 36 (w.e.f. 31-1-1974).

125 Inserted by Act 21 of 1964, S. 19.

¹²⁶[48-AA. **Review:**— The Bar Council of India or any of its committees, other than its disciplinary committee, may of its own motion or otherwise review any order, within sixty days of the date of that order, passed by it under this Act.]

¹²⁷[48-B. **Power to give directions:**— (1) For the proper and efficient discharge of the functions of a State Bar Council or any committee thereof, the Bar Council of India may, in the exercise of its powers of general supervision and control, give such directions to the State Bar Council or any committee thereof as may appear to it to be necessary, and the State Bar Council or the committee shall comply with such directions.

(2) Where a State Bar Council is unable to perform its functions for any reason whatsoever, the Bar Council of India may, without prejudice to the generality of the foregoing power, give such directions, to the *ex officio* member thereof as may appear to it to be necessary, and such directions shall have effect, notwithstanding anything contained in the rules made by the State Bar Council.]

49. **General power of the Bar Council of India to make rules:**— ¹²⁸[(1)] The Bar Council of India may make rules for discharging its functions under this Act, and, in particular, such rules may prescribe —

¹²⁹[(a) the conditions subject to which an advocate may be entitled to vote at an election to the State Bar Council including the qualifications or disqualifications of voters, and the manner in which an electoral roll of voters may be prepared and revised by a State Bar Council;

(ab) qualifications for membership of a Bar Council and the disqualifications for such membership;

(ac) the time within which and the manner in which effect may be given to the proviso to sub-section (2) of section (3);

(ad) the manner in which the name of any advocate may be prevented from being entered in more than one State roll;

(ae) the manner in which the seniority among advocates may be determined;

¹³⁰[(af) *the minimum qualifications required for admission to a course of degree in law in any recognised University;*]

(ag) the class or category of persons entitled to be enrolled as advocates;

126 Inserted by Act 60 of 1973, S. 37 (w.e.f. 31-1-1974).

127 Inserted by Act 21 of 1964, S. 19.

128 S. 49 renumbered as sub-S. (1) thereof by Act 60 of 1973, S. 38 (w.e.f. 31-1-1974).

129 Substituted by Act 21 of 1964, S. 20, for Cl. (a).

130 Substituted by Act 60 of 1973, S. 38, for Cl. (of) (w.e.f. 31-1-1974).

- (ah) the conditions subject to which an advocate shall have the right to practise and the circumstances under which a person shall be deemed to practise as an advocate in a Court;]
- (b) the form in which an application shall be made for the transfer of the name of an advocate from one State roll to another;
- (c) the standard of professional conduct and etiquette to be observed by advocates;
- (d) the standards of legal education to be observed by Universities in India and the inspection of Universities for that purpose;
- (e) the foreign qualifications in law obtained by persons other than citizens of India which shall be recognised for the purpose of admission as an advocate under this Act;
- (f) the procedure to be followed by the disciplinary committee of a State Bar Council and by its own disciplinary committee;
- (g) the restrictions in the matter of practice to which senior advocates shall be subject;

¹³¹[(gg) *the form of dresses or robes to be worn by advocates, having regard to the climatic conditions, appearing before any Court or tribunal;*]

(h) the fees which may be levied in respect of any matter under this Act;

¹³²[(i) *general principles for guidance of State Bar Councils and the manner in which directions issued or orders made by the Bar Council of India may be enforced;*]

(j) any other matter which may be prescribed:]

³²[Provided that no rules made with reference to clause (c) or clause (gg) shall have effect unless they have been approved by the Chief Justice of India:]

¹³³[Provided further that] no rules made with reference to clause (e) shall have effect unless they have been approved by the Central Government.

³²[(2) *Notwithstanding anything contained in the first proviso to sub-section (1), any rules made with reference to clause (c) or clause (gg) of the said sub-section and in force immediately before commencement of the Advocates (Amendment) Act, 1973 (60 of 1973), shall continue in force until altered or repealed or amended in accordance with the provisions of this Act.*]

¹³¹ Inserted by Act 60 of 1973, S. 38 (w.e.f. 31-1-1974).

¹³² Substituted by Act 21 of 1964, S. 20, for Cl. (i).

¹³³ Substituted by Act 60 of 1973, S. 38, for "provided that" (w.e.f. 31-1-1974).

¹³⁴[49-A. **Power of Central Government to make rules:**—(1) The Central Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act including rules with respect to any matter for which the Bar Council of India or a State Bar Council has power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) qualifications for membership of a Bar Council and disqualifications for such membership;
- (b) the manner in which the Bar Council of India may exercise supervision and control over State Bar Councils and the manner in which the directions issued or orders made by the Bar Council of India may be enforced;
- (c) the class or category of persons entitled to be enrolled as advocates under this Act;
- (d) the category of persons who may be exempted from undergoing a course of training and passing an examination prescribed under clause (d) of sub-section (1) of section 24;
- (e) the manner in which seniority among advocates may be determined;
- (f) the procedure to be followed by a disciplinary committee of a Bar Council in hearing cases and the procedure to be followed by a disciplinary committee of the Bar Council of India in hearing appeals; and
- (g) any other matter which may be prescribed.

(3) Rules under this section may be made either for the whole of India or for all or any of the Bar Councils.

(4) If any provision of a rule made by a Bar Council is repugnant to any provision of a rule made by the Central Government under this section, then, the rule under this section, whether made before or after the rule made by the Bar Council, shall prevail and the rule made by the Bar Council shall, to the extent of the repugnancy, be void.

¹³⁵[(5) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be;

¹³⁴ Inserted by Act 21 of 1964, S. 21.

¹³⁵ Substituted by Act 60 of 1973, S. 39, for sub-S. (5) (w.e.f. 31-1-1974).

so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

50. Repeal of certain enactments:—(1) On the date on which a State Bar Council is constituted under this Act, the provisions of sections 3 to 7 (inclusive), sub-sections (1), (2) and (3) of section 9, section 15 and section 20 of the Indian Bar Councils Act, 1926 (38 of 1926), shall stand repealed in the territory for which the State Bar Council is constituted.

(2) On the date on which Chapter III comes into force, the following shall stand repealed, namely:—

(a) sections 6, 7, 18 and 37 of the Legal Practitioners Act, 1879 (18 of 1879), and so much of sections 8,9,16,17,19 and 41 of that Act as relate to the admission and enrolment of legal practitioners;

(b) sections 3,4 and 6 of the Bombay Pleaders Act, 1920 (Bombay Act 17 of 1920);

(c) so much of section 8 of the Indian Bar Councils Act, 1926 (38 of 1926), as relates to the admission and enrolment of legal practitioners;

(d) the provisions of the Letters Patent of any High Court and of any other law insofar as they relate to the admission and enrolment of legal practitioners.

(3) On the date on which Chapter IV comes into force, the following shall stand repealed, namely:—

(a) sections 4, 5, 10 and 20 of the Legal Practitioners Act, 1879 (18 of 1879), and so much of sections 8, 9, 19 and 41 of that Act as confer on legal practitioners the right to practise in any Court or before any authority or person;

(b) sections 5,7,8 and 9 of the Bombay Pleaders Act, 1920 (Bombay Act 17 of 1920);

(c) section 14 of the Indian Bar Councils Act, 1926 (38 of 1926), and so much of sections 8 and 15 of that Act as confer on legal practitioners the right to practise in any Court or before any authority or person;

(d) the Supreme Court Advocates (Practice in High Courts) Act, 1951 (18 of 1951);

(e) the provisions of the Letters Patent of any High Court and of any other law conferring on legal practitioners the right to practise in any Court or before any authority or person.

(4) On the date on which Chapter V comes into force, the following shall stand repealed, namely:—

- (a) sections 12 to 15 (inclusive), sections 21 to 24 (inclusive) and sections 39 and 40 of the Legal Practitioners Act, 1879 (18 of 1879), and so much of sections 16, 17 and 41 of that Act as relate to the suspension, removal or dismissal of legal practitioners;
 - (b) sections 24 to 27 (inclusive) of the Bombay Pleaders Act, 1920 (Bombay Act 17 of 1920);
 - (c) sections 10 to 13 (inclusive) of the Indian Bar Councils Act, 1926 (38 of 1926);
 - (d) the provisions of the Letters Patent of any High Court and of any other law insofar as they relate to the suspension, removal or dismissal of legal practitioners.
- (5) When the whole of this Act has come into force—
- (a) the remaining provisions of the Acts referred to in this section which do not stand repealed by virtue of any of the foregoing provisions of this section [except sections 1, 3 and 36 of the Legal Practitioners Act, 1879 (18 of 1879)] shall stand repealed;
 - (b) the enactments specified in the Schedule shall stand repealed to the extent mentioned therein.
- 51. Rule of construction:**—On and from the appointed day, references in any enactment to an advocate enrolled by a High Court in any form of words shall be construed as references to an advocate enrolled under this Act.
- 52. Saving:**—Nothing in this Act shall be deemed to affect the power of the Supreme Court to make rules under article 145 of the Constitution—
- (a) for laying down the conditions, subject to which a senior advocate shall be entitled to practise in that Court;
 - (b) for determining the persons who shall be entitled to ¹³⁶[act or plead] in that Court.

CHAPTER VII

TEMPORARY AND TRANSITIONAL PROVISIONS

- 53. Elections to first State Bar Council:**—Notwithstanding anything contained in this Act, the elected members of a State Bar Council, constituted for the first time under this Act, shall be elected by and from amongst advocates, vakils, pleaders and attorneys who, on the date of the election, are entitled as of right to practise in the High Court and are ordinarily practising within the territory for which the Bar Council is to be constituted.

¹³⁶ Substituted by Act 70 of 1993, S. 9, for “act” (w.e.f. 24-12-1993).

Explanation:—Where the territory for which the Bar Council is to be constituted includes a Union territory, the expression "High Court" shall include the Court of the Judicial Commissioner of that Union territory.

- 54. Term of office of members of first ¹³⁷[* * *] State Bar Councils:—** Notwithstanding anything contained in this Act, the term of office of the ¹³⁸[* * *] elected members of ³⁸[* * *] a State Bar Council constituted for the first time, shall be two years from the date of the first meeting of the Council:

¹³⁹[Provided that such members shall continue to hold office until the State Bar Council is reconstituted in accordance with the provisions of this Act.]

- 55. Rights of certain existing legal practitioners not affected:—**Notwithstanding anything contained in this Act,—

(a) every pleader or vakil practising as such immediately before the date on which Chapter IV comes into force (hereinafter in this section referred to as the said date) by virtue of the provisions of the Legal Practitioners Act, 1879 (18 of 1879), the Bombay Pleaders Act, 1920 (17 of 1920), or any other law who does not elect to be, or is not qualified to be, enrolled as an advocate under this Act;

¹⁴⁰[* * *]

¹⁴¹[(c) every mukhtar practising as such immediately before the said date by virtue of the provisions of the Legal Practitioners Act, 1879 (18 of 1879), or any other law, who does not elect to be, or is not qualified to be, enrolled as an advocate under this Act;

(d) every revenue agent practising as such immediately before the said date by virtue of the provisions of the Legal Practitioners Act, 1879 (18 of 1879), or any other law,]

shall, notwithstanding the repeal by this Act of the relevant provisions of the Legal Practitioners Act, 1879 (18 of 1879), the Bombay Pleaders Act, 1920 (Bombay Act 17 of 1920), or other law, continue to enjoy the same rights as respects practice in any Court or revenue office or before any authority or person and be subject to the disciplinary jurisdiction of the same authority which he enjoyed or, as the case may be, to which he was subject immediately before the said date and accordingly the relevant provisions of the Acts or law aforesaid shall have effect in relation to such persons as if they had not been repealed.

137 The words "the Bar Council of India and" omitted by Act 21 of 1964, S. 22.

138 The words "nominated and" omitted by Act 14 of 1962, S. 3.

139 Inserted by Act 21 of 1964, S. 22.

140 Cl. (b) omitted by Act 107 of 1976, S. 10 (w.e.f. 1-1-1977).

141 Substituted by Act 21 of 1964, S. 23, for Cl. (c).

56. Dissolution of existing Bar Councils:—(1) On the constitution under this Act of a State Bar Council, other than the Bar Council of Delhi (hereinafter referred to as the new Bar Council)—

- (a) all properties and assets vesting in the corresponding Bar Council shall vest in the new Bar Council;
- (b) all rights, liabilities and obligations of the corresponding Bar Council, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the new Bar Council;
- (c) all proceedings pending before the corresponding Bar Council in respect of any disciplinary matter or otherwise shall stand transferred to the new Bar Council.

(2) In this section, "corresponding Bar Council" in relation to a State Bar Council, other than the Bar Council of Delhi, means the Bar Council for the High Court in territory for which the State Bar Council is constituted under this Act.

57. Power to make rules pending the constitution of a Bar Council:—Until a Bar Council is constituted under this Act, the power of that Bar Council to make rules under this Act shall be exercised—

- (a) in the case of the Bar Council of India, by the Supreme Court;
- (b) in the case of a State Bar Council, by the High Court.

¹⁴²**58. Special provisions during the transitional period:**—(1) Where a State Bar Council has not been constituted under this Act or where a State Bar Council so constituted is unable to perform its functions by reason of any order of a Court or otherwise, the functions of that Bar Council or of any Committee thereof, insofar as they relate to the admission and enrolment of advocates, shall be performed by the High Court in accordance with the provisions of this Act.

(2) Until Chapter IV comes into force, a State Bar Council or a High Court performing the functions of a State Bar Council may enrol any person to be an advocate on a State roll, if he is qualified to be so enrolled, under this Act, notwithstanding that no rules have been made under section 28 or that the rules so made have not been approved by the Bar Council of India, and every person so enrolled shall, until that Chapter comes into force, be entitled to all the rights of practice conferred on an advocate under section 14 of the Indian Bar Councils Act, 1926 (38 of 1926).

(3) Notwithstanding anything contained in this Act, every person who, immediately before the 1st day of December, 1961, was an advocate on the roll of any High Court under the Indian Bar Councils Act, 1926 (38

of 1926), or who has been enrolled as an advocate under this Act shall, until Chapter IV comes into force, be entitled as of right to practise in the Supreme Court, subject to the rules made by the Supreme Court in this behalf.

- (4) Notwithstanding the repeal by sub-section (2) of section 50 of the provisions of the Legal Practitioners Act, 1879 (18 of 1879), or of the Bombay Pleaders Act, 1920 (Bombay Act 17 of 1920),¹⁴³[or of any other law relating to the admission and enrolment of legal practitioners, the provisions of the Acts and law aforesaid] and any rules made thereunder insofar as they relate to¹⁴⁴[the renewal or the issue by way of renewal] of a certificate to a legal practitioner authorising him to practise shall have effect until Chapter IV comes into force and, accordingly, every certificate issued or renewed to a legal practitioner (who is not enrolled as an advocate under this Act) which is or purports to be issued or renewed, under the provisions of either of the aforesaid Acts¹⁴⁵[or of the other law] during the period beginning with the 1st day of December, 1961 and ending with the date on which Chapter IV comes into force, shall be deemed to have been validly issued or renewed.]

¹⁴⁶[58-A. **Special provisions with respect to certain advocates:—** (1)

Notwithstanding anything contained in this Act, all advocates who, immediately before the 26th day of July, 1948, were entitled to practise in the High Court in Allahabad or the Chief Court in Oudh and who under the provisions of the United Provinces High Courts (Amalgamation) Order, 1948 were recognised as advocates entitled to practise in the new High Court of Judicature at Allahabad but whose names were not formally entered on the roll of advocates of that High Court merely by reason of the non-payment of the fee payable to the Bar Council of the said High Court, and all advocates who were enrolled as such between the said date and the 26th day of May, 1952, shall, for the purposes of clause (a) of sub-section (1) of section 17 be deemed to be persons who were entered as advocates on the roll of the said High Court under the Indian Bar Councils Act, 1926 (38 of 1926), and every such person may, on an application being made in this behalf, be admitted as an advocate on the State roll of Uttar Pradesh.

- (2) Notwithstanding anything contained in this Act, all advocates who, immediately before the 10th day of October, 1952, were entitled to practise in the High Court of Hyderabad but whose names were not formally entered on the roll of advocates of that High Court merely by reason of the non-payment of the fee payable to the Bar Council of the

143 Substituted by Act 32 of 1962, S. 3, for certain words.

144 Substituted by Act 21 of 1964, S. 24, for "the issue and renewal".

145 Inserted by Act 32 of 1962, S. 3.

146 Inserted by Act 21 of 1964, S. 25.

said High Court shall, for the purposes of clause (a) of sub-section (1) of section 17, be deemed to be persons who were entered as advocates on the roll of the said High Court under the Indian Bar Councils Act, 1926 (38 of 1926), and every such person may, on an application being made in this behalf, be admitted as an advocate on the State roll of Andhra Pradesh or of Maharashtra.

- (3) Notwithstanding anything contained in this Act, all advocates who, immediately before the 1st day of May, 1960, were entitled to practise in the High Court of Bombay and who applied to get their names entered on the roll of advocates of the High Court of Gujarat under the provisions of section 8 of the Indian Bar Councils Act, 1926 (38 of 1926), but whose names were not so entered by reason of the repeal of the said provision shall, for the purposes of clause (a) of sub-section (1) of section 17, be deemed to be persons who were entered as advocates on the roll of the High Court of Gujarat under the said Act and every such person may, on an application being made in this behalf, be admitted as an advocate on the State roll of Gujarat.
- (4) Notwithstanding anything contained in this Act, all persons who immediately before the 1st day of December, 1961, were advocates on the roll of the Court of Judicial Commissioner in any Union territory under any law in force in that territory shall, for the purposes of clause (a) of sub-section (1) of section 17, be deemed to be persons who were entered as advocates on the roll of a High Court under the Indian Bar Councils Act, 1926 (38 of 1926), and every such person may, on an application made in this behalf, be admitted as an advocate on the State roll maintained in respect of that Union territory.]

¹⁴⁷[58-AA. **Special provisions in relation to the Union territory of Pondicherry:—**

(1) Notwithstanding anything contained in this Act, all persons who, immediately before the date on which the provisions of Chapter III are brought into force in the Union territory of Pondicherry, were entitled to practise the profession of law (whether by way of pleading or acting or both) under any law in force in the said Union territory or who would have been so entitled had they not been in public service on the said date, shall for the purposes of clause (a) of sub-section (1) of section 17, be deemed to be persons who were entered as advocates on the roll of a High Court under the Indian Bar Councils Act, 1926 (38 of 1926), and every such person may, on an application made in this behalf within such time as may be specified by the Bar Council of Madras, be admitted as an advocate on the State roll maintained in respect of the said Union territory.

147 Inserted by Act 26 of 1968, S. 3 and Sch.

- (2) Notwithstanding anything contained in this Act, every person who, immediately before the date on which the provisions of Chapter IV are brought into force in the Union territory of Pondicherry, was practising the profession of law (whether by way of pleading or acting or both or in any other way) by virtue of the provisions of any law in force in the said Union territory, who does not elect to be or is not qualified to be, enrolled as an advocate under sub-section (1), shall, notwithstanding the repeal of the relevant provisions of such law by the Pondicherry (Extension of Laws) Act, 1968 (26 of 1968), continue to enjoy the same rights as respects practice in any Court or revenue office or before any authority or person and be subject to the disciplinary jurisdiction of the same authority which he enjoyed, or, as the case may be, to which he was subject, immediately before the said date and accordingly the relevant provisions of the law aforesaid shall have effect in relation to such persons as if they had not been repealed.

¹⁴⁸[58-AB. **Special provisions with respect to certain persons enrolled by Mysore State Bar Council:**—Notwithstanding anything contained in this Act or any judgment, decree or order of any Court or any resolution passed or direction given by the Bar Council of India, every person who was admitted as an advocate on the State roll by the State Bar Council of ¹⁴⁹[Karnataka] during the period beginning with the 28th day of February, 1963, and ending on the 31st day of March, 1964, on the basis of his having obtained a certificate of pleadership from the High Court of ⁵⁰[Karnataka], shall, save as otherwise provided, be deemed to have been validly admitted as an advocate on that State roll and accordingly entitled to practise the profession of law (whether by way of pleading or acting or both):

Provided that where any such person has elected to be enrolled as an advocate on the roll of any other State Bar Council, his name shall be deemed to have been struck off the roll of the State Bar Council of Mysore from the date he was enrolled by the other State Bar Council:

Provided further that the seniority of such person, whether his name is borne on the State roll of the State Bar Council of ⁵⁰[Karnataka], or on the State roll of any other Bar Council, shall, for the purposes of clause (d) of sub-section (3) of section 17, be determined by reckoning the 16th day of May, 1964, as the date of admission.]

¹⁵⁰[58-AC. **Special provisions with respect to certain persons enrolled by Uttar Pradesh State Bar Council:**—Notwithstanding anything contained in this Act or any judgment, decree or order of any Court, every person who was enrolled

148 Inserted by Act 33 of 1968, S. 3 (w.e.f. 5-6-1968).

149 Substituted by the Mysore State (Alteration of Name) (Adaptation of Laws on Union Subjects) Order, 1974, for "Mysore" (w.e.f. 1-11-1973).

150 Inserted by Act 60 of 1973, S. 40 (w.e.f. 31-1-1974).

as an advocate by the High Court during the period beginning with the 2nd day of January, 1962 and ending on the 25th day of May, 1962 and was subsequently admitted as an advocate on the State roll by the State Bar Council of Uttar Pradesh shall be deemed to have been validly admitted as an advocate on that State roll from the date of his enrolment by the High Court and accordingly entitled to practise the profession of law (whether by way of pleading or acting or both).

58-AD. Special provisions with respect to certain persons migrating to India:— Notwithstanding the repeal by this Act of the provisions of the Legal Practitioners Act, 1879 (18 of 1879), or of any other law relating to the admission and enrolment of legal practitioners (hereafter in this section referred to as such Act or law), every person who migrates to the territory of India from any area which, before the 15th day of August, 1947, was comprised within India as defined in the Government of India Act, 1935, and who has, before such migration, been a pleader, mukhtar or revenue agent in any such area under any law in force therein, may be admitted and enrolled under the relevant provisions of such Act or law as a pleader, mukhtar or, as the case may be, revenue agent, if he—

(a) makes an application for the purpose to the appropriate authority under such Act or law; and

(b) is a citizen of India and fulfils other conditions, if any, specified in this behalf by the appropriate authority aforesaid,

and notwithstanding the repeal by this Act of the relevant provisions of such Act or law, every pleader, mukhtar or revenue agent so enrolled shall have the same rights as respects practice in any Court or revenue office or before any other authority or person and be subject to the disciplinary jurisdiction of the same authority to which he would be subject under the relevant provisions of such Act or law as if they had been repealed and accordingly, those provisions shall have effect in relation to such persons.

58-AE. **Special provisions in relation to the Union territory of Goa, Daman and Diu:**—(1) Notwithstanding anything contained in this Act, all persons who, immediately before the date on which the provisions of Chapter III are brought into force in the Union territory of Goa, Daman and Diu, were entitled to practise the profession of law (whether by way of pleading or acting or both) under any law in force in the said Union territory or who would have been so entitled had they not been in public service on the said date, shall for the purpose of clause (a) of sub-section (1) of section 17, be deemed to be persons who were entered as advocates on the roll of a High Court under the Indian Bar Councils Act, 1926 (38 of 1926), and every such person may, on an application made in this behalf within such time as may be specified by the Bar Council of Maharashtra, be admitted as an advocate on the State roll maintained in respect of the said Union territory:

Provided that the provisions of this sub-section shall not apply to any person who, on the date of the application aforesaid, was not a citizen of India.

- (2) Notwithstanding anything contained in this Act, every person who, immediately before the date on which the provisions of Chapter IV are brought into force in the Union territory of Goa, Daman and Diu, was practising the profession of law (whether by way of pleading or acting or both or in any other way) by virtue of the provisions of any law in force in the said Union territory, or who does not elect to be or is not qualified to be enrolled as an advocate under sub-section (1), shall, notwithstanding the repeal by this Act of the relevant provisions of such law, continue to enjoy the same rights as respects practice in any Court or revenue office or before any other authority or person and be, subject to the disciplinary jurisdiction of the same authority which he enjoyed, or, as the case may be, to which he was subject, immediately before the said date and accordingly the relevant provisions of the law aforesaid shall have effect in relation to such persons as if they had not been repealed.
- (3) On the date on which this Act or any part thereof comes into force in the Union territory of Goa, Daman and Diu, the law in force in that Union territory which corresponds to this Act or such part and which does not stand repealed by virtue of the provisions of section 50 of this Act, shall also stand repealed.

58-AF. Special provisions in relation to Jammu and Kashmir:—(1)

Notwithstanding anything contained in this Act, all advocates who, immediately before the date on which the provisions of Chapter III are brought into force in the State of Jammu and Kashmir, were entitled to practise in the High Court of that State, or who would have been so entitled had they not been in public service on the said date, shall, for the purpose of the clause (a) of sub-section (1) of section 17, be deemed to be persons who were entered as advocates on the roll of a High Court under the Indian Bar Councils Act, 1926 (38 of 1926), and every such person may, on an application made in this behalf within such time as may be specified by the Bar Council of India, be admitted as an advocate on the State roll maintained in respect of the said State.

- (2) Notwithstanding anything contained in this Act, every person who, immediately before the date on which the provisions of Chapter III are brought into force in the State of Jammu and Kashmir, was entitled otherwise than as an advocate to practise the profession of law (whether by way of pleading or acting or both) by virtue of the provisions of any law in force in the said State, or who would have been so entitled had he not been in public service on the said date, may be admitted as an advocate on the State roll maintained in respect of the said State, if he—

- (i) makes an application for such enrolment in accordance with the provisions of this Act; and
 - (ii) fulfils the conditions specified in clauses (a), (b), (e) and (f) of sub-section (1) of section 24.
- (3) Notwithstanding anything contained in this Act, every person who, immediately before the date on which the provisions of Chapter IV are brought into force in the State of Jammu and Kashmir, was practising the profession of law (whether by way of pleading or acting or both or in any other way) by virtue of the provisions of any law in force therein, or who does not elect to be or is not qualified to be enrolled as an advocate under sub-section (1) or sub-section (2), shall, notwithstanding the repeal by this Act of the relevant provisions of such law, continue to enjoy the same rights as respects practice in any Court or revenue office or before any other authority or person and be subject to the disciplinary jurisdiction of the same authority which he enjoyed, or, as the case may be, to which he was subject, immediately before the said date and accordingly the relevant provisions of the law aforesaid shall have effect in relation to such persons as if they had not been repealed.
- (4) On the date on which this Act or any part thereof comes into force in the State of Jammu and Kashmir, the law in force in that State which corresponds to this Act or such part thereof which does not stand repealed by virtue of the provisions of section 50 of this Act, shall also stand repealed.]

¹⁵¹[58-AG. **Special provisions in relation to articled clerks:**—Notwithstanding anything contained in this Act, every person who, immediately before the 31st day of December, 1976, has commenced his articleship and passed the preliminary examination, for the purpose of enrolment as an attorney of the High Court at Calcutta in accordance with the rules made under sub-section (2) of section 34, before the omission of that sub-section by the Advocates (Amendment) Act, 1976 (107 of 1976), may be admitted as an advocate on the State roll if he—

- (i) passes, on or before the 31st day of December, 1980,—
 - (a) the Final examination in a case where such person has, before the 31st day of December, 1976, passed the Intermediate examination,
 - (b) the Intermediate and the Final examinations in any other case.

Explanation:—For the purpose of this clause, the High Court at Calcutta may prescribe such rules as may be necessary under sub-section (2) of section 34, specifying the nature of the examinations and any other matter relating thereto;

- (ii) makes an application for such enrolment in accordance with the provisions of this Act; and
- (iii) fulfils the conditions specified in clauses (a), (b), (e) and (f) of sub-section (1) of section 24.]

¹⁵²[58-B. **Special provision relating to certain disciplinary proceedings:—**(1)

As from the 1st day of September, 1963, every proceeding in respect of any disciplinary matter in relation to an existing advocate of a High Court shall, save as provided in the first proviso to sub-section (2), be disposed of by the State Bar Council in relation to that High Court, as if the existing advocate had been enrolled as an advocate on its roll.

- (2) If immediately before the said date, there is any proceeding in respect of any disciplinary matter in relation to an existing advocate pending before any High Court under the Indian Bar Councils Act, 1926 (38 of 1926), such proceeding shall stand transferred to the State Bar Council in relation to that High Court, as if it were a proceeding pending before the corresponding Bar Council under clause (c) of sub-section (1) of section 56:

Provided that where in respect of any such proceeding the High Court has received the finding of a Tribunal constituted under section 11 of the Indian Bar Councils Act, 1926 (38 of 1926), the High Court shall dispose of the case and it shall be lawful for the High Court to exercise for the purpose all powers conferred on it under section 12 of the said Act as if that section had not been repealed:

Provided further that where the High Court has referred back any case for further inquiry under sub-section (4) of section 12 of the said Act, the proceeding shall stand transferred to the State Bar Council in relation to the High Court as if it were a proceeding pending before the corresponding Bar Council under clause (c) of sub-section (1) of section 56.

- (3) If immediately before the said date there is any proceeding in respect of any disciplinary matter pending in relation to any pleader, vakil, mukhtar or attorney, who has been enrolled as an advocate on any State roll under the Act, such proceeding shall stand transferred to the State Bar Council on the roll of which he has been enrolled and be dealt with under this Act as if it were a proceeding arising against him thereunder.
- (4) In this section "existing advocate" means a person who was enrolled as an advocate on the roll of any High Court under the Indian Bar Councils Act, 1926 (38 of 1926) and who, at the time when any proceeding in respect of any disciplinary matter is initiated against him, is not enrolled as an advocate on a State roll under this Act.

¹⁵² Inserted by Act 21 of 1964, S. 25.

- (5) The provisions of this section shall have effect, notwithstanding anything contained in this Act.]

¹⁵³[59. **Removal of difficulties:**—(1) If any difficulty arises in giving effect to the provisions of this Act, particularly in relation to the transition from the enactments repealed by this Act to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

- (2) An order under sub-section (1) may be made so as to have retrospective effect from a date not earlier than the 1st day of December, 1961.]

¹⁵⁴[60. **Powers of Central Government to make rules:**—(1) Until rules in respect of any matter under this Act are made by a State Bar Council and approved by the Bar Council of India, the power to make rules in respect of that matter shall be exercisable by the Central Government.

- (2) The Central Government after consultation with the Bar Council of India may, by notification in the Official Gazette, make rules under sub-section (1) either for any State Bar Council or generally for all State Bar Councils and the rules so made shall have effect, notwithstanding anything contained in this Act.

- (3) Where in respect of any matter any rules made by the Central Government under this section for any State Bar Council, and in respect of the same matter, rules are made by the State Bar Council and approved by the Bar Council of India, the Central Government may, by notification in the Official Gazette, direct that the rules made by it in respect of such matter shall cease to be in force in relation to the Bar Council with effect from such date as may be specified in the notification and on the issue of such notification, the rules made by the Central Government shall, accordingly, cease to be in force except as respects things done or omitted to be done before the said date.]

153 Inserted by Act 14 of 1962, S. 4.

154 Inserted by Act 32 of 1962, S. 4.

THE SCHEDULE
[See section 50(5)]

REPEAL OF CERTAIN ENACTMENTS

	Short title	Extent of repeal
1.	The Legal Practitioners (Women) Act, 1923 (23 of 1923).	The whole.
2.	The Legal Practitioners (Fees) Act, 1926 (21 of 1926).	The whole.
3.	The States Reorganisation Act, 1956 (37 of 1956).	Section 53.
4.	The Bombay Reorganisation Act, 1960 (11 of 1960).	Section 31.



THE BAR COUNCIL OF INDIA RULES

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

PART-I

DEFINITIONS

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 person 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 10-B 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 the 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 of the Act may include the election of a member of the State Council to the Council under Section (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 Rules 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 for the holding of the election as referred to in these Rules, and
(b) in the case of 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 member to the council within 30 days of such notice.
7. Every notice by the Secretary of the State Council fixing a date for the 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 has 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 candidates typed. 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 of figures are set opposite the name of the same 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 the votes shall be declared elected by the Returning Officer. In the case of two 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 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 the 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 Council comprising not more than 3 members of the Council 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) to set aside the election;
 - (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 Council.
- (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

¹[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.]

²[11-A. No member shall have the right to resign from the membership of the Bar Council of India on grounds which are not considered genuine or for the purpose of sharing the terms fixed by the Statute.]

C. ELECTION OF CHAIRMAN AND VICE-CHAIRMAN

12. (1) (a) The election of the Chairman and Vice-Chairman shall be held at a 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 has 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.

1 Amended by Resolution No. 83/1997, dated 10th August, 1997.

2 Added in December, 1998.

The voting paper shall not be signed by the voter and in the event of any erasures, obliterations or alterations in the voting paper, 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. 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.

¹[(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 or 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.²

- 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.

¹ Amended by Resolution NO. 83/1997, dated 10th August, 1997.

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 Council or 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 or 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 bill 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
- ¹[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 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

MEETINGS OF COUNCIL AND ITS COMMITTEES OTHER THAN THOSE OF THE DISCIPLINARY COMMITTEES

(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

¹ Added by Resolution No. 52, dated 8th November, 1998, published in the Gazette of India, Extra., Pt. II, Sec. 4, dated 26th December, 1998.

- 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 has 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.
 12. In the absence of the Chairman and the Vice-Chairman at any meeting, a member chosen by members present shall preside at the meeting.

*CHAPTER-III***CONSTITUTION, FUNCTIONS AND PROCEDURE OF COMMITTEES OF THE BAR COUNCIL OF INDIA***(Rules under Sections 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 is a member of the Committee or the Sub-Committee, the Committee or the Sub-Committee shall choose 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.
- ¹[(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) invest the funds of the Council in the manner directed by the Council from time to time;

¹ Sub-rule (3) amended w.e.f. 18-6-1997.

- (c) to grant leave to members of the staff, other than casual leave;
- (d) to prescribe books of account, registers and files for 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 the 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;

- (c) to recommend to the Council the conditions, if any, subject to which foreign qualification in law obtained by persons other than citizens of India may be recognised for admission as Advocates under the Act;
- (d) (i) to recommend to the Council for recognition of any degree in law of any University in the territory of India under Section 24 (1) (c) (iii) of the Act, and
- (ii) to recommend the discontinuance of any recognition already made by the Council.

The Disciplinary Committee

9. (1) The procedure for the election or co-option of the members of the Disciplinary Committee shall be by secret ballot and in accordance with the rules, in so far as they are applicable, as laid down in Rule 12. Chapter I, Part II.
 - (2) Any causal vacancy shall be filled in by Council by election or co-option from amongst its members or non-members as the case may be.
 - (3) The Chairman or the Vice-Chairman of the Executive Committee shall assign and allocate all matters relating to the Disciplinary Committees amongst them if more than one such Committee is constituted or is in existence.
 - (4) 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 Disciplinary Committee of the Bar Council of India, the other two members may make similar request to any other available co-opted member of a Disciplinary Committee 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 Disciplinary Committee of the Bar Council of India¹.
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 enrolment 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

¹ Sub-rule (4) came into force w.e.f. 2-6-1996 vide Resolution NO. 54/1996.

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.

¹CHAPTER-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)

BAR COUNCIL OF INDIA EMPLOYEES SERVICE RULES 1997

1. These Rules shall be called "Bar Council of India Employees Service Rules, 1997".
2. These Rules shall come into force from the date to be specified by the Executive Committee.
3. Under the Rules, the appointing authority shall mean Executive Committee of the Bar Council of India except in the case of Secretary as provided in Chapter III, Rule 5(4) (e) of the Bar Council of India Rules.
4. The qualifications and conditions of service of the Secretary, Accountant and other members of staff are those as specified in Schedule I to these Rules.
5. Recruitment shall be by direct appointment/promotion of the employees in the Bar Council of India as provided in the first schedule to these Rules.
6. That for the purpose of direct recruitment, vacancies shall be advertised in atleast one daily newspaper.
7. That recruitment/promotion to the post shall only be made in the case of vacancy.
8. That for recruitment/promotion a person must possess qualifications as provided in Schedule I to these Rules.
9. In case it is not possible to find eligible person for promotional post it may be filled by direct recruitment but the person must possess eligibility criteria as prescribed under Schedule I.
10. That for the recruitment to the service of the Bar Council of India the incumbent's minimum age shall not be less than 21 years and not more than 35 years on the date of appointment except for the posts of Secretary and Accountant.
11. The Secretary, the Accountant and other members of the staff shall retire on attaining the age of 60 years provided that in case the Executive Committee so recommends and the Council approves, they may be given extension for a period not exceeding two years.

¹ Chapter IV in Part II amended w.e.f. 1-4-1997.

¹[*Explanation.*—An Employee of the Council shall retire on the forenoon of the last day of the month in which he attains the prescribed age of superannuation.

However, an employee whose date of birth is the first of a month, shall retire on the afternoon of the last day of the preceeding month.]

12. (i) That promotion shall be made on the basis of seniority-cum-merit upto grades of Assistants.
(ii) For the post of Office Superintendent, other equivalent posts and the other posts in Schedule, the consideration shall be made on the basis of merit-cum-seniority.
13. That it shall be necessary to maintain annual confidential records of all employees of the Bar Council of India. The annual confidential records of the Secretary shall be maintained by the Chairman and records of all other employees shall be maintained by the Secretary who shall place it with his remarks before the Chairman of the Bar Council of India annually and if a person is aggrieved by any adverse communication of remark, he can file an appeal before the Executive Committee of the Bar Council of India.
14. That the post of Chowkidar/Peon/Gardener and Guest Room Attendant shall be inter-changeable regardless of their appointment.
15. The pay scale and allowances of the employees and other conditions of the service shall be as determined by the Executive Committee and approved by the Bar Council of India.
16. (i) The pay scales of the Secretary and members of staff are those as specified in Schedule II to these Rules.
(ii) The Secretary and other permanent members of the staff shall be entitled to dearness allowance, house rent allowance and City Compensatory allowance at the rate as may be determined from time to time by the Executive Committee and approved by the Bar Council of India.
17. All the permanent employees of the Council shall be entitled to the benefit of provident fund and gratuity in accordance with the rules framed by the Executive Committee and approved by the Bar Council of India.
18. That strength of posts in the Bar Council of India shall be as specified in the Second Schedule to the Rules.
19. The posts re-designated shall cease to exist. The post not mentioned in Schedule II shall also cease to exist as soon as the employees holding the post demits the office.
20. (1) That an employee of the Bar Council of India may be placed under suspension if any departmental enquiry is pending or is contemplated

¹ Added in January, 2001 (w.e.f. 5-1-2001).

against him/her or he/she is involved in any criminal case involving moral turpitude during the course of enquiry for trial.

- (2) An employee shall be entitled for substantive allowance of 50% of his basic pay and allowance during the period of suspension and it shall be for the disciplinary authority to pass order on conclusion of enquiry or trial whether an employee is entitled for payment of full salary for the period he has remained under suspension.
- (3) The authority which made the order of suspension shall be competent to increase the amount of subsistence allowance by a suitable amount not exceeding 50% of the subsistence allowance admissible during the period if the period of suspension has been prolonged due to the reasons to be recorded in writing not directly attributable to the Council employees.
- (4) The amount of subsistence allowance may be reduced by suitable amount not exceeding 50% of the subsistence allowance if the period of suspension has been prolonged due to the reasons to be recorded in writing, directly attributable to the Council employee.

SCHEDULE-I

Sr. No.	Name of Post	Method of recruitment	Qualification/ Eligibility criteria
1.	Secretary	Direct	(a) be a citizen of India (b) be a law graduate or barrister-atlaw (c) have been either – (i) Registrar of the Supreme Court or a High Court in India, or (ii) an advocate with 15 years practice at the Bar, or (iii) Secretary of a Bar Council for atleast 10 years, or (iv) District Judge having five years' experience as District Judge(1), or (v) Principal of a recognised Law College having experience as a Principal for five years' and seven years' standing at the Bar(2), 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(3), or

Sr. No.	Name of Post	Method of recruitment	Qualification/ Eligibility criteria
			(vii) Law Graduate with three years experience as Assistant Secretary of the Bar Council of India(1) (d) be ordinarily not less than 40 years and not more than 50 years of age at the time of appointment(2). 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.	Asstt. Secretary	By promotion	(i) Office Superintendent (ii) Asstt. Registrar and Accountant with mini mum of five years experience in the post.
3.	Asstt. Secretary- Cum-Accounts Officer	By promotion	C.A. plus B.Com. with five years as Accountant.
4.	Office Supdt.	By promotion	From Assistant Gr. III with six years experience.
5.	Asstt. Registrar	By promotion	From Assistant Grade III with six years experience.
6.	Accountant	Direct	(a) M.Com. of any recognised University in India or its equivalent or a Chartered Accountant (b) experience as Accountant preferably in 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 quali fications may be waived in the case of a person who had been already in the service of the Council as Deputy or Asstt. Accountant or otherwise and is considered for such appoint ment as Accountant or if a suitable candidate possessing the above qualifications is not available and the Council considers if fit to appoint him.
7.	Assistant Gr. III	By promotion	(i) From amongst the Assistant Gr. II with 5 years experience, or (ii) From amongst the Assistant Gr. I with 7 years experience possessing a graduate Degree of a recognised University.
8.	Assistant Gr. II	By promotion	(i) From amongst the Assistant Gr. I with 5 years experience in the case of promotion.

Sr. No.	Name of Post	Method of recruitment	Qualification/ Eligibility criteria
	Assistant Gr. II	Direct	(ii) A graduate from a recognised University for direct recruitment.
9.	Assistant Gr. I	Direct 1/4th by promotion	(i) Graduate Degree from a recognised University for direct recruitment. (ii) From amongst Peon/Chowkidar and other equivalent post with 10 + 2 from a recognised Board with pass in the test.
10.	Peon/Chowkidar/ Gardner	Direct	10th Pass

Notes.—

- (a) For posts 2 to 10 if no suitable person is found available for promotion than as per Rule 9, the post be filled by direct recruitment.
- (b) The Executive Committee may from time to time amend the 1st Schedule by increasing or decreasing the number of post.
- (c) Interse seniority between the employees of the Bar Council of India and the Bar Council of India Truss is irrelevant.
- Sl.No.7 — Steno. To specify qualifying speed in short hand and typing.
- Sl. No. 8 & 9 — Assistant Gr. I and II — Extra qualification— typing-to specify speed.
- Sl. No. 9 — Assistant Gr. I (a) Gestetner Operator – To specify minimum qualification.
- (b) Electrician —To specify minimum qualification besides Diploma.

Secretary : 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) act 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 notices 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 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.

Accountant : The Accountant shall be responsible for the maintenance of all the accounts of the Council and he may all be required by the Council or Secretary to discharge such additional work of the Council as may be entrusted to him.

SCHEDULE II **(REVISED)**

Sr. No.	Post	No. of post	Pay scale in Rupees
1.	Secretary	1	4500-150-5100-150-6300-200-6700
2.	Asstt. Secretary	2	3000-100-3500-125-4500-EB-150-5100
3.	Asstt. Secretary-cum-Accounts Officer	1	3000-100-3500-125-4500-EB-150-5100
4.	Asstt. Registrar (DC)	1	2000-60-2600-EB-75-2900-100-3500-EB-125-4000
5.	Office Supdt.	1	2000-60-2600-EB-75-2900-100-3500-EB-125-4000
6.	Accountant	1	2000-60-2600-EB-75-2900-100-3500-EB-125-4000
7.	Assistant (Gr. III) (including One Steno One Asstt. Accountant)	5	1640-60-2600 EB-75-2900EB100-3200
8.	Assistant (Gr. II) (including one typist)	2	1220-30-1400-50-1650-EB-50-2200
9.	Assistant (Gr. I) (including three Clerks One Gestetner Opr. and one Electrician-cum-Assistant)	5	950-20-1150-EB-25-1400-EB-50-1800
10.	Peon/Watchman/Gardner	8	800-15-1010-EB-25-1400-EB-50-1600 (Posts are interchangeable for duty purposes)
11.	Sweeper	1	800-15-1010-EB-25-1400-EB-50-1600

*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 entries shall be made in red ink and attested by the Accountant. Erasures shall on no account be permitted.
3. Receipt forms shall be numbered consecutively and bound into books of 50 or 100 forms 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 person 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 by cheque. The bill 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 from/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)
1	2	3	4	5	6	7

Instalment amount towards provident fund loan taken	Amount of interest payable on the principal loan amount outstanding	Total	Signature with date
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.

¹**[10A.** 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 India¹.

10B. That for the purpose of borrowing, the Bar Council of India may authorise any officer or office bearer to sign necessary documents.]

²**[10C.** 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.]

11. (1) (i) 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

¹ Rules 10A and 10B came into force w.e.f. 11th February, 1990.

² Rule 10C came into force w.e.f. 22nd April, 1990.

emergent nature not provided for in the budget not exceeding Rs. 2000/- 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;
 - ¹[(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 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.

1 Sub-clause (iii) added w.e.f. 23rd January, 1982.

CHAPTER-VI**A. MISCELLANEOUS : PUBLICATION OF RULES AND OTHER INFORMATION AND DATE OF COMING INTO FORCE OF THE RULES****A. MISCELLANEOUS**

(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 (1) of the Act, removal of name under Section 26A of the Act and orders on matters dealt with under Section 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 (1) (c) (iii) (iiia) or (iv) of the Act.
 - (v) Decision of the Council or its Committees on election disputes under rules 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 to 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 proceedings 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 PROVISO 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 ADVOCATES

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 48 A 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 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.
2. (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

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.

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

Bar Council of India

Date.....

CHAPTER-X
**APPLICATION FOR REVIEW UNDER
SECTION 48 AA OF THE ACT**

1. (1) An application for review made under Section 48AA 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 (1) or under Section 48 A 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.

*PART-III***CERTAIN MATTERS RELATING TO STATE COUNCIL***CHAPTER-I***ELECTORAL ROLL, DISQUALIFICATION OF MEMBERSHIP AND VACATION OF OFFICE**

(Rules under Sections 3 (4), 10B, 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 ;
 - ¹[(h) if he has not paid the subscription under Rule 40 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 35(1) of the Act.

¹ Sub-clauses (h) and (i) came into force w.e.f. August, 1997, vide Resolution No. 10197.

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 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).

Revision of Electrol Roll

6. 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 there in 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 these rules :
- These rules shall govern the elections of all State Bar Councils to be held after these 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 insolvent, or
 - (c) if his name is transferred to the roll of another State Council.
- ¹[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 and 3 of chapter I, Part III of the rules framed by the Bar Council of India under Sections 3 (4), 10B, 15(2) (a), 49 (1) (a) and (ab) of the Advocates Act, 1961, for the next election of members to this Council, the particulars as to any of the disqualifications as referred to in clauses (a) to (i) of rule 2 shall be furnished by an advocate who has 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 on 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, Sections 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 these rules and any rule or rules of any of the State Councils, these rules shall prevail and 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 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 of 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 25 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 these 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 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 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 as 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 these 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* 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, 13 candidates whose names have been on a State roll of 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 these rules among the continuing candidates according to the next preference recorded therein and all exhausted papers shall be set apart as 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 smallest value at the earlier count at which these candidates had unequal votes shall be excluded.
- (viii) If two or more candidates are lowest on the poll and each has 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 these Rules.

Filling last vacancies

(C) (1) When at the end of any count the number of 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 has been on the State Roll for less than 10 years and if the total number of candidates so far declared elected 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 who 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 particular 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 - IV

There shall be two streams of law course leading to LL.B Degree viz. a five-year and a three-year law course for the purposes of enrolment as advocates as prescribed under the Rules contained in section A and section B respectively given hereunder.

SECTION - A

FIVE - YEAR LAW COURSE AFTER 10 + 2 OR 11 + 1

1. The five year course of law after 10+2 or 11+1 shall comprise two parts viz. Part I which will be a two year core programme of pre-law study and Part II which will be a three years programme for professional training in law.
2. (1) Save as provided in Rule 5 and Section B, Part IV of the rules hereunder, a degree in law obtained from any University in the territory of India shall

not be recognised for the purpose of enrolment as advocate under the Advocates Act, 1961 from June 1, 1982 unless the following conditions are fulfilled: -

- (a) That at the time of joining the course of instruction in law for a degree in law, the person concerned has passed an examination in 10+2 or 11+1 course of schooling recognised by the educational authority of Central or State Governments or possesses such academic qualifications which are considered equivalent to 10+2 or 11+1 courses by the Bar Council of India.
 - (b) The law degree has been obtained after undergoing a regular course of study in a duly recognised law college under these rules for a minimum period of five years, out of which the first two years shall be devoted to study of pre-law courses as necessary qualifications for admission to three year course of study in law to be commenced thereafter. The last six months of the three years of the law course shall include a regular course of practical training.
 - (c) That the course of study in law has been by regular attendance for the requisite number of lectures, tutorials, moot courts and practical training given by a college affiliated to a University recognised by the Bar Council of India.
3.
 - (1) That the law education as prescribed in Section -A shall be through whole-time law colleges or University Department.
 - (2) A College or University Department will be deemed to be whole time college for the purpose of sub-Rule 3(1), if the working time of the college or the University Department as the case may be, extends to atleast thirty hours of working per week including contact and correspondence programme, tutorials, home assignments, library, clinical work etc. provided that the actual time for class room lectures is not less than 20 hours per week.
4. The students shall be required to put in a minimum attendance of 66% of the lectures on each of the subjects as also at the moot courts and practical training course.
Provided that in exceptional cases for reasons to be recorded and communicated to the Bar Council of India, the Dean of the Faculty of Law or Principal of law colleges may condone attendance short of those required by this Rule, if the student had attended 66% of the lectures in the aggregate for the semester or annual examination as the case may be.
5. Lateral entry will be permitted to Part II of the five year law course to a candidate who is a graduate of a University, or possesses such academic qualifications

which are considered equivalent to a graduate's degree of a University by the Bar Council of India.

6. (1) The Part I examination should be so conducted as to be called a University examination. A student who has passed Part I of the law course shall be eligible for enrolment in the final year of the three year degree course in arts, social science etc., to supplicate for the B.A Degree. A student who has completed three years of the five year course in law is eligible to get a degree from the University on passing such examination conducted by the same University which is equivalent to B.A. (Law) but such degree shall not entitle the student to enrol as an advocate.
(2) Papers listed in Rule 9(1) of the Bar Council of India Rules in Part IV, Section -A for the two year pre-law study under the scheme of five year course may be adopted by the Universities with such modification as to make it possible for the students to enter the B.A. Degree programme after passing Part I with a view to supplicating for B.A. Degree in one year. Modification of the listed papers may be made keeping in view of the requirements of legal education for those who enter Part II of course from other faculties.
7. Individual Universities may frame their own rules of admission to Part II in such manner that post-graduates as well as graduates may be able to get admission.
8. (1) A Law College shall be located at a place where there is atleast a District Court or a Circuit District Court or within such distance thereof as the Bar Council of India permits.
(2) Every Law College to obtain approval of affiliation must have in its teaching staff in its first year a whole time Principal and atleast two other whole time teachers and by the time it opens its third year, it must have two more whole time teachers. This rule will come into force immediately for new colleges while in case of existing law colleges, it will be effective from 1st July 1996.
(3) The library of the College or University Department shall remain open for atleast eight hours on every working day.
9. (1) The courses of instruction for the Part I for law degree course shall include the following 6 compulsory subjects:-
 1. General English (Graduate Standard) - 2 Papers (Part I and Part II)
 2. Political Science (Part I , Part II and Part III) - 3 Papers
 3. Economics - 1 Paper
 4. Sociology - 1 Paper
 5. History - 1 Paper

6. History of Courts, Legislature and Legal Profession in India. - 1 Paper

(2) The course of instruction for Part II of the study in law shall include the following 21 compulsory subjects:-

1. Jurisprudence.
2. Contract-I(General Principle of Contract-Section 1-75 and Specific Relief)
3. Contract-II (Indian Contract Act, Indian Partnership Act, Sale of Goods Act and other Specific contracts).
4. Tort and Consumer Protection Laws.
5. Family Law-I
6. Family Law-II
7. Law of Crimes
8. Criminal Procedure Code, Juvenile Justice Act and Probation of Offenders Act.
9. Constitutional Law
10. Property Law including Transfer of Property Act and Easement Act.
11. Law of Evidence
12. Civil Procedure Code and Limitation Act.
13. Legal Language/Legal Writing including General English
14. Administrative Law
15. Company Law
16. Human Rights and International Law
17. Arbitration, Conciliation and Alternate Dispute Resolution Systems
18. ¹[Environmental Law including laws for the protection of the wild life and other living creatures including animal welfare.]
19. Labour Law.
20. Interpretation of Statutes
21. Land Laws including ceiling and any other local laws.

(3) Not less than 3 more subjects which may be chosen from the list hereunder:-

1. International Economic Law.
2. Bankruptcy Laws
3. Taxation Laws
4. Comparative Law/Legal History

1 Subs. by Resolution No. 48/2001.

5. Insurance Law
 6. Conflict of Laws
 7. Banking law including Negotiable Instruments Act
 8. Investment and Security Law
 9. Trusts, Equity and Fiduciary Relationships
 10. Criminology and Penology
 11. Air and space Law
 12. Law and Medicine
 13. Women and Law and Law Relating to Child/Law, Poverty and Development
 14. Intellectual Property Law
 15. Maritime Law
- (4) Six Months of Practical Training be imparted and Practical Training will include the following Compulsory Papers:
1. Moot Court, Pre-Trial Preparations and Participation in Trial proceedings.
 2. Drafting, Pleading and Conveyancing.
 3. Professional Ethics, Accountancy for Lawyers and Bar Bench Relations.
 4. Public Interest Lawyering, Legal Aid and Para Legal Services.

The following Practical Training Scheme shall be adopted by the Universities.

PAPER I : MOOTCOURT, PRE-TRIAL PREPARATIONS AND PARTICIPATION IN TRIAL PROCEEDINGS

This paper will have three components of 30 marks each and a viva for 10 marks.

(a) Moot Court (30 Marks) :

Every student will do at least three moot courts in a year with 10 marks for each. The moot court work will be on assigned problem and it will be evaluated for 5 marks for written submissions and 5 marks for oral advocacy.

(b) Observance of Trial in two cases, one Civil and one Criminal (30 marks):

Students will attend two trials in the course of the last two or three years of LL.B. studies. They will maintain a record and enter the various steps observed during their attendance on different days in the court assignment. This scheme will carry 30 marks.

(c) Interviewing techniques and Pre-trial preparations (30 marks) :

Each student will observe two interviewing sessions of clients at the Lawyers' Office/Legal Aid Office and record the proceedings in a diary which will carry

15 marks. Each student will further observe the preparation of documents and court papers by the Advocate and the procedure for the filing of the suit/petition. This will be recorded in the diary which will carry 15 marks.

- (d)** The fourth component of this paper will be Viva Voce examination on all the above three aspects. This will carry 10 marks.

PAPER II . DRAFTING, PLEADING AND CONVEYANCING

This course will be taught through class instructions and simulation exercises, preferably with assistance of practising lawyers/retired judges. Apart from teaching the relevant provisions of law, the course will include 15 exercises in Drafting carrying a total of 45 marks and 15 exercises in Conveyancing carrying another 45 marks.(3 marks for each exercise)

Note.—

- (a) Drafting:

General principles of drafting and relevant substantive rules shall be taught.

- (b) Pleadings:

- (1) Civil : (i) Plaint (ii) Written Statement (iii) Interlocutory Application (iv) Original Petition (v) Affidavit (vi) Execution Petition and (vii) Memorandum of Appeal and Revision (viii) Petition under Article 226 and 32 of the Constitution of India.
- (2) Criminal : (i) Complaints (ii) Criminal Miscellaneous petition , (iii) Bail Application and (iv) Memorandum of Appeal and Revision.

- (c) Conveyancing:

- (i) Sale Deed (ii) Mortgage Deeds (iii) Lease Deed, (iv) Gift Deed (v) Promissory Note (vi) Power of Attorney (vii) Will.

The remaining 10 marks will be given in a viva voce examination which will test the understanding of legal practice in relation to Drafting, Pleading and Conveyancing.

PAPER III : PROFESSIONAL ETHICS, ACCOUNTANCY FOR LAWYERS AND BAR BENCH RELATIONS

This course will be taught in a association with practising lawyers on the basis of the following materials:

- (i)** Mr. Krishnamurthy Iyer's book on "Advocacy".
- (ii)** The Contempt Law and Practise.
- (iii)** The Bar Council Code of Ethics.
- (iv)** 50 selected opinions of the Disciplinary Committees of Bar Councils and 10 major judgments of the Supreme Court on the subject.

The Written examination on this paper will have 80 Marks and the viva voce will carry 20 marks.

In lieu of the written examination, colleges may be encouraged wherever appropriate to give the students, Seminars and Projects where they are expected to research and write persuasive memoranda on topics identified in the above subjects.

PAPER IV : PUBLIC INTEREST LAWYERING , LEGAL AID AND PARA-LEGAL SERVICES

This course carrying 100 marks will have to be designed and evaluated according to local conditions by the colleges in consultation with the Universities and State Bar Councils. It can be taught partly through class room instructions including simulation exercises and partly through extension programmes like Lok Adalat, Legal aid Camp, Legal Literacy and Para Legal Training. The Course should also contain lessons on negotiations and counselling, use of computer in legal work, legal research in support of Public Interest Litigation, writing of case comments, editing of Law Journals and Law Office management. The marks may be appropriately divided to the different programmes that each University might evolve for introduction in the Colleges under its control.

- 10.** For each paper there shall be lecture classes for at least three hours and one hour of tutorial work per week.
11. The examination shall ordinarily be held at the end of every six months. The University shall however, be at liberty to hold examinations at the end of every year. Suitable allocations of subjects for six months or one year, as the case may be, shall be made by the University and the same shall be intimated to the Bar Council of India.
12. Full time teachers of law including the Principal of the college shall ordinarily be holders of a Master's degree in law and where the holders of Master's degree in law are not available, persons with teaching experience for a minimum period of 10 years in law may be considered. Part time teachers other than one with LL.M. Degree shall have a minimum practice of five years at the Bar.
13. The teaching load of full time and part time teachers shall be according to the norms prescribed by the U.G.C. from time to time.
14. The salaries paid to the Principal, full- time and part-time teachers shall be according to the scales recommended by the U.G.C. from time to time.
15. Other benefits like D.A.,C.L.A. (Compensatory Local Allowance), House Rent Allowance, Provident Fund, etc. shall be according to the norms prescribed by the University concerned from time to time.
16. A law college affiliated to a University shall by June 1, 1987 be an independent law college and shall cease to be a department attached to a college.
- 17.** (1) No college after the coming into force of these Rules shall impart instruction in a course of study in law for enrolment as an advocate unless its affiliation has been approved by the Bar Council of India.

- (2) An existing law college shall not be competent to impart instruction in a course of study in law for enrolment as an advocate if the continuance of its affiliation is disapproved by the Bar Council of India.
- 18.** The Bar Council of India shall cause a law college affiliated or sought to be affiliated to a University to be inspected by a Committee to be appointed by it for the purpose when—
- (a) An application for approval of affiliation of a new college is received by it or It suo motu decides in order to ensure that the standards of Legal Education laid down by it are being complied with.
- (a) The application for approval of affiliation of a new college shall be addressed to the Secretary, Bar Council of India, and shall be sent only through the Registrar of the University concerned with his recommendations and the application be accompanied by an inspection fee of Rs. 50,000/-.
- (a) The College and/or the University concerned shall furnish all the information to the Committee of inspection and the Bar Council of India as and when required, and shall co-operate with them in every possible manner in the conduct of inspection.
- (d) (1) The Inspection team before recommending approval of affiliation to a new law college should, inter alia, make a specific recommendation as to why such a law college is required at the same place/area where the law college is proposed to be started keeping in view the total number of existing Law Colleges in the place/area in particular and the state in general.
- (2) The inspection team will also keep in view the approximate population of the area where the College is proposed to be started, number of Law Colleges along with the total number of students therein, number of degree colleges as well as junior Colleges in the area in particular and the State in general.
- (e) If an unfavourable report is received, the Secretary of the Bar Council of India shall cause a copy of the same to be sent to the Registrar of the University concerned for his comments and explanations, if any. Such comments and explanations on the report shall be sent by the Registrar of the University within a period of six weeks from the date of the receipt of the communication.
- (f) The Secretary of the Bar Council of India shall cause the report and the comments/explanation of Registrar of the University concerned to be placed before the next meeting of the Legal Education Committee of the Bar Council of India.

- (g) If the Legal Education Committee is satisfied that the standards of Legal Education and/or the rules for affiliation or continuance of affiliation provided for in these rules by the Bar Council of India are not complied with and/or that the courses of study, teaching and/or examination are not such as to secure to persons under-going legal education, the knowledge and training requisite for the competent practice of law, the Legal Education Committee shall recommend to the Bar Council of India, the approval/disapproval of affiliation or continuance of affiliation as the case may be.

The Legal Education Committee may also recommend that certain directions be given for improvements to be carried out within the period to be specified.

- (h) This recommendation of the Legal Education Committee alongwith the accompanying papers shall be placed before the Bar Council of India for its decision. In case the Bar Council of India disagrees with or modifies the recommendation of the Legal Education Committee, it shall Communicate its views to the Legal Education Committee for its consideration before arriving at a final decision in the matter.

- (i) If the Council is of the opinion that affiliation of a college whose affiliation has already been approved, be disapproved, the Council shall give notice of the proposed action to the Principal of the college and the Registrar of the University to show cause within 30 days of the receipt of the notice and the Council shall take into consideration, the reply received before making final orders.

- (j) The decision of the Bar Council of India shall be communicated to the Registrar of the University.

It shall be effective from the commencement of the next academic year following the date on which it is received by the Registrar of the University.

- (k) University Law Department/Constituent and affiliated law colleges to which the Bar Council of India has already accorded Approval of affiliation shall submit to the Bar Council of India an annual return in the form prescribed (as per schedule IV) by the Bar Council of India at the end of its annual academic session failing which the approval of affiliation accorded shall be liable to be withdrawn/cancelled.

(1) After refusal to grant permission to start a law college or to extend approval of affiliation to any existing law college, no fresh application for the same purpose shall be entertained until the expiry of the next academic session or one calender year whichever is later from the date of such refusal by the Bar Council of India.

- (2) Every law college, University, Deemed University & Department of law of any University and applying for approval of affiliation shall obtain permission / no objection for establishment of law college from Government of Higher Education Department of the State, if the same is a requirement under the prevailing law or any order in the State.
19. (1) The Council shall publish by notification in the Gazette of India and in prominent newspapers in India, the names of Universities whose degrees in law are recognised under these rules with a list of law colleges under the Universities which are eligible to impart professional Legal Education as provided for under these rules and send a copy of the notification above referred to all the Universities imparting Legal Education and State Bar Councils.
- Provided that for the purpose of sub-rule (1) above, the existing University law departments and law colleges affiliated to Universities shall be deemed to be professional law colleges under these rules unless otherwise decided by the Council.
- (2) Information about the non-recognition or derecognition of the degree in law of an University shall also be sent to all Universities in India imparting legal education and to all State Bar Councils.
20. If the Universities located in States where the 10+2 or 11+1 school system is not yet in vogue, propose to start the five year LL.B. Course under these rules, they will be free to do so.
21. The Bar Council of India may issue directives from time to time for maintenance of the standards of Legal Education. The College/University is expected to follow them as compulsory.
22. The questionnaire framed as per schedule II by the Bar Council of India as amended from time to time, to be answered by the applicant for affiliation shall be deemed to be directives issued under this Rule.
23. Whenever approval of affiliation is granted to the law college, it shall be necessary for the college to deposit in cash Rs. 1,00,000 (one lakh) in the shape of guarantee to fulfil all the norms of the Bar Council of India. The same shall be liable to be forfeited if the norms are not complied with and the same shall carry no interest.

SECTION - B

THREE - YEAR LAW COURSE AFTER GRADUATION

1. (1) Save as provided in Section 24(1) (c) (iia) of the Act, a degree in law obtained from any University in the territory of India after the 12th day

of March 1967 shall not be recognised for purposes of Section 24(1) (c) (iii) of the act unless the following conditions are fulfilled:-

- (a) That at the time of joining the course of instruction in law for a degree in law, he is a graduate of a University or possesses such academic qualifications which are considered equivalent to a graduate's degree of a University by the Bar Council of India.
 - (b) That the law degree has been obtained after undergoing a course of study in law for a minimum period of three years as provided in these rules;
 - (c) That the course of study in law has been by regular attendance at the requisite number of lectures, tutorials or moot courts in a college recognised by a University.
- (2) (a) The Council shall publish by notification in the gazette of India and in prominent newspapers in India, the names of Universities whose degrees in law are recognised under these rules with a list of law colleges under the Universities which are eligible to impart professional Legal Education as provided for under these rules and send a copy of the notification above referred to all the Universities imparting Legal Education and State Bar Councils.
- Provided that for the purpose of sub-rule (1) (c) above the existing University Law Departments and Law Colleges affiliated to Universities shall be deemed to be professional law colleges under these rules unless otherwise decided by the Council.
- (b) Information about the non-recognition or derecognition of the degree in law of an University shall also be sent to all Universities in India imparting legal education and to all State Bar Councils.
2. (1) That the Law Education under Section - B may be through whole time colleges.
- ¹[All law colleges which are exclusively running evening sessions shall switch over to "Day" sessions during the academic year 2000-2001 failing which they will not be entitled to approval of affiliation by the Bar Council of India.]
- Provided that wherever the college is running evening course, the students who were admitted to the first year in the evening sessions during the academic year 1999-2000 shall be allowed to complete the course
- (2) A College or University Department will be deemed to be whole time college for the purpose of sub-Rule 2(1), if the working time of the college

¹ Subs. by the Bar Council of India, New Delhi, Notification dated February, 2000, published in the Gazette of India, Pt. III, Sec. 4, p. 529, No. 9, dated 26th February, 2000.

or the University Department as the case may be, extends to atleast thirty hours of working per week including contact and correspondence programme, tutorials, home assignments library, clinical work etc. provided that the actual time for class room lectures is not less than 20 hours per week.

3. The students shall be required to put in a minimum attendance of 66% of the lectures on each of the subjects as also at tutorials, moot courts and practical training course.

Provided that in exceptional cases for reasons to be recorded and communicated to the Bar Council of India, the Dean of the Faculty of Law and the Principal of law colleges may condone attendance short of those required by the Rule, if the student had attendance 66% of the lectures in the aggregate for the semester or examination as the case may be.

4. (1) A Law College shall ordinarily be located at a place where there is atleast a District Court or a Circuit District Court or within such distance thereof as the Bar Council of India permits.

(2) Every Law College to obtain approval affiliation must have in its teaching staff in its first year a whole time Principal and atleast two other whole time teachers and by the time to opens its third year, it must have two more whole time teachers. This rule will come into force immediately for new colleges while in case of existing law colleges, it will be effective from 1st July 1996.

- (3) The library of the College or University Department shall remain open for atleast eight hours on every working day.

5. (1) The Course of instruction for the study in law shall include the following 21 compulsory subjects:-

1. Jurisprudence.
2. Contract-I(General Principle of Contract-Section 1-75 and Specific Relief)
3. Contract-ii (Indian Contract Act, Indian Partnership Act, Sale of Goods Act and other Specific contracts).
4. Tort and Consumer Protection Laws.
5. Family Law-I
6. Family Law-II
7. Law of Crimes
8. Criminal Procedure Code, Juvenile Justice Act and Probation of Offenders Act.
9. Constitutional Law
10. Property Law including Transfer of Property Act and Easement Act.

11. Law of Evidence
 12. Civil Procedure Code and Limitation Act.
 13. Legal Language/Legal Writing including General English
 14. Administrative Law
 15. Company Law
 16. Human Rights and International Law
 17. Arbitration, Conciliation and Alternate Dispute Resolution Systems
 18. Environmental Law including laws for the protection of the wild life and other living creatures including animal welfare.
 19. Labour Law.
 20. Interpretation of Statutes
 21. Land Laws including ceiling and any other local laws.
- (2) Not less than three more subjects which may be chosen from the list hereunder:-
1. International Economic Law.
 2. Bankruptcy Laws
 3. Taxation Laws
 4. Comparative Law/Legal History
 5. Insurance Law
 6. Conflict of Laws
 7. Banking law including Negotiable Instruments Act
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 9. Trusts, Equity and Fiduciary Relationships
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 13. Women and Law and Law Relating to Child/Law, Poverty and Development
 14. Intellectual Property Law
 15. Maritime Law
- (3) Six Months of Practical Training be imparted and Practical Training will include the following Compulsory Papers:
1. Moot Court, Pre-Trial Preparations and Participation in Trial proceedings.
 2. Drafting, Pleading and Conveyancing .

3. Professional Ethics, Accountancy for Lawyers and Bar Bench Relations.
4. Public Interest Lawyering, Legal Aid and Para Legal Services.

The following Practical Training Scheme shall be adopted by the Universities

PAPER I : MOOT COURT, PRE-TRIAL PREPARATIONS AND PARTICIPATION IN TRIAL PROCEEDINGS

This paper will have three components of 30 marks each and a viva for 10 marks.

a. Moot Court (30 Marks) :

Every student will do at least three moot courts in year with 10 marks for each. The moot court work will be on assigned problem and it will be evaluated for 5 marks for written submissions and 5 marks for oral advocacy.

b. Observance of Trial in two cases, one Civil and one Criminal (30 marks):

Students will attend two trials in the course of the last two or three years of LL.B. studies . They will maintain a record and enter the various steps observed during their attendance on different days in the court assignment. This scheme will carry 30 marks.

c. Interviewing techniques and Pre-trial preparations (30 marks) :

Each student will observe two interviewing sessions of clients at the Lawyers' Office/Legal Aid Office and record the proceedings in a diary which will carry 15 marks. Each student will further observe the preparation of documents and court papers by the Advocate and the procedure for the filing of the suit/petition. This will be recorded in the diary which will carry 15 marks.

d. The fourth component of this paper will be Viva Voce examination on all the above three aspects. This will carry 10 marks.

PAPER II : DRAFTING, PLEADING AND CONVEYANCING

This course will be taught through class instructions and simulation exercises, preferably with assistance of practising lawyers/retired judges. Apart from teaching the relevant provisions of law, the course will include 15 exercises in Drafting carrying a total of 45 marks and 15 exercises in Conveyancing carrying another 45 marks.(3 marks for each exercise)

Note.—

a. Drafting:

General principles of drafting and relevant substantive rules shall be taught.

b. Pleadings:

(1) Civil : (i) Plaint (ii) Written Statement (iii) Interlocutory Application (iv) Original Petition (v) Affidavit (vi) Execution Petition and (vii) Memorandum of Appeal and Revision (viii) Petition under Article 226 and 32 of the Constitution of India.

(2) Criminal : (i) Complaints (ii) Criminal Miscellaneous petition , (iii) Bail Application and (iv) Memorandum of Appeal and Revision.

c. Conveyancing:

(i) Sale Deed (ii) Mortgage Deeds (iii) Lease Deed, (iv) Gift Deed (v) Promissory Note (vi) Power of Attorney (vii) Will.

The remaining 10 marks will be given in a viva voce examination which will test the understanding of legal practice in relation to Drafting, Pleading and Conveyancing.

PAPER III : PROFESSIONAL ETHICS, ACCOUNTANCY FOR LAWYERS AND BAR BENCH RELATIONS

This course will be taught in a association with practising lawyers on the basis of the following materials:

- i.** Mr. Krishnamurthy Iyer's book on "Advocacy".
- ii.** The Contempt Law and Practise.
- iii.** The Bar Council Code of Ethics.
- iv.** 50 selected opinions of the Disciplinary Committees of Bar Councils and 10 major judgments of the Supreme Court on the subject.

The Written examination on this paper will have 80 marks and the viva voce will carry 20 marks.

In lieu of the written examination, colleges may be encouraged wherever appropriate to give the students, seminars and projects where they are expected to research and write persuasive memoranda on topics identified in the above subjects.

PAPER IV : PUBLIC INTEREST LAWYERING , LEGAL AID AND PARA-LEGAL SERVICES

This course carrying 100 marks will have to be designed and evaluated according to local conditions by the colleges in consultation with the Universities and State Bar Councils. It can be taught partly through class room instructions including simulation exercises and partly through extension programmes like Lok Adalat, Legal aid Camp, Legal Literacy and Para Legal Training. The Course should also contain lessons on negotiations and counselling, use of computer in legal work, legal research in support of Public Interest Litigation, writing of case comments, editing of Law Journals and Law Office management. The marks may be appropriately divided to the different programmes that each University might evolve for introduction in the colleges under its control.

- 6.** For each paper there shall be lecture classes for atleast 3 hours per week.
- 7.** The examination shall ordinarily be held at the end of every six months. The University shall, however, be at liberty to hold examinations at the end of every year. Suitable allocations of subjects for six months or one year, as the case may be, shall be made by the University and the same shall be intimated to the Bar Council of India.

8. Full time teachers of law including the Principal of the college shall ordinarily be holders of a Master's degree in law and where the holders of Master's degree in law are not available, persons with teaching experience for a minimum period of five years in law may be considered. Part time teachers other than one with LL.M. Degree shall have a minimum practice of 10 years at the Bar.
9. The teaching load of full time and part time teachers shall be according to the norms prescribed by the U.G.C. from time to time.
10. The salaries paid to the Principal full time and part time teachers shall be according to the scales recommended by the U.G.C. from time to time.
11. A law college affiliated to a University shall by June 1, 1987 be an independent law college and shall cease to be a department attached to a college.
12.
 - (1) No college started after the coming into force of these Rules shall impart instruction in a course of study in law for enrolment as an advocate unless its affiliation has been approved by the Bar Council of India.
 - (2) An existing law college shall not be competent to impart instruction in a course of study in law for enrolment as an advocate if the continuance of its affiliation is disapproved by the Bar Council of India.
13. The Bar Council of India shall cause a law college affiliated or sought to be affiliated to a University to be inspected by a Committee to be appointed by it for the purpose when:
 - (a) An application for approval of affiliation of a new college is received by it or it suo motu decides in order to ensure that the standards of Legal Education laid down by it are being complied with.
 - (b) The application for approval of affiliation of a new college shall be addressed to the Secretary, Bar Council of India, and shall be sent only through the Registrar of the University concerned with his recommendations and the application be accompanied by an inspection fee of Rs. 50,000/-.
 - (c) The College and/or the University concerned shall furnish all the information to the Committee of inspection and the Bar Council of India as and when required, and shall co-operate with them in every possible manner in the conduct of inspection.
 - (d)
 - (1) The Inspection team before recommending approval of affiliation to a new law college should, inter alia, make a specific recommendation as to why such a law college is required at the same place/area where the law college is proposed to be started keeping in view the total number of existing law colleges in the place/area in particular and the state in general.
 - (2) The inspection team will also keep in view the approximate population of the area where the College is proposed to be started, number of law colleges alongwith the total number of students

therein, number of degree colleges as well as junior Colleges in the area in particular and the State in general.

If an unfavourable report is received, the Secretary of the Bar Council of India shall cause a copy of the same to be sent to the Registrar of the University concerned for his comments and explanations, if any. Such comments and explanations on the report shall be sent by the Registrar of the University within a period of six weeks from the date of the receipt of the communication.

- (f) The Secretary of the Bar Council of India shall cause the report and the comments/explanation of Registrar of the University concerned to be placed before the next meeting of the Legal Education Committee of the Bar Council of India.
- (g) If the Legal Education Committee is satisfied that the standards of Legal education and/or the rules for affiliation or continuance of affiliation provided for in these rules by the Bar Council of India are not complied with and/or that the courses of study, teaching and/or examination are not such as to secure to persons under-going legal education, the knowledge and training requisite for the competent practice of law, the Legal Education Committee shall recommend to the Bar Council of India the approval/disapproval of affiliation or continuance of affiliation as the case may be.

The Legal Education Committee may also recommend that certain directions be given for improvements to be carried out within the period to be specified.
- (h) This recommendation of the Legal Education Committee alongwith the accompanying papers shall be placed before the Bar Council of India for its decision. In case the Bar Council of India disagrees with or modifies the recommendation of the Legal Education Committee, it shall Communicate its views to the Legal Education Committee for its consideration before arriving at a final decision in the matter.
- (i) If the Council is of the opinion that affiliation of a college whose affiliation has already been approved, be disapproved, the Council shall give notice of the proposed action to the Principal of the College and the Registrar of the University to show cause within 30 days of the receipt of the notice and the Council shall take into consideration, the reply received before making final orders.
- (j) The decision of the Bar Council of India shall be communicated to the Registrar of the University.

It shall be effective from the commencement of the next academic year following the date on which it is received by the Registrar of the University.

- (k) University Law Department/Constituent and affiliated law colleges to which the Bar Council of India has already accorded approval of affiliation shall submit to the Bar Council of India an annual return (as per schedule IV) in the form prescribed by the Bar Council of India at the end of its annual academic session failing which the approval of affiliation accorded shall be liable to be withdrawn/cancelled.
- (1) After refusal to grant permission to start a law college or to extend approval of affiliation to any existing law college, no fresh application for the same purpose shall be entertained until the expiry of the next academic session or one calendar year whichever is later from the date of such refusal by the Bar Council of India.
- (2) Every law college, University, Deemed University & Department of Law of any University and applying for approval of affiliation shall obtain permission / no objection for establishment of law college from Government of Higher Education Department of the State, if the same is a requirement under the prevailing law or any order in the State.
14. The Bar Council of India may issue directives from time to time for maintenance of the standards of Legal Education. The College/University is expected to follow them as compulsory.
15. The questionnaire framed by the Bar Council of India as amended from time to time, to be answered by the applicant for affiliation shall be deemed to be directives issued under this Rule and shall be added as Schedule II to Rules in Section B.

SECTION -C

RULES REGARDING INSPECTION OF LAW COLLEGES BY THE STATE BAR COUNCILS

1. The State Bar Council should inspect only such colleges about which there is a specific direction of the Bar Council of India for the State Bar Council to inspect.
2. The State Bar Council will be entitled to charge an inspection fee of Rs. 5000/ from the College to be inspected or the actual cost of inspection whichever is less.
3. While inspecting such colleges the inspection should be done by a team consisting of the two members of the State Bar Council duly authorised by the State Bar Council.

4. The inspecting team of the State Bar Councils should verify whether the standards to be observed by the college under the Rules of the Bar Council of India and the norms framed by it are observed properly and give a report on the factual position about the same.
5. The inspecting team should send a report to the Bar Council of India inter alia on the following points :-
 - (1) The building of the college and its adequacy,
 - (2) Qualifications, salaries, terms and conditions of service mode of appointments of Lecturers of the college concerned,
 - (3) Qualifications, salaries, service conditions, mode of appointments of staff of the college concerned,
 - (4) Timings of college,
 - (5) Number of students,
 - (6) Attendance Register whether maintained properly or not,
 - (7) Total working days of the current academic year as well as also of last three years,
 - (8) Funds of the college and annual auditing,
 - (9) Library details.
6. The inspection team should also send a report on the quality of teaching, infrastructure for teaching and whether in its opinion affiliation already granted should be continued or not. The report should also mention whether the permission for affiliation granted should be temporary or permanent.

SCHEDULE - I

DIRECTIVES ISSUED UNDER RULE 21 IN SEC A AND UNDER RULE 14 IN SEC-B

1. The teaching of the core programme in Part I of the law course may be done with the help of teachers in the discipline concerned from the respective University / College departments.
2. The maximum strength of students in any class (LL.B : I, II, III, IV, and V) shall not exceed 320 in any given College or University, Department of law and the number of students in any section of each of such class shall not exceed 80. In other words no college or University Department of law shall have on its rolls a total student strength of over 1600 students in all its 1st, 2nd, 3rd, 4th and 5th years put together.
3. Law college and University law departments shall ensure that :
 - (a) Multiple copies of prescribed and recommended readings are available to the students.

- (b) Seating arrangements are provided for at least 15% of the students at a time in the reading hall.
- (c) The teacher – student ratio is at least 1:40

4. **Building**

- (1) (a) The building of a college shall be available for its exclusive use, during the working hours of the college.
- (b) The accommodation provided for classes, hostel, if any, and the residential quarters for the Principal and the teacher to be in-charge of the hostel, if any, will be separate.
- (2) The college buildings shall consist of the following :
 - (a) Classrooms;
 - (b) A common room for men students;
 - (c) A common room for women students;
 - (d) A library hall with book shelves and reading tables; sufficient to seat 20% of the students on the roll.
 - (e) Office rooms for the Principal and his office staff;
 - (f) A teachers' common room.
- (3) (a) All buildings shall be well lighted and ventilated and shall have adequate sanitary arrangements and water supply;
- (b) All buildings shall be duly furnished.
- (4) (a) If the college has no building of its own and it is proposed to be housed temporarily in a hired building, the college authorities shall create the building fund which shall be set apart and deposited in a Scheduled Bank or a District Central Co-operative Bank.
- (b) Deposits so made in the name of the college shall not be withdrawn except when required for meeting the cost of the portion of the building already constructed.
- (c) The building shall be completed within a period of five years from the date of the approval of affiliation is communicated to the Registrar of the University concerned.

5. **Library**

- (a) There shall be an independent library, which shall be adequately equipped with law reports, books, periodicals and reference books to satisfy the requirements. Every law college must subscribe to the following law journals for its library :
 - (1) All India Reporter
 - (2) Supreme Court Cases

- (3) State High Court Reports
 - (4) Local Journals
 - (5) Indian Bar Review
- (b) The library shall be in the charge of qualified and trained librarian.
- (c) The minimum initial and recurring annual expenditure on the library shall be as below:
- Initial Rs. 2,00,000/-*
- First year Rs. 50,000/-*
- Second year Rs. 50,000/-*
- Third year Rs. 25,000/-*
6. The building fund, as provided in Directive 4 (4) shall be created at least for Rs.25 lakhs through installments as under :-
- Initial Rs. 15,00,000/-*
- First year Rs. 5,00,000/-*
- Second year Rs. 5,00,000/-*
7. The accommodation provided for classes, hostel, if any, and the residential quarters for the Principal and the teacher to be in charge of the hostel, if any, will be separate.
8. Quarters for the Principal,
Quarters for the teacher-in-charge of the hostel, if any, located near the hostel.
Quarters for other permanent teachers as and if required by the University.
9. Provision may also be made if possible for a playground and adequate facilities for games and sports
10. Every University shall endeavour to supplement the lecture method with the case method, tutorials and other modern technique of imparting legal education.

SCHEDULE II

(Rule 22 in Section A & Rule 15 in section B)

QUESTIONNAIRE TO BE ANSWERED BY THE APPLICANT

(This questionnaire shall be routed through the University to which affiliation is sought)

This questionnaire has been prepared in the light of the rules of the Bar Council of India in Part IV, Section A & B relating to standards of Legal Education and Recognition of degrees in Law under Section 7(h) and 24 (1) (c) (iii), (iiia), and 49 (1) and (d) of the Advocates Act, 1996.

QUESTIONNAIRE

(Revised as on 2nd June, 1996)

1. Name of the proposed institution with complete address.
2. The body managing the institution, its composition and the list of office bearers. Please also enclose copies of the rules and bye-laws of such body.
3. Financial position of the organization managing the institution (Give details of the assets including land, building, bank deposits and other investments).
4. Approximate population of the State and the area where the Law College is proposed to be started.
5. Number of Law Colleges if any in the area and their names and total number of students as also the total number of Law Colleges in the State.
6. Number of degree colleges (both under-graduate and post-graduate except professional colleges in the area.
7. Briefly state the necessity for starting a Law College by you in the area, in view of the existing law college in the area and in the State.
8. Is there at least a District Court or Circuit District Court at the place of the proposed law college. If so, how far the nearest District court is situated?
9. Has your College been affiliated to any University and if it is so, please state the nature and extent of the affiliation.
10. Date on which the college was first started along with supporting documents.
11. Whether at any point of time, the college was inspected by the Bar Council of India. If so, give the date of such inspection.
12. Please state whether your law college has obtained permission of the State Government. If so, furnish the details with documentary proof. If not, state the reasons.

13. Whether your college proposes to impart a five-year law course i.e. 10+2+5 or a three-year course after graduation as prescribed under the rules of the Bar Council of India.
14. Whether the University to which your law college seeks affiliation has introduced the new scheme of five-year law course? If so from which year? If not, state whether it proposes to do so.
15. State the proposed courses to be imparted in the college (five-year law course/three-year law course) and whether it will be through morning/evening/day classes for which permission is sought?
16. What is proposed working hours of the College? (Actual teaching hours may be stated).
17. Whether the law college would secure services of a full time Principal? [Rule 8(2) in Section A and 4(2) in Section B]
18. Whether the proposed Law college has already set up a Library, if so please state—
 - (a) Whether the Library has been adequately been equipped with the law reports, text book, periodicals and reference books to meet the requirement of the course of instruction given under the rules. Give exhaustive list.
 - (b) Whether multiple copies of prescribed and recommended readings available.
 - (c) Whether the Library hall with book shelves and reading tables sufficient to seat 20% of the students on the roll.
 - (d) The proposed teacher-student ratio.
 - (e) Details about the working hours of the library.
 - (f) Whether the library is under the charge of a qualified librarian.
 - (g) Whether the Library remains available for the exclusive use of the College, (h) Does

the Library Building remains available for the whole time?

19. What is the proposed intake of the students in the 1st year?
20. Whether the law college has its own building and if so whether the building is available for exclusive use of the college during its working hours.
21.
 - (a) How many classrooms are available. Please state the size of the rooms,
 - (b) Whether there is common room facilities for men and women students.
 - (c) Whether there is common room facilities for teachers.
 - (d) Whether there is accommodation for Principal and permanent members of the teaching staff.
 - (e) Whether the college building has been properly furnished.
 - (f) If the college has not got its own building, whether the college has set apart any building fund? Give details.
 - (g) The approximate time by which the college building will be completed,
 - (h) Whether the College had adequate playground facility in the vicinity of the college building.
22. Does your College secure the services of prescribed number of full-time and part-time teachers having the qualification prescribed under the rules of the Bar Council of India.
23. Do you agree to arrange the teaching load of full-time and part-time teacher as laid down by the U.G.C. and the Bar Council of India from time to time.
24. Does your college pay salary to the Principal and full-time teachers according to the pay scales prescribed by the U.G.C.

25. Does your college extend to the teaching staff the benefits like D.A., C.C.A., P.P., as per the University Rules.
26. Is the College independent of other faculties. Independent Law College means a College with a regular qualified full-time Principal and requisite staff and facilities as provided for in the rules of the Bar Council of India.
27. Does your college provide accommodation for classes, hostel, residential quarters for the Principal and the teacher to be incharge of the hostel, separately.
28. Any other information which is not covered by this questionnaire and the applicant feels essential and relevant.

Date.....

SIGNATURE OF THE APPLICANT

Place.....

SCHEDULE III

PROFORMA FOR INSPECTION REPORT OF LAW COLLEGES

(While preparing the report of inspection of the Law Colleges, members are requested to follow the following proforma).

1. Name of the Law College with complete address.
2. Name of the University to which the College is affiliated/sought to be affiliated with photocopies of relevant documents.
3. Name of the Society/Trust/Organisation sponsoring the institution, its financial position, details of the organisation etc., (Full details)
4. Date of Inspection.
5. Name of the Members of the Inspecting Team.
6. Approximate population of the State and the area where the Law College is located/ proposed to be located.
7. Number of Law Colleges in the area, their names, total strength of students in each year of the course (Both three-year and five-year).
8. Number of degree colleges (Both under-graduate and post-graduate) in the area.

9. Necessity for starting a new Law College/ continuance of the existing Law College in the area.
10. Details of the courts in the area.
11. Number of lawyers practising in the area.
12. If the College is already affiliated by University and permitted by State Government, details thereof with photocopies of documents—
 - (i) Details of affiliation of University with documentary proof.
 - (ii) Permission of the State Government with documentary proof.
13. Whether five-year course has been introduced in the College/Deptt. of University if so, when? If five-year course is not introduced yet whether the College is intending to do so or not.
14. Details about the course of study imparted/ sought to be imparted and timings of college with specific information as to whether instructions in law education is imparted in Morning/Day/ Evening sessions. (With complete time schedule)
15. Details about the teaching staff, their qualifications, salary and other service conditions with complete details of full-time and part-time teachers.
16. Details about the accommodation at the disposal of the College with stipulation whether the land and building are owned by the College or the same is rented or leased. (Full details thereof with photocopies of relevant documents)
17. Details about the Administrative staff in the College.
18.
 - (a) Details about the Library in terms of the space, equipments and full details of text books, reference books, journals and other periodicals.
 - (b) State whether the books and periodicals mentioned in rule 5(a) of Schedule I to

Rules in section A and B of the Rules are available in the library or not? Give details.

- (c) Working hours of library and details of Library staff.
 - (d) Whether the Librarian is qualified and trained librarian or not.
 - (e) State whether the minimum and/or recurring annual expenditure on the library in terms of Rule 5(e) in Schedule I to Rules in section A and B is incurred or not.
- 19.** Views of Members of inspecting team with regard to starting of the proposed law college/ continuing the existing college in terms of its utility (with specific recommendations as to whether the proposed law college can be granted approval of affiliation/existing college can be allowed to retain approval of affiliation or not).
- 20.** Whether approval can be granted on permanent basis or it should be on temporary basis for a limited period (give reasons for this and mention about the period for which recommendation is made.)
- 21.** Conditions, if any, that can be imposed and the time limit for fulfilling those conditions (if temporary affiliation is recommended).
- 22.** Any other fact which the Hon'ble members want to mention and is not covered under this proforma.

Note.—Separate sheets of papers may be used for submitting recommendations after mentioning the serial number of this proforma.

(Signature of Member
of Inspecting Team)

(Signature of Member
of Inspecting Team)

Date.....

Place.....

**ANNUAL RETURNS TO BE SUBMITTED BY THE LAW DEPARTMENT/
CONSTITUENT AND AFFILIATED LAW COLLEGES IN TERMS OF
RESOLUTION NO. 111/1996 OF THE BAR COUNCIL OF INDIA**

(Under rule 13 (k) in Section A and 13 (k) in Section B, Part IV)

(The Law Colleges are required to submit this return duly filled on or before 30th June of every year)

I. General

1. Name of the College with complete address.
2. Name of the University to which the College is affiliated.

II. Affiliation

1. Nature of affiliation granted by the University (Temporary or Permanent). Give details.
2. State whether approval of affiliation of the Bar Council of India has been obtained. If so, on what date? If not, reasons to be stated.

III. Status

1. Date on which the College was first started along with supporting documents.
2. Whether at any point of time, the College was inspected by the Bar Council of India? If so, give the date of such inspection.
3. A copy of the Statute/Ordinance Rules framed by the University in the matter of affiliation of Private Law Colleges.
4. Furnish a copy of the State Education Act/ Rules pertaining to the establishment of Law Colleges in the State.

IV. Student Body

1. (a) Total number of applications received for admission in the 1st year of the three-year law course.
(b) Total number of students selected for admission in the 1st year.
(c) Mode of Selection (whether on basis of merit with prescribed minimum marks? Whether there is an entrance test/interview/ percentage of marks

obtained in the qualifying examination or combination of the above method.

- (d) Break up of students in the 2nd and 3rd year of the three-year course.
 - (e) Number of S.C., S.T. and lady students in all the three years.
- 2.
- (a) Total number of applications received for admission in the 1st year of the five-year law course.
 - (b) Total number of students selected for admission in the 1st year.
 - (c) Mode of selection (whether on basis of merit with minimum marks prescribed? Whether there is any entrance test/ interview/ percentage of marks obtained in the qualifying examination or combination of the above methods)
 - (d) Break up of students in the 2nd, 3rd, 4th and 5th year of the course.
 - (e) Number of S.C., S.T. and lady students in all the 5 years.
- 3.
- (a) Percentage of successful students in the University examination from each class year wise.
 - (b) Are the students generally from the local colleges, from other areas of the State and from other States of India or from abroad? Give respective numbers of students from each of the above sources.

V. Teaching Staff

- 1.
- (a) Total number of teachers including the Principal, if any, (full time) with their qualification, experience, pay scales and the present pay.
 - (b) Total number of teachers including the Principal, if any (Part-Time) with their qualifications, teaching experience, standing at the Bar. Pay Scales if any and the present pay.

2. Present teacher-student ratio.
3. Whether any dearth or difficulty experienced in recruiting qualified teachers. State the exact nature of difficulties.

VI. Library

- (a) Total number of books in the library with a list of books, classified subject wise.
- (b) Details of additions during the year with a list of books, classified subject wise.
- (c) Details of Law Reports subscribed
- (d) Details of Law Journals and Periodicals subscribed.
- (e) Total amount spent during the year for purchase of books during the year with xerox copies of cash vouchers.
- (f) Reading hours and extent of students attendance and use of library facilities. Whether lending of books is allowed.

VII. Practical Training

1. (a) Details as to how the practical training is conducted.
- (b) Details of Court visits under-took during the year and the nature of courts (Send specimen of court diary maintained by the students)
- (c) Number of Moot Courts held during the year.
- (d) Whether the prescribed methods of training and allotment of marks are strictly followed. Whether any difficulty experienced.

VIII. Examinations

2. (a) Dates of annual examinations/Semester examinations.
- (b) Number of students appeared in the examinations in the 1st, 2nd and 3rd year of the three-year course and 1st, 2nd, 3rd, 4th and 5th year of the 5-year Law course.

- (c) Percentage of success year wise.
- (d) Number of students promoted to the next year.
- (e) Whether promoted with any arrears of subjects to be cleared.

IX. Fee and Other Income of The College

- (a) Details of the fee structure of the college, Admission fee rate, monthly/annual fee and examination fee rate to be stated.
- (b) Total amount of fees collected during the year and other income of the college.
- (c) Details of amounts spent on the following for further development during the year:
 - (i) Library
 - (ii) Building of the College
 - (iii) Furniture of the College
 - (iv) For the Welfare of the students and teachers of the College.

X. Other Information

- (a) Enclose a copy of the prospectus for the current year (Both three-year as well as five year courses)
- (b) Medium of instructions in the College.
- (c) Working hours and shifts, if any. Copies of class routines to be enclosed.

XI. Non-Teaching Staff

- (a) Total number of non-teaching staff in the college including last grade employees.
- (b) Pay scales and other facilities provided to them.

XII. Recent Trends In The College as Regards:

- (a) Enrolment year wise
- (b) Income and expenditure
- (c) Sources of Income, Government and private

- (d) Does the college, charge capitation fees, if so, when and at what rate and what is the trend?

XIII. Student Discipline

State the nature of discipline maintained by students of the college giving details.

XIV. Competition in attracting students

Do you experience any unfair competition from any other law college or department of University in the matter of inflow of student? If so, state the nature and source of such competition and suggest remedies.

XV. Declaration

The Statements in this Return are truly and responsibly made with awareness that any statement found untrue, suppression vary or suggestion falls will render the approval of affiliation to the department/college liable to be cancelled by the Bar Council of India.

Date.....

(Signature)

Place.....

Head of the Department of Law
Principal, Law College (College Seal)

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 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 alternations made in the Roll shall be sent to the Council without delay.

FORM B-1

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

**PART I/II COPY OF ROLL UNDER SECTION 17(1)(A)(B) OF THE
ADVOCATES ACT, 1961 OF THE BAR COUNCIL OFSENT 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 enrolment	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 SEC. 17 (1) (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 Section 17(4) and 49 (1) (ad) of the Act]*

1. The rules 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 Section 18 and 49 (1) (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 practise on the date of his application, that there are no disciplinary proceedings pending against the applicant and that it has 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 objections 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 consider that the application shall be refused, the matter should be referred to the Council for orders.

- ¹[1A. On receipt of an application for transfer, the "transferor" Bar Council shall transmit the entire records relating to the enrolment of the advocate who is seeking a transfer, to the Bar Council of India together with original of the application for enrolment, retaining an authenticated copy of the documents with the "transferor" Bar Council.]

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 transmit 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.
- ¹[(d) After the application has been allowed by the Bar Council of India, the Bar Council of India shall transmit the original records received from the “transferor” Bar Council to the “transferee” Bar Council and in the event of the application for transfer is rejected for any reason, shall be transmitted to the “transferor” Bar Council.]
- (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

(Under Rule I Chapter III Part V)

THE BAR COUNCIL OF INDIA

APPLICATION FOR TRANSFER TO ANOTHER ROLL UNDER SECTIONS 18 AND 49 (1) (B) OF THE ADVOCATES ACT, 1961.

From

.....

¹ Came into force w.e.f. 6-1-2001.

To

The Secretary
Bar Council of India
New Delhi.

Sir

1. I request the transfer of name from the roll of the Bar Council of
..... to the roll of the Bar Council of under Section 18 of the Act for the
reasons set out by me in this application.

2. I was enrolled in the Bar Council ofon

3. My name is entered on the roll of the said Bar Council as 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 are/are no disciplinary proceedings pending against me in any
State Bar Council.

6. The reasons for my application for transfer are as follow :-

(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 practise 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 Chapter III.

I hereby declare that the facts stated herein are true.

Place :

Signature of the Advocate

Date :

(Applicant)

FORM - D

BAR COUNCIL OF INDIA

ORDER ON TRANSFER APPLICATIONS

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
1	2	3	4

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
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 of Dated) the name is entered in the State Roll of Bar Council of vide Roll No. Dated

Date :

Secretary, Bar Council of

*CHAPTER - IV***SENIORITY IN THE STATE ROLLS***[Rules under Sections 17 (3), 20 and 49 (1) (i) (ac) of the Act]*

1. **Seniority of Vakils, Pleaders and Attorneys not entitled to practise in the High Court:**—The seniority of a Vakil, Pleader or Attorney, who was not entitled to practise 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 (1) (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 58 A of the Act, be the dates of their first admission when they were entitled to practise 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 58-A;
 - (c) in the case of persons admitted as advocates under Section 58AA of the Act, be the date when they were first entitled to practise 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:

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 (1) (a) of the Advocates Act, 1961.

 - (2) In the case of the persons referred to in Section 58-AE of the Act, be the date when they were first entitled to practise the profession of law as provided for in Section 58-AE.
 - (3) In the case of the persons referred to in Section 58-AF 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 dates as may be determined by the Council.

- 4. Seniority of Senior Advocates of the Supreme Court:**—The seniority of a senior advocate enrolled 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) (i) 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
Bar Council of India,
21, Rouse Avenue, Institutional Area
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 and 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 practise 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) I undertake to intimate my intention to resume practise to the State Bar Council mentioned in column 4.

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

I declare that the 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 or 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 authorities 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 rules 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 authorities 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 undertaking 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 authorities 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 others equally imperative though not specifically mentioned.

SECTION I—DUTY TO THE COURT

1. An advocate shall, during the presentation of his case and while otherwise acting before a court, conduct himself with dignity and self-respect. He shall not be servile and whenever there is proper ground for serious complaint against a judicial officer, it shall be his right and duty to submit his grievance to proper authorities.
2. An advocate shall maintain towards the courts a respectful attitude, bearing in mind that the dignity of the judicial office is essential for the survival of a free community.
3. An advocate shall not influence the decision of a court by any illegal or improper means. Private communications with a judge relating to a pending case are forbidden.
4. An advocate shall use his best efforts to restrain and prevent his client from resorting to sharp or unfair practices or from doing anything in relation to the court, opposing counsel or parties which the advocates himself ought not to do. An advocate shall refuse to represent the client who persists in such improper conduct. He shall not consider himself a mere mouth-piece of the client, and shall exercise his own judgement in the use of restrained language in correspondence, avoiding scurrilous attacks in pleadings, and using intemperate language during arguments in court.
5. An advocate shall appear in court at all times only in the prescribed dress, and his appearance shall always be presentable.
6. An advocate shall not enter appearance, act, plead or practise in any way before a court, Tribunal or Authority mentioned in Section 30 of the Act, if the sole or any member thereof is related to the advocate as father, grandfather, son, grand-son, uncle, brother, nephew, first cousin, husband, wife, mother, daughter, sister, aunt, niece, father-in-law, mother-in-law, son-in-law, brother-in-law daughter-in-law or sister-in-law.
¹[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,

¹ Added by Resolution No. 11/91, dated 16th February, 1991.

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 authorities in or before which he proposes to practise at a fee consistent with his standing at the Bar and the nature of the case. Special circumstances may justify his refusal to accept a particular brief.
12. An advocate shall not ordinarily withdraw from engagements, once accepted, without sufficient cause and unless reasonable and sufficient notices is given to the client. Upon his withdrawal from a case, he shall refund such part of the fee as has not been earned.
13. An advocate should not accept a brief or appear in a case in which he has reason to believe that he will be a witness, and if being engaged in a case, it becomes apparent that he is a witness on a material question of fact, he should not continue to appear as an Advocate if he can retire without jeopardising his client's interests.
14. An advocate shall at the commencement of his engagement and during the continuance thereof, make all such full and frank disclosure to his client relating to his connection with the parties and any interest in or about the controversy as are likely to affect his client's judgement in either engaging him or continuing the engagement.
15. It shall be the duty of an advocate fearlessly to uphold the interests of his client by all fair and honourable means without regard to any unpleasant consequences to himself or any other. He shall defend a person accused of a crime regardless of his personal opinion as to the guilt of the accused, bearing in mind that his

- loyalty is to the law which requires that no man should be convicted without adequate evidence.
16. An advocate appearing for the prosecution of a criminal trial shall so conduct the prosecution that it does not lead to conviction of the innocent. The suppression of material capable of establishment the innocence of the accused shall be scrupulously avoided.
 17. An advocate shall not, directly or indirectly, commit a breach of the obligations imposed by Section 126 of the Indian Evidence Act.
 18. An advocate shall not, at any time, be a party to fomenting of litigation.
 19. An advocate shall not act on the instructions of any person other than his client or his authorised agent.
 20. An advocate shall not stipulate for a fee contingent on the results of litigation or agree to share the proceeds thereof.
 21. An advocate shall not buy or traffic in or stipulate for or agree to receive any share or interest in any actionable claim. Nothing in this rule shall apply to stock, shares and debentures of government securities, or to any instruments which are, for the time being, by law or custom, negotiable or to any mercantile document of title to goods.
 22. An advocate shall not, directly or indirectly, bid for or purchase, either in his own name or in any other name, for his own benefit or for the benefit of any other person, any property sold in the execution of a decree or order in any suit, appeal or other proceeding in which he was in any way professionally engaged. This prohibition, however, does not prevent an advocate from bidding for or purchasing for his client any property which his client may himself legally bid for or purchase, provided the Advocate is expressly authorised in writing in this behalf.
 - ¹[22A. An advocate shall not directly or indirectly bid in court auction or acquire by way of sale, gift, exchange or any other mode of transfer either in his own name or in any other name for his own benefit or for the benefit of any other person any property which is subject matter of any suit appeal or other proceedings in which he is in any way professionally engaged.]
 23. An advocate shall not adjust fee payable to him by his client against his own personal liability to the client, which liability does not arise in the course of his employment as an advocate.
 24. An advocate shall not do anything whereby he abuses or takes advantage of the confidence reposed in him by his client.
 25. An advocate should keep accounts of the client's money entrusted to him, and the accounts should show the amounts received from the client or on his behalf,

¹ Rule 22A came into force w.e.f. 24-9-1998.

- the expenses incurred for him and the debits made on account of fees with respective dates and all other necessary particulars.
26. Where moneys are received from or on account of a client, the entries in the accounts should contain a reference as to whether the amounts have been received for fees or expenses and during the course of the proceeding, no advocates shall, except with the consent in writing of the client concerned, be at liberty to divert any portion of the expenses towards fees.
 27. Where any amount is received or given to him on behalf of his client, the fact of such receipt must be intimated to the client, as early as possible.
 28. After the termination of the proceeding, the advocate shall be at liberty to appropriate towards the settled fee due to him, any sum remaining unexpended out of the amount paid or sent to him for expenses, or any amount that has come into his hands in that proceeding.
 29. Where the fee has been left unsettled, the advocate shall be entitled to deduct, out of any moneys of the client remaining in his hands, at the termination of the proceeding for which he had been engaged, the fee payable under the rules of the Court, in force for the time being, or by then settled and the balance, if any, shall be refunded to the client.
 30. A copy of the client's account shall be furnished to him on demand provided the necessary copying charge is paid.
 31. An advocate shall not enter into arrangements whereby funds in his hands are converted into loans.
 32. An advocate shall not lend money to his client for the purpose of any action or legal proceedings in which he is engaged by such client.
Explanation.—An advocate shall not be held guilty for a breach of this rule, if in the course of a pending suit or proceeding, and without any arrangement with the client in respect of the same, the advocate feels compelled by reason of the rule of the Court to make a payment to the Court on account of the client for the progress of the suit or proceeding.
 33. An advocate who has, at any time, advised in connection with the institution of a suit, appeal or other matter or has drawn pleadings, or acted for a party, shall not act, appear or plead for the opposite party.

SECTION III—DUTY TO OPPONENT

34. An advocate shall not in any way communicate or negotiate upon the subject matter of controversy with any party represented by an advocate except through that advocate.
35. An advocate shall do his best to carry out all legitimate promises made to the opposite party even though not reduced to writing or enforceable under the rules of the Court.

SECTION IV—DUTY TO COLLEAGUES

36. An advocate shall not solicit work or advertise, either directly or indirectly, whether by circulars, advertisements, touts, personal communications, interviews not warranted by personal relations, furnishing or inspiring newspaper comments or producing his photographs to be published in connection with cases in which he has been engaged or concerned. His sign-board or name-plate should be of a reasonable size. The sign-board or name-plate or stationery should not indicate that he is or has been President or Member of a Bar Council or of any Association or that he has been associated with any person or organisation or with any particular cause or matter or that he specialises in any particular type of worker or that he has been a Judge or an Advocate General.
37. An advocate shall not permit his professional services or his name to be used in aid of, or to make possible, the unauthorised practice of law by any law agency.
38. An advocate shall not accept a fee less than the fee taxable under rules when the client is able to pay the same.
39. An advocate shall not enter appearance in any case in which there is already a vakalat or memo of appearance filed by an advocate engaged for a party except with his consent; ¹[in case such consent is not produced he shall apply to the Court stating reasons why the said consent could not be produced and he shall appear only after obtaining the permission of the Court].

²[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. ³[300] every third year commencing from ⁴[1st August, 2001] along with a statement of particulars as given in the form set out at the end of these Rules, the first payment to be made on or before ⁵[1st August, 2001] or such extended time as notified by the Bar Council of India or the concerned State Bar Council.

Provided further however that an advocate shall be at liberty to pay in lieu of the payment of Rs. ⁶[300] every three years a consolidated amount of Rs. ⁷[600]. This will be a life time payment to be kept in the fixed deposit by the concerned State Bar Council ⁸[and the Bar Council of India at the ratio of 80:20 as envisaged under Rule 41] and interest to be used for the purpose of this rule.

1 Added w.e.f. 5-6-1976.

2 Section IVA came into force w.e.f. 1.4.1984

3 Subs. by Resolution No. 66/2001, dated 22nd June, 2001, for "90".

4 Subs. by Resolution No. 66/2001, dated 22nd June, 2001, for "1st April, 2001"

5 Subs. by Resolution No. 66/2001, dated 22nd June, 2001, for "1st April, 2001"

6 Subs. by Resolution No. 66/2001, dated 22nd June, 2001, for "90".

7 Subs. by Resolution No. 66/2001, dated 22nd June, 2001, for "300".

8 Added by Resolution No. 93/2001.

However, payment made by the concerned Advocate before this consolidated payment shall be exclusive of it and no credit shall be given for payment, but those advocates who have paid consolidated amount of Rs. 200/- only as a consolidated amount, Rs. 100/- will be required to pay.

¹[Out of life time payment, 80% of the amount will be retained by the State Bar Council in a fixed deposit and remaining 20% has to be transferred to the Bar Council of India. The Bar Council of India and State Bar Council have to keep the same in a fixed deposit and the interest on the said deposits shall alone be utilised for the Welfare of the Advocates.]

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

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

Explanation 3.— This rule will be effective from ²[1st August, 2001] and for period prior to this, advocates will continue to be covered by old rule.

- 41.** (1) All the sums so collected by the State Bar Council in accordance with Rule 40 shall be credited in a separate fund known as “Bar Council of India Advocates Welfare Fund ³[***]” and shall be deposited in the bank as provided hereunder.
- (2) The Bar Council of India Advocates Welfare Fund Committee for the State shall remit 20% of the total amount collected and credited to its account, to the Bar Council of India by the end of every month which shall be credited by the Bar Council of India and Bar Council of India shall deposit the said amount in separate fund to be known as “BAR COUNCIL OF INDIA ADVOCATES WELFARE FUND.” This fund shall be managed by the Welfare Committee of the Bar Council of India in the manner prescribed from time to time by the Bar Council of India for the Welfare of Advocates.
- (3) The rest 80% of the total sum so collected by the Bar Council of India Advocates Welfare Fund Committee for the State under Rule 41 (1) shall be utilised for the welfare of advocates in respect of Welfare Schemes sponsored by the respective State Bar Councils and this fund shall be administered by the Advocates Welfare Committee for the State which shall submit its report annually to the Bar Council of India.

⁴[(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

¹ Added by Resolution No. 93/2001.

² Subs. by Resolution No. 66/2001, dated 22nd June, 2001, for “1-4-1994”

³ The words “for the State” omitted by Resolution No. 93/2001.

⁴ Sub-rule (4) came into force w.e.f. 3-11-1995

advocate by the Bar Council of India Advocates Welfare Committee for the State under Rule 41(1) where the said Advocate was originally enrolled, would get transferred to the Advocates Welfare Fund Committee of the Bar Council of India for the State to which the said Advocate has got himself transferred.]

42. If any advocate fails to pay the aforesaid sum within the prescribed time as provided under rule 40, the Secretary of the State Bar Council shall issue to him a notice to show cause within a month why his right to practice be not suspended. In case the advocate pays the amount together with late fee of Rs. 5/- per month, or a part of a month subject to a maximum of Rs. 30/- within the period specified in notice, the proceedings shall be dropped. If the advocate does not pay the amount or fails to show sufficient cause, a Committee of three members constituted by the State Bar Council in this behalf may pass an order suspending the right of the advocate to practise.

Provided that the order of suspension shall cease to be in force when the advocate concerned pays the amount along with a late fee of Rs. 50/- and obtain a certificate in this behalf from the State Bar Council.

43. An Advocate who has been convicted of an offence mentioned under Section 24A of the Advocates Act or has been declared insolvent or has taken full time service or part time service or engages in business or any avocation inconsistent with his practising as an advocate or has incurred any disqualification mentioned in the advocates Act or the rules made thereunder, shall send a declaration to that effect to the respective State Bar Council in which the advocate is enrolled, within ninety days from the date of such disqualification. If the advocate does not file the said declaration or fails to show sufficient cause for not filing such declaration provided therefor, the Committee constituted by the State Bar Council under rule 42 may pass orders suspending the right of the advocate to practise.

Provided that it shall be open to the Committee to condone the delay on an application being made in this behalf.

Provided further that an advocate who had after the date of his enrolment and before the coming into force of this rule, become subject to any of the disqualifications mentioned in this rule, shall within a period of ninety days of the coming into force of this rule send declaration referred to in this rule to the respective State Bar Council in which the Advocate is enrolled and on failure to do so by such advocate all the provisions of this rule would apply.

44. An appeal shall lie to the Bar Council of India at the instance of an aggrieved advocate within a period of thirty days from the date of the order passed under Rules 42 and 43.

- ¹[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 coextensive with their term in Bar Council of India.]
- (2) (i) Every State Council shall have an Advocates Welfare Committee known as Bar Council of India Advocates Welfare Committee for the State.
- (ii) The Committee shall consist of member Bar Council of India from the State concerned who shall be the *Ex-Officio* Chairman of the Committee and two members elected from amongst the members.
- (iii) The Secretary of the State Bar Council concerned will act as *Ex-Officio* Secretary of the Committee.
- (iv) The term of the member, Bar Council of India in the Committee shall be co-extensive with his term in the Bar Council of India.
- (v) The term of the members elected from the State Bar Council shall be two years.
- (vi) Two members of the Committee will form a quorum of any meeting of the Committee.
- (3) Every State Bar Council shall open an account in the name of the Bar Council of India Welfare Committee for the State, in any nationalised Bank,
- (4) No amount shall be withdrawn from the Bank unless that cheque is signed by the Chairman of the Welfare Committee and its Secretary.
- (5) The State Bar Council shall implement Welfare Schemes approved by the Bar Council of India through Advocates Welfare Committee as constituted under sub-clause (2) (i). The State Bar Councils may suggest suitable modifications in the Welfare Schemes or suggest more schemes, but such modifications or such suggested schemes shall have effect only after approval by the Bar Council of India.
- (6) The State Bar Council shall maintain separate account in respect of the Advocate Welfare Fund which shall be audited annually along with other accounts of the State Bar Council and send the same along with Auditors Report to the Bar Council of India.

²[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

1 Amended by Resolution No. 78 of 1985, dated 28th July, 1985.

2 The words "for the State" omitted by Resolution No. 93/2001.

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 of

.....

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/- (Rs. 90/- Rs.300) Rs. 300/- 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

SCHEME FOR FINANCIAL ASSISTANCE TO STATE BAR COUNCILS AND INDIVIDUALS UNDER RULE 44B OF THE BAR COUNCIL OF INDIA RULES¹

- 1. These rules shall be known as the Scheme for Financial Assistance to the State Bar Councils under Rule 44B of the Bar Council of India Rules.
- 2. The Scheme shall come into force immediately.
- 3. These schemes shall be applicable to only such State Bar Councils which have remitted the sum in accordance with the Rule 41 (2) of the Bar Council of India.

¹ Came into force w.e.f. July 1998 vide Resolution No. 64/1998.

4. That on receiving information from the Chairman of the State Bar Council or Member, Bar Council of India from that State, the Chairman, Bar Council of India on being satisfied by such report may immediately sanction a reasonable amount not exceeding Rs. 10,000/- in an individual case and Rs. 25,000/- in case of some calamity involving more than one advocate and shall report to the Advocates Welfare Committee of the Bar Council of India. The financial assistance to the State Bar Councils will be available in any of the following cases:—
- (a) The advocate or advocates have suffered seriously on account of some natural calamity or;
 - (b) the advocate or a advocates have died an unnatural death, due to an accident or natural calamity or any other cause of like nature, or;
 - (c) the advocate or advocates have suffered or is suffering from such serious disease or illness which is likely to cause death if no proper treatment is given and the advocate requires financial assistance without which he would not be able to get proper treatment and has no personal assets except a residential house to meet such expenditures, or;
 - (d) the advocate or advocates become physically disabled or incapacitated to continue his profession on account of natural calamity or accident or any other cause of like nature.
5. That the amount sanctioned under Rule 4 shall be placed at the disposal of the Advocates Welfare Committee of the Bar Council of India for the State and the said State Committee shall maintain separate account and send the same to the Bar Council of India within three months from the date of the receipt thereof.
6. That the Advocates Welfare Committee of the Bar Council of India on receiving such applications duly recommended by the State Bar Councils, may sanction a sum provided in the different schemes prepared by the Bar Council of India.

SECTION V—DUTY IN IMPARTING TRAINING

45. It is improper for an advocate to demand or accept fees or any premium from any person as a consideration for imparting training in law under the rules prescribed by State Bar Council to enable such person to qualify for enrolment under the Advocates Act, 1961.

SECTION VI—DUTY TO RENDER LEGAL AID

46. Every advocate shall in the practice of the profession of law bear in mind that any one genuinely in need of a lawyer is entitled to legal assistance even though he cannot pay for it fully or adequately and that within the limits of an Advocate's economic condition, free legal assistance to the indigent and oppressed is one of the highest obligations an advocate owes to society.

SECTION VII—RESTRICTION ON OTHER EMPLOYMENTS

47. An advocate shall not personally engage in any business; but he may be a sleeping partner in a firm doing business provided that in the opinion of the appropriate State Bar Council, the nature of the business is not inconsistent with the dignity of the profession.
48. An advocate may be Director or Chairman of the Board of Directors of a Company with or without any ordinarily sitting fee, provided none of his duties are of an executive character. An advocate shall not be a Managing Director or a Secretary of any Company.
49. An advocate shall not be a full-time salaried employee of any person, government, firm, corporation or concern, so long as he continues to practise, and shall, on taking up any such employment, intimate the fact to the Bar Council on whose roll his name appears and shall thereupon cease to practise as an advocate so long as he continues in such employment.
- ¹[***]
50. An advocate who has inherited, or succeeded by survivorship to a family business may continue it, but may not personally participate in the management thereof. He may continue to hold a share with others in any business which has decended to him by survivorship or inheritance or by will, provided he does not personally participate in the management thereof.
51. An advocate may review Parliamentary Bills for a remuneration, edit legal text books at a salary, do press-vetting for newspapers, coach pupils for legal examination, set and examine question papers; and subject to the rules against advertising and full-time employment, engage in broadcasting, journalism, lecturing and teaching subjects, both legal and non-legal.
52. Nothing in these rules shall prevent an advocate from accepting after obtaining the consent of the State Bar Council, part-time employment provided that in the opinion of the State Bar Council, the nature of the employment does not conflict with his professional work and is not inconsistent with the dignity of the profession. This rule shall be subject to such directives if any as may be issued by the Bar Council India from time to time.

1 Paras 2 and 3 deleted by Resolution dated 22nd June, 2001. Prior to deletion it stood as follows:—

“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 these Rules 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..”

*CHAPTER - III***(CONDITIONS FOR RIGHT TO PRACTICE)***(Rules under Section 49 (1) (ah) of the Act)*

1. Every advocate shall be under an obligation to see that his name appears on the roll of the State Council within whose jurisdiction he ordinarily practices.
Provided that if an advocate does not apply for transfer of his name to the roll of the State Bar Council within whose jurisdiction he is ordinarily practising within six months of the start of such practice, it shall be deemed that he is guilty of professional misconduct within the meaning of Section 35 of the Advocates Act.
2. An advocate shall not enter into a partnership or any other arrangement for sharing remuneration with any person or legal practitioner who is not an advocate.
3. Every advocate shall keep informed the Bar Council on the roll of which his name stands, of every change of his address.
4. The Council or a State Council can call upon an advocate to furnish the name of the State Council on the roll of which his name is entered, and call for other particulars.
5.
 - (1) An advocate who voluntarily suspends his practice for any reason whatsoever, shall intimate by registered post to the State Bar Council on the rolls of which his name is entered, of such suspensions together with his certificate of enrolment in original.
 - (2) Whenever any such advocate who has suspended his practice desires to resume his practice, he shall apply to the Secretary of the State Bar Council for resumption of practice, along with an affidavit stating whether he has incurred any of the disqualifications under Section 24A, Chapter III of the Act during the period of suspension.
 - (3) The Enrolment Committee of the State Bar Council may order the resumption of his practice and return the certificate to him with necessary endorsement. If the Enrolment Committee is of the view that the advocate has incurred any of the disqualifications, the Committee shall refer the matter under proviso to Section 26(1) of the Act.
 - (4) On suspension and resumption of practice the Secretary shall act in terms of Rule 24 of Part IX.
6.
 - (1) An advocate whose name has been removed by order of the Supreme Court or a High Court or the Bar Council as the case may be, shall not be entitled to practice the profession of law either before the Court and authorities mentioned under Section 30 of the Act, or in chambers or otherwise.

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

¹[7. An officer after his retirement or otherwise ceasing to be in service shall not practice for a period two 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.] Resolved that nothing in these Rules shall prevent any such person from practising in any Court or Tribunal or Authority of superior jurisdiction to one in which he held office.

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 Officer or authority as referred to in Section 30 of the Act.

‘Area’ shall mean area in which the person concerned exercising jurisdiction.

²[*7A. Any person applying for enrolment as an Advocate shall not be enrolled, if he is dismissed, retrenched, compulsorily retired, removed or otherwise relieved from Government service or from the service under the control of the Hon’ble High Courts or the Hon’ble Supreme Court on the charges or corruption or dishonesty unbecoming of an employee and a person having such disqualification is permanently debarred from enrolling himself as an advocate”.*

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

³[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.

1. ADVOCATES.—

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

1 Amended by Resolution No. 63/1993, dated 20th August, 1993

2 Added by the Bar Council of India, New Delhi, Notification dated February, 2000, published in the Gazette of India, Pt. III, Sec. 4, p. 529, No. 9, dated 26th February, 2000.

* Rule 7A has been held invalid by the Andhra Pradesh High Court by its Order dated 21-9-2001 in Writ Petition 3162/2001.

3 Subs. by the Bar Council of India, Resolution No. 121/2001, published in the Gazette of India, Pt. III, Sec. 4, dated 9th March, 2002.

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

In either cases wear long trousers (white, black striped or grey), Dhoti excluding Jeans:

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

II. LADY ADVOCATES.—

- (a) A black full sleeve jacket or blouse, white collar stiff or soft, with white bands and Advocates' Gowns.

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

or

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

- III.** Wearing of Advocates' gowns shall be optional except when appearing in the Supreme Court or in High Court.
- IV.** Except in Supreme Court and High Courts during summer wearing of black Coat is not mandatory.

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 SECTION 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. 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 other 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 the 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 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 the comments from the advocate 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 notices. A 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 or 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 or 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 Bar Council ofExhibit 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 Respondent as R1, R2,etc.
(c) Those of Disciplinary Committee as D1, D2, etc.

- (4) The Disciplinary Committee may at any stage direct the parties or 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 Committee or 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 or the Advocates or the Attorney General or the Additional Solicitor General or the Advocate General as the case may be, of statements or petitions filed and/or of 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 advocate, on the death of one of them, the Disciplinary Committee may continue the enquiry against the other advocate 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 Committees 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 matter 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 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 or 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 statements 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 or 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(1).
(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 proceedings;
 - (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 Bar Council of the 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) On a consideration of the report of a State Bar Council 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 Form G. The memorandum of appeal shall state when the order was communicated to the appellant 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 the 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 places 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 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 the 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	Page No.
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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 49(1)(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.
- ¹[30A. The Disciplinary Committee of the Bar Council of India shall exercise all the powers exercised by the Civil Court or Court of Appeal under C.P.C.]

31. The order of the Disciplinary Committee disposing of an appeal shall be communicated to the parties. The date of an order made by the Disciplinary Committee shall be the date on which the said order is first received in the office of the Council after it has been signed by all the members thereof.

**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 or 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 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 or 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 Sections 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 I, 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
COUNCIL OF.....

D.C. ENQUIRY NO.....

.....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 hearings 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 on 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 adjourned. 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 before.....

Dated this the.....day of.....20.....

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)*

DCL/D/ /20.....

Date

In the Matter of

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

..... Complainant (s)

Versus

..... Respondent (s)

Notice under Section 36B read with Section 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 in 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 (dates 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 36B of the Advocates Act, *the hearing will be peremptory* 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

Date :

Place :

Registrar,
Disciplinary Committee
Bar Council of

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 modifications)

BEFORE THE DISCIPLINARY COMMITTEE OF THE BAR COUNCIL OF INDIA UNDER SECTION 37 OF THE ADVOCATES ACT, 1961

D.C. APPEAL No. /

..... Appellant

Versus

..... Respondent

1. (a) Appellant son of

(residing at)

Age (to be filled in)

(To be filled up if the vakalatnama is filed 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 dated in 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 of The appellant has made an application before the Disciplinary Committee of the State Bar Council of on which 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 and the Stay Application are filed with this appeal.

The order of the Disciplinary Committee of the Bar Council of was 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 on in cash/ is paying Rs. 100/-

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

1 2 3 etc.

Place :

Appellant/Advocate for

Date :

Appellant.

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.

against

Order of the Disciplinary Committee of Bar Council of
Dated in Case/Complaint No. In the matter
of Shri Advocate

..... 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 appellant above named against the
order of the Disciplinary Committee of the State Bar Council of in
Case/Complaint No. dated

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 COUNCIL OF INDIA

..... (Chairman)

.....

Miscellaneous Petition No. (Stay)

IN

D.C. Appeal No.

..... Appellant(s)

Versus

..... 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 dated in Case/Complaint No. is stayed.

By Order

Registrar,
Disciplinary Committee of
the Bar Council of India.

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 No

(On a complaint made by Shri (address)

.....
(Name & address) Complainant(s)

Versus

.....
(Name & Address) Respondent(s)

(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 the day of, 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 of determining (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 within month 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 at this the day of19...../20..... .

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. 20.....

(On appeal from the Order dated the day of of the Bar Council of in Case No of)

..... Complainant(s)
(Name & address)

Versus

..... Respondent(s)
(Name & address) 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 day of, 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 DOTH ORDER.

That the original order dated is hereby confirmed/set aside/set 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 cost incurred in the Bar Council of..... within months 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 the day of20.....

Registrar,
Disciplinary Committee of
Bar Council of

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) 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 a 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 State 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

THE BAR COUNCIL OF
REVIEW APPLICATION20.....

..... 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. on

The Respondent is informed that the said application will be heard by the Disciplinary Committee of the Council of on at (time) at 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 this day of20.....

Office of the Bar Council of

Registrar,
Disciplinary Committee of the
Bar Council of India.

PART VIII

FEE LEVIABLE UNDER THE ACT

(Rules under Sec. 49(1)(h) of the Act)

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 a 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 |
| (b-1) | 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 advocates, 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 a 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 section 36 of the Act. Provided that no fee shall be payable on a complaint or appeal made by any court or tribunal or other statutory body or where in a proper case the Council grants exemption therefor. | Rs. 100.00 |
|-----|--|------------|

- (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). Rs. 100.00
- (h) Any application made in any proceedings before the Council or a Committee other than the Disciplinary Committee. Rs. 10.00
3. (a) Every application for 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 the folio and other charges. Rs. 20/-
- 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, in the case of a State Council, and the Supreme Court in the case of the Council or a 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.
- ¹[4. (a) Application for transfer from one State Bar Council to another State Bar Council¹. = Rs. 500.00

¹ Amended by Resolution No. 116/2001 (w.e.f. 1-9-2001).

- (b) Preparation charges of file and other papers regarding transfer of name by transferor and transferee Bar Councils = Rs. 500.00

¹/5. 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 BAR COUNCIL OF INDIA, RULES FOR SUPERVISION AND CONTROL BY THE BAR COUNCIL OF INDIA

(Rules under Section 49(1) (a), (i) and (j) of the Act)

ELECTION

1. The election of members to 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 seems 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 a 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.

¹ Came into force w.e.f. 2-6-1996, vide Resolution No. 53/1996.

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;
 - ¹/3. 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 a Chartered Accountant once a year.

BOOKS AND REGISTERS

11. The State Bar Councils and the Bar Council 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.

¹ Sub-rule (3) came into force w.e.f. 27-11-1988.

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 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.

1	2	3	4	5
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

6	7	8	9
If rejected <i>prima facie</i> , or referred to its Disciplinary Committee and date of resolution	Reference to page of Disciplinary Committee register, further particulars	If <i>suo motu</i> , necessary particulars	Any other particulars/ Remarks

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

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

5	6	7	8	9
Date of reference by Bar Council	Name of Members of Disciplinary Committee	If summarily rejected, date	If not summarily rejected, dates of enquiry	Gist of Final order under Section 35 (1) and date

10	11	12	13
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 for despatch of records

Jharkhand State Bar Council

14	15	16	17	18
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

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 following columns.

1	2	3	4	5	6
S.No.	Date of Receipt of papers	Name of Appeallant	Name of Respodent	Name of Advocate against whom the enquiry is made and Roll Number	Appeal from Bar Council of.....

7	8	9	10	11
Date of 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

12	13	14	15
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

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

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 a 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, person 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 by 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 the 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 holidays;
- (g) the name and address of the member 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 accounts together with a copy of the report of the auditors thereon to the Council.

¹[***]

- 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 advocates shall be entered in the rolls without suffixes, prefixes, titles or degrees. In the case of 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 a Barrister, as in the certificate of call to the Bar;
- In the case of a Vakil, Pleader or Attorney or Mukhtar, as it is in certificate of entry as such Vakil, Pleader or Attorney or Mukhtar 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 that 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 a 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 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 number and date of enrolment, his address, nature of the punishment inflicted—

¹ Rule 21 has been deleted as Section 46 omitted by Advocates Act, 1961 (25 of 1961) has been omitted by the Advocates (Amendment) Act, 1993 (70 of 1993), sec. 8 (w.e.f. 26-12-1993).

Jharkhand State Bar Council

- (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 shall 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.



THE BIHAR (JHARKHAND) STATE ADVOCATES' WELFARE FUND ACT, 1983

(Bihar Act No. 16 of 1983)

An Act to provide for the constitution of a Welfare fund for the benefit to Advocates in the State of Bihar on death , disability , retirement , illness etc., and for matters connected therewith or incidental thereto.

Be it enacted by the Legislative of the state of Bihar in the Thirty fourth year of the Republic of India as follows :

1. **Short title, extent and commencement:**—(1) This Act may be called the Bihar State Advocates' Welfare Fund Act, 1983
 - (2) It extends to the whole of State of Bihar
 - (3) It shall not apply to persons who have retired from service and have been paid or are entitled to payment of retirement benefits from his employer.
2. **Definitions:**—In this Act unless the context otherwise requires –
 - (a) "Advocate" means a person whose name has been entered in the State Roll of Advocates prepared and maintained by the Bihar State Bar Council under Section 17 of the Advocates Act, 1961 (Central Act 25 of 1961);
 - (b) "Bar Council" means the Bihar State Bar Council constituted under Section 3 of the Advocates Act, 1961(Central Act 25 of 1961)
 - (c) "Cessation of practice" means removal of the name of an Advocate from the State Roll maintained by the Bar Council on account of his retirement.
 - (d) "Court" includes any Tribunal or authority before whom an Advocate is by or under any law for the time being in force entitled to practice ;
 - (e) "Dependents " means wife, husband, father, mother and unmarried minor children or such of them as exist;
 - (f) "Fund" means the Advocates' Welfare Fund constituted under Section 3;
 - (g) "Member of the Fund " means an Advocate admitted to the benefit of the Fund and continuing to be a member thereof under the provisions of this Act;
 - (h) "Prescribed" means prescribed by the Bar Council by rules made under this Act;
 - (i) "Retirement" means stoppage of practice as an Advocate communicate to and recorded by the Bar Council;
 - (j) "Stamp" means the stamp printed and distributed under section 21;
 - (k) " State" : means the State of Bihar;
 - (l) "Suspension of practice " means voluntary suspension of practice as an Advocate or suspension by the Bar Council for misconduct;

- (m) "Trustee committee" means the committee established under Section 4 ;
- (n) "Vakalatnama " means vakalatnama and includes memorandum of appearance or any other document by which an Advocate is empowered to appear or plead before any court, tribunal or other authority. But it shall not include memorandum of appearance filed on behalf of the State Officer representing State of Government.

3. Advocates' Welfare Fund:—(1) The Government shall constitute a fund called the Advocates' Welfare Fund.

(2) These shall be credited to the Fund:

- (a) all amount paid by the Bar Council under Section 13;
- (b) any contribution made by the Bar Council
- (c) any voluntary donation or contribution made to the Fund by the Bar Council of India, any Bar Association, any other association or institution, any advocate or any other person;
- (d) any grant made by the State Government to the Fund;
- (e) any sum borrowed under Section 11;
- (f) all sums received From the Life Insurance Corporation of India on the death of an Advocate under the Group Insurance Policy;
- (g) any profit or dividend received from the Life Insurance Corporation of India in respect of policies of Group Insurance of the members of the Fund;
- (h) any interest or dividend or other return on any investment made of any part of the Fund;
- (i) all sums collected by way of sale of stamps under Section 22;
- (j) all sums collected under Section 16 by way of application fees and annual subscriptions and interest thereon.

(3) The sums specified in Sub- Section (2) shall be paid to, or collected by, such agencies, at such intervals and in such manner and the accounts of the Fund shall e maintained in such manner, may be prescribed.

4. Administrative Department Welfare Fund:—The Administrative Department of the Bihar State Advocates' Welfare Fund Scheme shall be the Law Department of the Government which shall have the powers to give instructions from time to time.

5. Establishment of Trustee Committee:—(1) The Government may, by notification in the Gazette, establish with effect from such date as may be specified therein, a committee to be called the Bihar Advocates' Welfare Fund Trustee Committee.

(2) The Trustee Committee shall be a body corporate having perpetual succession and a common seal with its head office at Patna with power to acquire and hold property and shall by the said name, sue and be sued.

- (3) ¹[(i) The Trustee Committee shall consist of :
- (a) The Advocate – General of Bihar who shall be the Chairman of Trustee Committee, ex officio;
 - (b) The Law Secretary to Government, ex-officio;
 - (c) A member nominated by the Government;
 - (d) Chairman of the Bar Council;
 - (e) Two members of the Bar Council nominated by it;
 - (f) The Secretary – cum – treasurer appointed by the Trustee Committee, ex-officio;
- (ii) न्यास समिति के सदस्यों के बीच से उपाध्यक्ष का चुनाव होगा जो अध्यक्ष के अनुपस्थिति में उनके सभी कार्यों का सम्पादन करेंगे।
- (4) A member nominated by the Government under Clause (c) of Sub – Section (3) shall hold office for a term of four years and must be an Advocate on the roll of Bihar Bar Council.
- (5) Member nominated by the Bar Council under Clause (c) of Sub – section (3) shall hold office of a term of four years or for the duration of his membership in the Bar Council, whichever is less.

6. Disqualification and removal of nominated members of Trustee Committee:—(1) A member nominated under Clause (c) or Clause (e) of Sub-section (3) of Section 5 shall be disqualified to be a member of the Trustee Committee, if he,-

- (a) Becomes of unsound mind; or
 - (b) Is adjudged insolvent; or
 - (c) is absent without leave of the Trustee Committee for more than three consecutive meetings of the committee; or
 - (d) is a defaulter to the Fund (in case he is member of the Fund) or has committed breach of trust; or
 - (e) is convicted by a criminal court for an offence involving moral turpitude, unless such conviction has been set aside; or
 - (f) is debarred from practicing on the ground of misconduct; or
 - (g) Ceases to be an Advocate under the Advocates' Act.
- (2) The Government may remove any member who is or has become disqualified under Sub – section (1) from membership of the Trustee Committee:

Provided that no other removing any member shall be passed unless that member and the Bar Council in the case of a member nominated by it has been given an opportunity of being heard.

7. **Resignation by nominated members of trustee Committee and filing up of casual vacancies:—**(1) Any member nominated under Clause (c) or Clause (d) of Sub – section (3) of Section 5 may resign his office by giving three months notice in writing to the Government or the Bar Council, as the case may be, and such resignation being accepted by the Government or the Bar Council shall be deemed to have vacated his office:

Provided that the Bar Council shall consult the Government before accepting the resignation

- (2) A casual vacancy in the office of a member referred to in Sub-section (1) may be filled up, as soon as may be, and a member so nominated to fill such vacancy shall hold office for the unexpired portion of the term of office of the members whose place he fills.

8. **Act of Trustee Committee not to be invalidated by vacancy, defect, etc:—** No act done or proceeding taken under this Act or the rules made thereunder by the Trustee Committee shall be invalidated merely by reason of;

- (a) Any vacancy or any defect in the constitution of the Committee; or
 (b) Any defect or irregularity in the nomination of any person as a member thereof; or
 (c) Any defect or irregularity in such act or proceeding not effecting the judgment of the case.

9. **Vesting and application of Fund:—**The Fund shall vest in and be held and applied by the Trustee Committee subject to the provisions, and for the purposes of this Act.

10. **Function of Trustee Committee:—** (1) The trustee committee shall administer the Fund.

- (2) In the administration of the Fund the trustee Committee shall, subject to the provisions of this Act and the rules made thereunder-

- (a) hold the amounts and assets belonging to the Fund in Trust;
 (b) Receive applications for admission or re-admission to the Fund, and dispose of such applications within ninety days from the date of receipt thereof;

- (c) [सदस्यों के नामांकन की सुविधा हेतु जिला एवं अवर प्रमंडल उपसमितियों का गठन और कल्याण-स्टाम्प के मुद्रण एवं प्रकाशन और जाली बिक्री के संबंध में जांच एवं ऐसी अन्य कार्यवाई जो न्यास समिति द्वारा यथानिर्देशित हो]

- (d) Record in the minutes book of the Trustee Committee its decisions on the applications;
- (e) Pay to the applicants amount at the rates specified in the Schedule;
- (f) Send such periodical and annual reports as may be prescribed, to the Government and the Bar Council;
- (g) Communicate to the applicants by registered post with acknowledgement due the decision of the Trustee Committee in respect of applications for admission or re-admission to the Fund or claims to the benefit of the Fund;
- (h) do such other acts as are or may be, required to be done under this Act and the rules made thereunder.

11. Funds, borrowing and investment:—(1) The Trustee committee may, with the prior approval of the Government and the Bar Council borrow, from time to time, any sum required for carrying out the purposes of the Act.

- (2) The Trustee Committee shall deposit all money and receipts forming part of the fund in any Scheduled Bank or invest the same in loan to any Corporation owned or controlled by the Central Government or the State Government or in loans floated by the Central Government or the State Government or in any other manner as the Trustee Committee may, from time to time, decide with the prior approval of the Government.
- (3) All amounts due and payable under this Act and all expenditure relating to the management and administration of the Fund shall be paid out of the Fund.
- (4) The accounts of the Trustee Committee shall be audited annually by a Chartered Accountant appointed by the Bar Council.
- (5) The accounts of the trustee Committee as certified by the auditor, together with the audit report thereon, shall be forwarded to the Bar Council which may issue such directions as it deems fit to the Trustee Committee in respect thereof.
- (6) The Trustee Committee shall comply with the directions issued by the Bar Council under Sub-section(5).

12. Powers and duties of Secretary-cum-Treasurer:—The Secretary-cum-Treasurer of the Trustee Committee shall—

- (a) be the Chief Executive Authority of the Trustee Committee and responsible for carrying out its decisions;
- (b) represent the Trustee Committee in all suits and proceedings for and against the Committee;
- (c) authenticate by his signature all decisions and instructions of the Trustee Committee;

- (d) operate the bank accounts of the trustee Committee jointly with the Chairman [या उनकी अनुपस्थिति में उपाध्यक्ष],
 - (e) convene meetings of the Trustee Committee and prepare its minute;
 - (f) attend the meetings of the Trustee Committee with all the necessary records and information;
 - (g) maintain such forms, register and other records as may be prescribed from time to time and do all correspondence relating to the Trustee Committee;
 - (h) Prepare an annual statement of business transacted by the Trustee Committee during each financial year; and
 - (i) do such other acts as may be directed by the Administrative Department or by the Trustee Committee or its Chairman and the Bar Council.
- 13. Transfer of certain moneys to the Fund:—**The Bar Council shall pay to the Fund annually an amount equal to twenty five per cent of the enrollment fees realized by it.
- 14. Recognition and registration of Bar Association:—**(1) All associations of Advocates known by any name functioning in any Court, Tribunal or Authorities etc, may, before a date to be notified by the Bar Council in this behalf, apply to the Bar Council in such form as may be prescribed for recognition and registration.
- (2) Every application for recognition and registration shall be accompanied by the rules or bye- laws of association, names and addresses of the office- bearers of the association and up-to-date list of the members of the association showing the name, address, age, [नामांकन की निबंधन संख्या], date of enrolment and the ordinary place of practice of each member.
 - (3) The Bar Council may, after such enquiry as it deems necessary, recognize the association and issue a certificate of registration in such form as may be prescribed.
 - (4) The decision of the Bar Council regarding the recognition and registration of a Bar Association shall be final.
- 15. Duties of Bar Association:—**(1) Every Bar Association shall, on or before the 15th April of every year, intimate to the Bar Council a list of its members as on 31st March of that year.
- (2) Every Bar Association shall intimate to the Bar Council and Trustee Committee-
 - (a) any change of the office bearers of the association within fifteen days from such change;
 - (b) any change in the membership including admission and re-admission within thirty days of such change;

- (c) the death, retirement or voluntary suspension of practice of any of its members within thirty days from the date thereof;
- (d) such other matter as may be required by Bar Council or the Trustee Committee from time to time.

16. Membership of the fund:—(1) Every Advocate practicing in any Court, Tribunal or Authority etc. and being a member of a Bar Association recognized by the Bar Council may apply to the Trustee Committee for admission as a member of the Fund in such form as may be prescribed.

- (2) on receipt of an application under Sub-section (1), and on payment of a fee as prescribed in Sub-section (3) the Trustee Committee shall make such enquiry as it deems fit either admit the applicant to the Fund or for reasons to be recorded in writing reject the application;

Provided that no order rejecting an application shall be passed unless the applicant has been given an opportunity of being heard.

- (3) Every applicant shall pay an admission fee of two hundred rupees in one lump sum or in the course of one year in four equal installments, in such manner as may be prescribed, the first installment being payable along with the application to the account of the Trustee Committee.

[परन्तु यह कि न्यास समिति संकल्प द्वारा राजपत्र में प्रकाशित कर भुगतान की रीति में परिवर्तन कर सकेगा]

- (4) In the event of rejection of the application, the admission fee paid shall be refunded to the applicant.

- (5) Every member shall pay an annual subscription to the Funds on or before the 30th June of every year at the following rates, namely,-

Where the standing of the Advocate at the Bar is five years or more, but less than Ten Years	One
hundred rupees	

Where the standing of the Advocate at the Bar is ten years or more	Two hundred
rupees	

- (6) A member shall be entitled to pay the subscription under Sub-section (5) in two equal instalments at his option.

- (7) Any member who fails to remit the annual subscription for an year before the 30th June of that year shall be removed from the membership of the fund.

[परन्तु यह कि बिना किसी सुनवाई का मौका दिये निधि की सदस्यता से सदस्य का नाम हटाने के संबंध में कोई ऐसा आदेश पारित नहीं करेगा।

निबंधित डाक द्वारा सदस्यों को नोटिस दी जाएगी और उसपर हुए व्यय और अन्य व्यय सम्बद्ध सदस्यों से चन्दा के साथ वसूलनीय होगा।]

- (8) A person removed from the membership of the Fund under Sub-section shall be re-admitted to the Fund on payment of the arrears with interest at twelve percent per annum within six months from the date of such removal.
 - (9) Every member shall, at the time of admission to the membership of the Fund, may make a nomination conferring on one or more persons the right to receive the amount which may be due to him from the Fund in the event of his death before the amount has been paid to him.
 - (10) If a member nominates more than one person under Sub-Section (9), he shall specify in the nomination the amount or share payable to each of the nominees in such manner as to cover the whole of the amount that may be paid to him.
 - (11) A member may at any time cancel a nomination by sending a notice in writing to the Trustee Committee along with a fresh nomination.
 - (12) Every member who voluntarily suspends practice or retires shall within fifteen days of such suspension or retirement intimate the fact to the Trustee Committee and if any member fails to do so without sufficient reason, the Trustee Committee may, reduce the amount due to that member as on the date of actual retirement or suspension of practice.
- 17. Payment from the Fund on cessation of practice:—**(1) A member of the Fund shall, on cessation of practice, be entitled to receive out of the Fund an amount at the rate specified in the Schedule.

[परन्तु यह कि न्यास-समिति समुचित निधि के उपलब्ध होने पर अनुसूची में वर्णित राशि को सम्पूर्ण एवं युक्तिसंगत तरीके से भुगतान बढ़ा सकेगी। परन्तु बढ़ाई गई राशि की अधिकतम सीमा अनुसूची में विनिर्दिष्ट राशि से दुगुनी होगी।]

- (2) In the event of death of a member, the amount shall be paid to his nominee or, where is no nominee, to his legal heirs.
- (3) A member of the Fund may opt for retirement benefits at any time after years of his admission as a member of the Fund, but he shall be eligible for re-admission to the Fund as a new member subject to such condition as may be prescribed.
- (4) For calculating the period of completed years of practice for the purpose of payment under this Act, every four years of practice at the Bar, if any, before the admission of a member to the Fund shall be computed as one year of practice and added on to the number of practice after such admission.

[अधिनियम के अंतर्गत निधि के भुगतान के संबंध में विधि—व्यवसाय के वर्ष की गणना में निधि से सदस्यता के नामांकन के पूर्व मुख्तार, प्लीडर, बैरिस्टर या एडवोकेट के रूप में किए गए व्यवसाय को सम्मिलित किया जाएगा]]

- (5) In the case of a member who dies or suffers permanent disablement the member or his nominee or legal heir, as the case may be, shall be entitled to get a minimum sum of Rs 5,000/-.

[“परन्तु यह कि न्यास समिति प्र्याप्त निधि उपलब्ध रहने पर युक्तिसंगत तरीके से 10,000 रूपये की अधिकतम राशि को बढ़ा सकेगी]]

- (6) An application for payment from the Fund shall be preferred to the Trustee Committee in such form as may be prescribed.
- (7) An application received under Sub-section (6), shall be disposed of by the Trustee Committee after such enquiry as it deems necessary.

Provided that any person who takes up any job or employment after suspension of practice within ten years shall not be entitled to any of the benefits under the Act except the amount deposited by him under the scheme with interest.

- 18. Restriction on alienation, attachment etc. of interest of members in Fund:—**(1) The interest of any member in the Fund, or the right of a member or nominee or legal heirs to receive any amount from the Fund, shall not be assigned, alienated or charged and shall not be liable to attachment under any decree or order of any court, tribunal, or other authority.

- (2) No creditor shall be entitled to proceed against the Fund or the interest therein of any member or his nominee or legal heirs.

Explanation.- For the purpose of this section, “creditor” includes the Government or an official assignee or receiver appointed under the provincial Insolvency Act, 1955 (2 of 1956) or any other law for the time being in force.

- 19. Group Life Insurance for members and other benefits:—**The Trustee Committee may, for the Welfare of the members of the Fund—

- (a) obtain from the Life Insurance Corporation of India, policies of Group Insurance for the members of the Fund
- (b) Provide for such benefits as may be prescribed;
- (c) [Advance loan at the Bank rate to meet professional necessities, provided that the amount so advanced in no case shall exceed 50 percent of the amount payable to the member if he would have retired on the date of application for loan.]

अग्रिम के रूप में दिये गये कर्ज न्यास समिति द्वारा निर्धारित एकमुश्त या किस्तों में वापस की जायेगी और राशि कि वापसी न करने की दशा में सम्बद्ध सदस्य की सदस्यता उन्हें सुनवाई का अवसर देकर रद्द की जा सकती है और वैसा रद्दकरण पूनर्नामांकन के लिए आयोग्यता माना जायगा। सदस्य के चिकित्सा, शिक्षा एवं वैवाहिक आवश्यकता संबंधी कर्ज सदस्यो के कल्याण हेतु कर्ज माना जाएगा।

20. Meeting of the Committee:—(1) The Trustee Committee shall meet at least once in three calendar months or more often if found necessary at its headquarter at Patna or at any other place in Bihar to transact business under this Act or the rules made thereunder.

(2) One - third members of the Committee shall form the quorum for a meeting of the Committee.

(3) The Chairman or in his absence, Chairman of the Bar Council or a member elected shall preside over a meeting of the Trustee Committee.

(4) Any matter coming up before a meeting of the Committee shall be decided by a majority of the members present and voting at the meeting and, in the case of an equal votes, the chairman or the member presiding over the meeting shall have a casting vote.

21. Travelling and daily allowances to members of Committee:—The non-official members of Trustee Committee shall be eligible to get such travelling allowance and daily allowance as are admissible to the members of the Bar Council.

22. Printing and distribution of Advocates' Welfare Stamps by the State:—(1) The State shall cause to be printed and distributed Advocates' Welfare Fund Stamps for sale of the value of two rupees and fifty paise with the Bar Council Emblem and its value inscribed thereon.

(2) The Welfare Stamps shall be of the size of 1 inch x 2 inches.

(3) The custody of the Welfare Stamps shall be with the State of Bihar who will maintain separate Account and head for this.

(4) The State Government shall control the distribution and sale of the Welfare Stamps through the stamp vendors appointed by it for the sale of court- fee stamps.

(5) The State Government at the time of closing of every financial year shall transfer the sale proceeds of the Welfare Stamps after the payment of commission, etc, to the account of Advocates' Welfare Fund.

(6) The State Government shall also furnish to the Trustee Committee a Statement containing the number of welfare stamps printed, sold and

amount so transferred to the Advocates' Welfare Fund after deducting commission, etc, within three months from such transfer.

- (7) Every welfare stamp affixed on vakalatnama filed before any Court, Tribunal or other Authority shall be cancelled in the manner as provided in Bihar for the court- fee stamps.
- 23. Vakalatnama [और शपथ पत्र] to bear welfare stamps:—**No vakalatnama और शपथ पत्र shall be filed before or received by the Court, Tribunal or other Authority unless it has the welfare stamp as mentioned in Section 22.
- 24. Protection of action taken in good faith:—**(1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this act or any rule made thereunder.
- (2) No suit or other legal proceeding shall lie against the Trustee Committee or the Bar Council or the State for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.
- 25. Bar of jurisdiction of civil court:—**No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act to be settled, decided or dealt with or to be determined by the Trustee Committee, the Bar Council or the Administrative Department.
- 26. Power to summon witnesses and take evidence:—**The Trustee Committee and the Bar Council shall for the purposes of the enquiry under this Act have the same power as the vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely;-
- (1) enforcing the attendance of any person or examining him on oath;
- (2) requiring the discovery and production of documents;
- (3) receiving evidence on affidavit;
- (4) issuing commissions, for the examination of witness;
- 27. Power to make rules:—**The Bar council may, with the previous sanction of the Government, by notification in the official Gazette, make rules for the purposes of carrying into effect the provisions of this Act.
- 28. Repeal and saving. :—** (1) The Bihar State Advocates' Welfare Fund Ordinance, 1983 (Bihar Ordinance No. 10 of 1983) is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken in respect of any or any powers conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of powers conferred by or under this Act as this Act were in force on the day on which such thing or action was done or not.

(17) बिहार अधिवक्ता कल्याण निधि (संशोधन) अधिनियम, 1990

1/2 fcgkj vf/kfu; e l d; k 5] 1990½

fcgkj vf/kfu; e l d; k 5] 1990½ dk l a k s k u d j u s d s f y; s v f / k f u; e A

भारत गणराज्य के चालीसवें वर्ष में बिहार राज्य विधान मण्डल द्वारा निम्नलिखित रूप से यह अधिनियमित हो—

- 1- l f k r u l e v k s i k j E H & (1) यह अधिनियम बिहार अधिवक्ता कल्याण निधि (संशोधन) अधिनियम, 1990 कहा जा सकेगा;
 - (2) यह तुरन्त प्रवृत्त होगा।
- 2- fcgkj vf/kfu; e 16] 1983 dh / k j k 5 dk l a k s k u & बिहार अधिवक्ता कल्याण निधि अधिनियम, 1983 (बिहार अधिनियम 16, 1983) (इसके उपरान्त उक्त अधिनियम के रूप में निर्दिष्ट) की धारा 5 में —
 - (i) उप-धारा (3) के खण्ड (i) के रूप में संख्यांकित किया जायेगा; (ii) पुर्नसंख्यांकित उप-धारा (3) के खण्ड (i) के बाद एक नया खण्ड अन्तःस्थापित किया जायेगा, यथा—
“(ii) न्यास समिति के सदस्यों के बीच से उपाध्यक्ष का चुनाव होगा, जो अध्यक्ष की अनुपस्थिति में उनके सभी कार्यों का सम्पादन करेंगे।”
- 3- fcgkj vf/kfu; e 16] 1983 dh / k j k 10 e a v U r % F k i u & उक्त अधिनियम की धारा 10 की उप-धारा (2) के खण्ड (ग) निम्नलिखित अन्तःस्थापित किया जायेगा, यथा—
“(ग) सदस्यों के नामांकन की सुविधा हेतु जिला एवं अवर-प्रमण्डल उपसमितियों का गठन और कल्याण स्टाम्प के मुद्रण एवं प्रकाशन और जाली बिक्री के सम्बन्ध में रोक एवं उसके सम्बन्ध में जाँच एवं ऐसी अन्य कार्रवाई जो न्यास समिति द्वारा यथा निदेशित हो।”
- 4- fcgkj vf/kfu; e 16] 1983 dh / k j k 12 e a v U r % F k i u & उक्त अधिनियम की धारा 12 के खण्ड (घ) में शब्द “अध्यक्ष” के बदले शब्दों या उनकी अनुपस्थिति में “उपाध्यक्ष” अन्तःस्थापित किये जायेंगे।
- 5- fcgkj vf/kfu; e 16] 1983 dh / k j k 14 e a v U r % F k i u & उक्त अधिनियम की धारा 14 की उपधारा (2) में शब्द “आयु” के बदले शब्दों “नामांकन का निबन्धन संख्या” अन्तःस्थापित किया जायेगा।
- 6- fcgkj vf/kfu; e 16] 1983 dh / k j k 16 e a v U r % F k i u & m D r v f / k f u; e d h / k j k 16 e &
 - (i) उप-धारा (3) के बाद एक नया परन्तुक अन्तःस्थापित किया जायेगा, यथा—
“परन्तुक यह कि न्यास समिति संकल्प द्वारा, राजपत्र में प्रकाशित कर, भुगतान के रीति में परिवर्तन कर सकेगा।”
 - (i) उप-धारा (7) के बाद एक नया परन्तुक अन्तःस्थापित किया जाएगा, यथा—

“परन्तु यह कि बिना किसी सुनवाई का मौका दिए निधि के सदस्यता से सदस्य का नाम हटाने के सम्बन्ध में कोई ऐसा आदेश पारित नहीं करेगा। निबंधित डाक द्वारा सदस्यों को नोटिस दी जायेगी और उसपर हुए व्यय एवं अन्य व्यय सम्बद्ध से चन्दा के साथ वसूलनीय होगा।

7. बिहार अधिनियम 16, 1983 की धारा 17 में अन्तःस्थापन—उक्त अधिनियम की धारा 17 में—
- (i) उपधारा (1) के बाद एक नया परन्तु अन्तःस्थापित किया जायेगा, यथा—
“परन्तुक यह कि न्यास समिति समुचित निधि के उपलब्ध होने पर अनुसूची में वर्णित राशि को सम्पूर्ण एवं युक्तिसंगत तरीके से भुगतान बढ़ा सकेगी।
- (ii) उप-धारा (4) में शब्दों एवं पूर्ण विराम “जोड़ा जायेगा”। के बाद शब्दों “अधिनियम के अन्तर्गत निधि से भुगतान के सम्बन्ध में विधि व्यवसाय के वर्ष की गणना में निधि में सदस्यता के नामांकन के पूर्व मुख्तार, प्लीडर, बैरिस्टर, या एडवोकेट के रूप में किये गये व्यवसाय को सम्मिलित किया जायेगा।
- (iii) उप-धारायें (5) में एक नया परन्तुक जोड़ा जायेगा; यथा
“परन्तुक यह कि न्यास समिति पर्याप्त निधि उपलब्ध रहने पर युक्तिसंगत तरीके से राशि को बढ़ा सकेगी”।

8- fcgkj vf/kfu; e 16] 1983 dh/kjk 19 ea vUr%LFki u&mDr vf/kfu; e dh/kjk 19 ds [k M ½½eafufufyf[kr vUr%LFki r fd; k t k s;l ; Fk&

“अग्रिम के रूप में दिए गए कर्ज न्यास समिति द्वारा निर्धारित एक मुश्त या किश्तों में वापस की जायेगी और राशि की वापसी न करने की दशा में सम्बद्ध सदस्य की सदस्यता उन्हें सुनवाई का अवसर देकर रद्द की जा सकती है और वैसा रद्दकरण पुर्ननामांकन के लिए अयोग्यता माना जायेगा। सदस्य के चिकित्सा, शिक्षा एवं वैवाहिक आवश्यकता सम्बन्धी कर्ज सदस्यों के कल्याण हेतु कर्ज माना जायेगा।”

9- fcgkj vf/kfu; e 16] 1983 dh/kjk 20 ea vUr%LFki u&उक्त अधिनियम की धारा 20 की उप-धारा (3) में शब्द “अध्यक्ष” के बाद शब्दों “या उनकी अनुपस्थिति में उपाध्यक्ष” अन्तःस्थापित किया जायेगा।

10- fcgkj vf/kfu; e 16] 1983 dh/kjk 22 ea vUr%LFki u&उक्त अधिनियम की धारा 22 की उप-धारा (7) में शब्द “वकालतनामा के बाद शब्दों या शपथ-पत्र” अन्त-स्थापित किया जायेगा।

- 11- fcgkj vf/kfu; e 16] 1983 dh/kjk 23 vUr%LFki u&उक्त अधिनियम की धारा 23 में—
- (i) मुख्य शीर्ष में शब्द “वकालतनामा” के बाद शब्दों “और शपथ-पत्र” अन्त-स्थापित किया जायेगा;
- (ii) धारा 23 में शब्द “वकालतनामा” के बाद शब्दों “और शपथ-पत्र” अन्त-स्थापित किया जायेगा।

[24] BIHAR HIGH COURT WELFARE TRUSTEE COMMITTEE

High Court Bldg, Patna—800 001

The Amendment in Schedule under Section 6 (i) and 7 (i) of Bihar Act 5 of 1990. — Schedule of the "Bihar State Advocates Welfare Fund Act 1983" published and prepared under Sections 9 and 16 of the "Bihar State Advocates Welfare Fund Act." The amendment will come into effect from the date of publication of the same in the official Gazette, the amendment will be as follows:—

- (a) In case of death or permanent disablement the member or his nominee or legal heir (as the case may be) shall be entitled to get minimum Rs. 5,000/- upto 5 completed years of practice.

In case of death or permanent disablement after 5 completed years of practice and upto 10 completed years of practice the member or his nominee or legal heir (as the case may be) be entitled to get a sum at the rate of Rs. 1,000/- per year of (sic) completed year of practice, from 11 to 20 completed years of practice the members or his nominee or legal heir (as the case may be) shall be entitled to the death or permanent disablement benefit at the rate of Rs. 1,500/- per year of completed practice. From 21 to 25 years of completed years of practice the members or his nominee or legal heir (as the case may be) shall be entitled to get the death or permanent disablement benefit at the rate of Rs. 2,000/- per year of completed year of practice and from 26 years to 30 years of completed years of practice the members or has nominee or leal heir (as the case may be) shall be entitled to the death or permanent disablement benefit at the rate of Rs. (sic) per year of completed practice. The aforesaid benefit shall be called "Death of permanent Disablement Benefit" and shall be (sic) addition to *ex-gratia* payment indicated in the schedule and the limit of "Death or Permanent disablement benefit" shall not be Rs. 75,000/- even after more than 30 completed years of practice.

- (b) The *ex-gratia* payment will be payable only in case of "Death or Retirement due to permanent disablement" which will in addition to the payment mentioned in Clause (A) of the schedule and the said *ex-gratia* payment will be made as under :

- | | | |
|-------|---|----------------|
| (i) | Death or Permanent disablement upto 30 years of age | — Rs. 45,000/- |
| (ii) | Death or Permanent disablement above 30 years of age and upto 40 years of age | — Rs. 40,000/- |
| (iii) | Death or Permanent disablement above 40 years of age and upto 45 years of age | — Rs. 35,000/- |
| (iv) | Death or Permanent disablement above 45 years of age and upto 50 years of age | — Rs. 30,000/- |

(v) Death or Permanent disablement above 50 years of age
— Rs. 15,000/-

(c) In case of voluntary retirement upto 20 completed years of practice the retirement benefit will be paid at the rate of Rs. 1,000/- per completed year of practice if the voluntary retirement will be taken after 5 years of being the member of the Trust fund and after voluntary retirement above 20 years of practice upto 30 years of practice the retirement benefit will be payable at the rate of Rs. 1,500/- per completed year of practice but in any case the voluntary retirement benefit will not exceed the limit of Rs. 45,000/- and no *ex-gratia* payment will be payable in case of voluntary retirement.

However, a person, who has completed the age of 75 years shall be deemed to be 'permanently disabled', if he retires with a declaration that he is permanently disabled.

(d) The above amended schedule shall come into force with effect from the date of notification in the Bihar Gazette.

The amendment aforesaid has been made under the power conferred on the Trustee Committee under Section 6 (1) and 7 (1) of Bihar Act 5 of 1990 (Bihar Advocates Welfare Trust (Amendment Act 1990).

SCHEDULE - I

[See Sections 9, 16 and 17 (1)]

Completed year of practice	Death or retirement benefit due to permanent disablement (in Rupees)	Benefit of Voluntary retirement (in Rupees)
1 year	5,000/-	—
2 year	5,000/-	—
3 year	5,000/-	—
4 year	5,000/-	—
5 year	5,000/-	—
6 year	6,000/-	6,000/-
7 year	7,000/-	7,000/-
8 year	8,000/-	8,000/-
9 year	9,000/-	9,000/-
10 year	10,000/-	10,000/-
11 year	16,500/-	11,000/-
12 year	18,000/-	12,000/-
13 year	19,500/-	13,000/-
14 year	21,000/-	14,000/-

15 year	22,500/-	15,000/-
16 year	24,000/-	16,000/-
17 year	25,500/-	17,000/-
18 year	27,000/-	18,000/-
19 year	28,500/-	19,000/-
20 year	30,000/-	20,000/-
21 year	42,000/-	31,500/-
22 year	44,000/-	33,000/-
23 year	46,000/-	34,500/-
24 year	48,000/-	36,000/-
25 year	50,000/-	37,500/-
26 year	65,000/-	39,000/-
27 year	67,500/-	40,500/-
28 year	70,000/-	42,000/-
29 year	72,500/-	43,500/-
30 year & above	75,000/-	45,000/-

Schedule for Ex-gratia Payment

	Age Group	Ex – Gratia payment (in Rupees)
1.	Up to 30 years of age	45,000
2.	Above 30 years and upto 40 years of age	40,000
3.	Above 40 years and upto 45 Years of age	35,000
4.	Above 45 years and upto 50 Years of age	30,000
5.	Above 50 years of age	15,000

[25] S. O. 1159 dated the 27th October, 1989.—In exercise of the powers conferred by sub-rule (2) of Rule 7 of Bihar Consumers Protection Rules, 1987 and para 6 of the Food. Supply and Commerce Department Notification No. S.O. 211, dated 16th March, 1988, the Government of Bihar is pleased to make the following amendment.

Note : This schedule was further amended in the year 2006 which could not be made applicable in Jharkhand in view of the Bihar Reorganisation Act, 2000, and separation of Jharkhand from the erstwhile state of Jharkhand.

SCHEDULE - I

1. For Schedule of the Bihar State Advocates Welfare Fund Act, 1983. Published and prepared u/s 9, 16 and 17(1)—See Next Page.
2. The original Schedule has been amended under the power conferred on the Bohar Advocates Welfare Trustee Committee u/s 7(1) of Bihar Act 5 of 1990.
3. The amended Schedule came into force w.e.f. 28.3.2001, the day when it was published in Bihar Gazette.
4. Schedule I(A) & (B) has again been amended by the Trustee Committee with the approval of the Bihar State Bar Council u/s 17(1) of Bihar Act, 5 of 1990 and u/s 10(2) of Bihar Act 13 of 2003,
5. This new Schedule shall come into force with effect from the date of notification in the Bihar Gazette.

[Note : Proposed Schedule is printed with the existing Schedule on next page. The Trustee Committee sent the Schedule to Suptd., Govt. Press, Gulzarbag for publication vide letter No. 461/2006 dated April 25, 2006 and deposited Rs. 200/- as cost of publication on May 16, 2006 vide Receipt No. 054196 followed by reminder letter no. 6529/06 dated No. 7, 2006].

SCHEDULE 1

[See Section 9 and 17 (1)]

(A)

Completed years of Practice	Death or retirement benefit due to Permanent Disablement (in Rupees)		Benefit on Voluntary retirement (in rupees)	
1 Year	5,000	15,000/-		
2 Years	5,000	15,000/-		
3 Years	5,000	15,000/-		
4 Years	5,000	15,000/-		
5 Years	5,000	15,000/-		
6 Years	6,000	18,000/-	6,000	18,000/-
7 Years	7,000	21,000/-	7,000	21,000/-
8 Years	8,000	24,000/-	8,000	24,000/-
9 Years	9,000	27,000/-	9,000	27,000/-
10 Years	10,000	30,000/-	10,000	30,000/-
11 Years	16,500	49,500/-	11,000	33,000/-
12 Years	18,000	54,000/-	12,000	36,000/-
13 Years	19,500	58,500/-	13,000	39,000/-
14 Years	21,000	63,000/-	14,000	42,000/-

15 Years	22,500	67,500/-	15,000	45,000/-
16 Years	24,000	72,000/-	16,000	48,000/-
17 Years	25,500	76,500/-	17,000	51,000/-
18 Years	27,000	81,000/-	18,000	54,000/-
19 Years	28,500	85,500/-	19,000	57,000/-
20 Years	30,000	90,000/-	20,000	60,000/-
21 Years	42,000	1,26,000/-	31,500	94,500/-
22 Years	44,000	1,32,000/-	33,000	99,000/-
23 Years	46,000	1,38,000/-	34,500	1,03,500/-
24 Years	48,000	1,44,000/-	36,000	1,08,000/-
25 Years	50,000	1,50,000/-	37,500	1,12,500/-
26 Years	65,000	1,95,000/-	39,000	1,17,000/-
27 Years	67,500	2,02,500/-	40,500	1,21,500/-
28 Years	70,000	2,10,000/-	42,000	1,26,000/-
29 Years	72,500	2,17,500/-	43,500	1,30,500/-
30 Years & above	75,000	2,25,000/-	45,000	1,35,000/-

(B)*(For Ex - gratia Payment)*

Sl. No	Age Group	Ex - Gratia payment (Rs.)
1.	Up to 30 years of age	45,000
2.	Above 30 years and upto years of age	40,000
3.	Above 40 years and upto 45 Years of age	35,000
4.	Above 45 years and upto 50 Years of age	30,000
5.	Above 50 years of age	15,000

Note : This schedule was further amended on 19.12.2008 which is not applicable in Jharkhand.



The Bihar Gazette
EXTRA ORDINARY
PUBLISHED BY AUTHORITY

28 AGRAHAYAN 1930 (S)
(NO. PATNA 571) PATNA, FRIDAY, 19TH DECEMBER 2008

BIHAR ADVOCATES WELFARE TRUSTEE COMMITTEE
BAR COUNCIL BHAWAN, PATNA

NOTIFICATION

19th December 2008

The amendment in Schedule under section 17(i) and 10(2)(i) of Bihar Act No. 16 of 1983.

Schedule of the Bihar State Advocates Welfare Fund Act, 1983 "published and prepared under Section 9, 10 and 17(1) of the Bihar State Advocates Welfare Fund Act, 1983."

The Schedule has been amended under the power conferred on the Bihar Advocates Welfare Trustee Committee with the approval of Bihar State Bar Council under section 17(1) of the Bihar Act No. 5 of 1990 (Bihar Advocates Welfare Fund (Amended) Act, 1990) and Under Section 10(2)(i) of Bihar Act No. 13 of 2003 (Bihar Advocates Welfare Fund (Amendment) Act, 2003).

The amended schedule shall come into force with effect from the date of notification in the Bihar Gazette.

The amended schedule shall be as follows :-

SCHEDULE - I

(See Section 9, 10, and 17 (1)(A))

Completed years as practice	Death or retirement benefit due to permanent disablement (in Rupees)	Benefit of Voluntary retirement (in Rupees)
1 year	5,000/-	—
2 year	5,000/-	—
3 year	5,000/-	—

4 year	5,000/-	—
5 year	5,000/-	—
6 year	6,000/-	6,000/-
7 year	7,000/-	7,000/-
8 year	8,000/-	8,000/-
9 year	9,000/-	9,000/-
10 year	10,000/-	10,000/-
11 year	16,500/-	11,000/-
12 year	18,000/-	12,000/-
13 year	19,500/-	13,000/-
14 year	21,000/-	14,000/-
15 year	22,500/-	15,000/-
16 year	24,000/-	16,000/-
17 year	25,500/-	17,000/-
18 year	27,000/-	18,000/-
19 year	28,500/-	19,000/-
20 year	30,000/-	20,000/-
21 year	42,000/-	31,500/-
22 year	44,000/-	33,000/-
23 year	46,000/-	34,500/-
24 year	48,000/-	36,000/-
25 year	50,000/-	37,500/-
26 year	65,000/-	39,000/-
27 year	67,500/-	40,500/-
28 year	70,000/-	42,000/-
29 year	72,500/-	43,500/-
30 year	1,35,000/-	1,35,000/-
31 year	1,39,500/-	1,39,500/-
32 year	1,44,000/-	1,44,000/-
33 year	1,48,500/-	1,48,500/-
34 year	1,53,000/-	1,53,000/-
35 year	1,57,500/-	1,57,500/-
36 year	1,80,000/-	1,62,000/-
37 year	1,85,000/-	1,66,500/-
38 year	1,90,000/-	1,71,000/-

39 year	1,95,000/-	1,75,500/-
40 year	2,00,000/-	1,80,000/-
41 year	2,25,500/-	2,05,000/-
42 year	2,31,000/-	2,10,000/-
43 year	2,36,500/-	2,15,000/-
44 year	2,42,000/-	2,20,000/-
45 year	2,47,500/-	2,25,000/-
46 year	2,99,000/-	2,30,000/-
47 year	3,05,500/-	2,35,000/-
48 year	3,12,000/-	2,40,000/-
49 year	3,18,500/-	2,45,000/-
50 year & above	4,35,000/-	3,00,000/-

(B)**SCHEDULE FOR EX-GRATIA PAYMENT**

Sl.No.	Age Group	Ex – Gratia payment (in Rupees)
1.	Up to 30 years of age	95,000/-
2.	Above 30 years and upto 40 years of age	90,000/-
3.	Above 40 years and upto 45 Years of age	85,000/-
4.	Above 45 years and upto 50 Years of age	80,000/-
5.	Above 50 years of age	65,000/-

Prabhat Chandra
Secretary



THE BIHAR (JHARKHAND) ADVOCATES' WELFARE FUND RULES, 1984¹

In exercise of the powers conferred upon him under section 27 of the Bihar State Advocates Welfare Fund Act, 1983, the Governor of Bihar is pleased to frame the following Rules to be known as, The Bihar Advocates' Welfare Fund Rules, 1984 and direct that the same be published in the Bihar Gazette (Extraordinary)

1. **Short title:**—These Rules may be called the Bihar Advocates' Welfare Fund Rules, 1984.
2. **Definitions:**—In these Rules, unless the context otherwise requires:
 - (a) "Act" means the Bihar Advocates' Welfare Fund Act, 1983;
 - (b) "Form" means a form appended to these rules;
 - (c) "Permanent disablement" means such disablement which incapacitates a person to continue his practice as an Advocate.
 - (d) "Practice" means carrying on the profession of Advocate;
 - (e) "Standing" means practice at the Bar.
3. **Application for recognition and registration of Bar Association:**—(1) An application under section 14 of the Act by any Association of Advocates functioning in any court centre, to the Bar Council for recognition shall be in Form No. 1
 - (2) Every application in Form No. 1 shall be accompanied by an authenticated copy of the Rules and/ or by-laws of the Association, an upto-date list of the members of the Association, showing their names, address, age, date of birth, date of enrolment, the roll number in the State roll maintained by the Bar Council under Section 17 of the Advocates Act, 1961 (Central Act 25 of 1961), the place where the member ordinarily practices, the period of suspension, if any, and such application shall be duly signed by the President and Secretary of the Association.
 - (3) The certificate of Registration to be issued by the Bar Council shall be in Form No. II.
 - (4) The Bar Council may recognize and register more than one Bar Association at a Court centre for very exceptional and special reasons to be recorded in writing.
4. **Application for membership:**—(1) Every application under section 16 of the Act for admission as a member of the Advocates' Welfare Fund shall be Form

¹ Notification No .427, dated 28th September, 1984

No. III signed by the applicant and attested by the President and Secretary of the Bar Association of which he is a member.

- (2) An Advocate having membership in more than one Bar Association shall be eligible to apply to be admitted as a member of the said fund only from one of such Association.
- (3) An advocate applying for membership of the fund shall pay a sum of Rs.50 towards the first instalment of the application fee along with the application and the remaining amount of Rs. 150 shall be paid in three equal instalments within a period of one year from the date of application. Provided that an applicant may, if he so chooses, remit the entire application fee along with the application.
- (4) Payment of the application fee shall be by means of crossed Demand Draft drawn in favour of the Trustee Committee.
- (5) On admission of a member to the fund the Trustee Committee shall issue a certificate in Form No. 1V.
- (6) The Trustee Committee shall prepare and maintain a register of members in Form No .V.
- (7) Any decision of the Trustee Committee rejecting an application for admission shall be communicated to the applicant by the registered post with acknowledgement due.
- (8) The Trustee Committee shall remove any member from the membership of the Fund if he fails to remit the Annual Subscription before the 30th June of that year:
Provided that no such order removing the name of a member from the membership of the Fund shall be passed without giving an opportunity of his being heard

5. Re- admission to the Fund:—(1) A person re- admitted to the Fund under Sub-section (3) of Section 17 of the Act shall be treated as a new member from the date of Rex- admission for all purposes of the Act.

- (2) For calculating the period of completed years of standing of a member referred to in Sub-rule (1) for the purpose of payment under the Act, his standing in the Bar prior to his Rex- admission shall not be taken into account.
- (3) An application for re- admission shall be in Form No. VI.

6. Printing and distribution of stamps:—(1) The stamps shall be printed in such number and at such press as may be decided by the State Government.

- (2) The state Government shall be the custodian of the stamps and it shall maintain the following records and registers –
 - I. Register showing the order placed for the printing of stamps.

- II. Register showing the stock of Stamps with the following
 - (a) Serial Number
 - (b) Date
 - (c) Receipt
 - (d) Receipt
 - (e) Issue
 - (f) Balance
 - III. Ledger
 - IV. Cash Book
 - V. Receipt Book with inner foil, and
 - VI. Such other registers and records as may be directed by the State Government on the recommendation of the Trustee Committee, from time to time.
- (3) Sale of Stamps shall be made by the State Government through the agency as provided in Section 22 (4) of the Act.
 - (4) The Advocate – General and Law Secretary, Government of Bihar, who are members of the Trustee Committee, shall be entitled to inspect the above Registers, Book and connected papers.
 - (5) The Trustee Committee may take such steps as it thinks fit and proper
7. **Collection of amounts due to the Fund:—**(1) The Bar Council shall transfer to the Fund 25 per cent of the enrolment fee collected during a financial year and the State Government shall transfer the sale proceeds of the stamps after the payment of commission to the account of the Fund as provided in Section 13 and Section 22 (5) of the Act respectively.
- (2) The chairman and Secretary – cum- Treasurer of the Trustee Committee shall also manage to collect all funds specified in Sub- section (2) of Section 3 of the Act and deposit the same in the Fund – Account forthwith. The Chairman and the Secretary – cum-Treasurer of the Trustee will operate the Bank Accounts jointly but in absence of either Chairman of Secretary- cum- treasurer of the Trustee Committee the operation of the Bank Accounts shall be done by any other member or members as authorized by Trustee Committee from time to time.
 - (3) A separate accounts shall be maintained for the receipts under each of Clauses (a) to (j) of Sub- section (3) of Section 3 of the Act.

- 8. Function of Trustee Committee:**—The Trustee Committee may receive application for payment out of the Fund any member or his nominees of his legal representatives, as the case may be, in Form No: VII.
- (2) All disbursements of amounts payable under Section 17 of the Act shall be by account – payee – cheques signed by the Chairman or Treasurer.
 - (3) The Trustee Committee shall send to the Bar Council and Government quarterly or annual reports showing the receipts and the disbursements from the Fund and other particulars and on such other occasion as may be required by the Bar Council or the Trustee Committee.
 - (4) All decisions of the Trustee Committee rejecting any claim to the benefit of the Fund shall be communicated to the applicant by registered post with acknowledgment due.
- 9. Notice, quorum, etc., of meeting of the Trustee Committee:**—(1) Ten clear days, notice be given for the meeting of the Trustee Committee.
- (2) The quorum for a meeting of the Trustee Committee shall be three.
 - (3) The meeting of the Trustee Committee shall be ordinarily held at the office of the Bar Council or any other place decided by Chairman of the Trustee Committee.
 - (4) The meetings of the Trustee Committee shall be presided over by its Chairman and in his absence by the Chairman Bar Council and in his absence by a member chosen by the members present at the meeting.
- 10. Removal from membership cause:**—The Trustee Committee may, if satisfied that any person has got himself admitted to the membership of the fund by misrepresentation or suppression of any material fact or by fraud, remove the name of such person from the membership of the Fund after affording him opportunity of being heard. On such removal all benefits accrued to such member by virtue of the provisions of the Act and these Rules shall stand forfeited.
- 11.** Reduction of amount on failure to intimate suspension of practice or retirement in respect of any case falling under Sub- section (12) of Section 16 of the Act, the Trustee Committee may, after conducting such enquiry as it deems fit, reduce the amount payable to a member up to a maximum limit of 50 per cent.
- 12. Medical and Educational facilities:**—(1) A member may be allowed grant from the Fund—
- (I) in case of hospitalization lasting for one month or more or involving a major surgical operation; or
 - (II) on his suffering from tuberculosis, leprosy, paralysis cancer, unsoundness of mind or from such other serious diseases or disabilities, or,

- (III) an educational aid to him or his dependents, on ground of merit
- (2) The grant shall be allowed only after the Trustee Committee is satisfied about the genuineness of the claim.
- (3) The grant so allowed shall not exceed a sum of Rs. 2,000/- to any one for the purposes in Clauses (1), (11) or (111) of Sub- rule (1) during a period of five years.
- (4) An application for medical aid shall be in Form No. IX and application for education aid shall be in Form No .X.

FORM NO. 1

[See Section 14 and Rule 3 (1)]

APPLICATION FOR RECOGNITION AND REGISTRATION

- 1. Name of the Association
- 2 Whether registered under the Societies
Registration Act or other similar Act (Give details)
- 3 Name of Courts in the Centre
- 4 At the time of application –
Name, Address, date of enrolment, age and date of birth ,date of suspension and resumption, if any, detail should be furnished separately of all the existing members.
- 5 Name and address of the president and Secretary—
We do solemnly affirm that the particulars stated above are true and correct.

Place :

President :

Date :

Secretary

(Seal of the Association)

(Emblem of Bar Council)

FORM NO. II

[See Section 14 and Rule 3 (3)]

THE BAR COUNCIL OF BIHAR

Certificate of Registration

The Bihar State Bar Council, do hereby certify that
. Association is registered under section 17 of the Advocates' Welfare Fund Act, 1983 and its registration no is given under my hand seal of the Bar Council of Bihar.

Date this the day of19.....

(Seal)

Chairman

FORM NO. III*[See Section 16 and Rule 4 (1)]***APPLICATION FOR ADMISSION TO THE WELFARE FUND**

1. Name and address
(In block letters)
2. Age and date of birth of applicant
3. Date of enrolment under the Advocates Act, 1961
4. Details of practice
5. Place or places of practice
6. Suspension or discontinuance of practice,
...If any, with details of suspension and Resumption
7. Name and address of the nominee or Nominees with
the proportion of share to be paid to each
8. Amount and date of payment to the Fund
Under Section 16 (3), Receipt be attached
9. Admission fee how paid

I, do solemnly affirm that the particulars furnished above are true and correct.

Place :

Signature of the Applicant

Date :

Attested by

President

Secretary

FORM NO IV*[See Section 16 (2) and Rule 4 (5)]***BIHAR ADVOCATE'S WELFARE FUND TRUSTEE COMMITTEE***Certificate of Membership*

The Bihar Advocates' Welfare Fund Trustee Committee certify that Shri/Smtis admitted to the Membership of the said Fund under Section 16 (2) of Advocated' Welfare Fund Act 1983.

Given under my hand and seal of the Bihar Advocates' Welfare Fund Trustee Committee.

Dated this day of 19.....

Seal

Chairman

(In case the applicant has practiced in more than one Court centers. Certificate from the President or Secretary of each Recognized Association has to be furnished.)

FORM NO. V*[See Rule 4 (6)]***FORM OF REGISTER OF MEMBERS ADMITTED TO THE WELFARE FUND**

1	2	3	4	5
Sl.No.	Membership Number	Name and address of members	Name of Bar Association in which he is a member	Date of Birth with age
6	7	8	9	10
Date of enrolment as advocate	No. in State Roll of Advocate	Date of Admission to the fund	No. of years of standing or date of admission as stated under section 16(4)	Remarks

FORM NO. VI*[See Section 16 (8) and Rule 5 (3)]***APPLICATION FOR RE- ADMISSION TO THE WELFARE FUND**

1. Name and address (In block Letters) ...
2. Age and date of birth of Applicant
3. Date of enrolment under the Advocates Act 1961
4. Details of practice ...
5. Place or places of practice ...
6. Suspension or discontinuance of Practice, if any, with details of Suspension and resumption
7. Name and address of the nominee or nominees with the proportion of share to be paid to each
8. Amount and date of payment to the Fund under Section 16 (3) (receipt to be attached)
9. Admission fee how paid ...
10. Date of previous admission to the membership of the Fund
11. Date of previous retirement from the Fund

I, do solemnly affirm that the particulars furnished above are true and correct.

Place :

Date :

Signature of the Applicant

FORM NO. VII*[See Section 17 and rule 8 (1)]***APPLICATION FOR PAYMENT FROM THE FUND**

1. Name and address (in block Letters) ...
2. Age and date of birth of members ...
3. Date of enrolment under the Advocates' Act 1961
4. Registration number under the Advocate's Welfare Fund Act, 1983
5. Details of practice ...
6. Place or places of practice ...
7. Complete years of practice excluding period of suspension, removal and cessation of Practice
 - (i) Before the Act
 - (ii) After the Act
8. Date of retirement/ cessation of Practice/death

Place :

Date :

Signature of the Applicant

FORM NO. VIII*[See Section 19 (b) and rule 12 (4)]***APPLICATION FOR MEDICAL AID**

1. Name and address of the member (in block letters)
2. Age and date of birth of members ...
3. Date of enrolment of member ...
4. Name and address of the patient showing his relationship with the member
5. Name and address of the Medical Practitioner who is attending the patient
6. Details regarding the disease
7. Amount required for the treatment ...

DECLARATION

I, do solemnly affirm that the particulars furnished above are true and correct.

Place :

Applicant

Date :

Signature of the

FORM NO. IX*[See section 19(b) and Rule 12(4)]***APPLICATION FOR THE EDUCATION AID**

1. Name and address of the member (in block letters)
2. Age and date of birth of member
3. Date of enrolment of member
4. Name and address of the student showing his relationship with the member.
5. Name and address of the institution where the student has been admitted.
6. Details regarding the course of study

DECLARATION

I do hereby solemnly affirm that the particular furnished above are true and correct.

Place

:

Date :

Signature of the applicant

NOTIFICATIONS*Establishment of Trustee Committee*

No. Patna 156

Patna, Saturday, 24.3.1984

Law (Justice) Department Notification

24.3.1984

A.O. 421—In exercise of the power conferred upon him under Sub-Section (1) (3) (4) and (5) of Section 5 of the Bihar State Advocates' Welfare Fund Act, 1983, the Governor of Bihar is pleased to issue the notification to be published in the official gazette of the Government of Bihar establishing the Bihar Advocates' Welfare Fund Trustee Committee with effect from the date of its publication. The following persons will remain members of the said Trustee Committee :

- | | | |
|-----|--|----------|
| (a) | Advocate-General, Bihar | Chairman |
| (b) | Law Secretary, Government of Bihar | Member |
| (c) | Nominated member of the Government of Bihar (Shri Ram Janam Ojha) | Member |
| (d) | Chairman, Bihar State Bar Council | Member |
| (e) | Nominated member of the Bihar State Bar Council (Sri Tarakant Jha and Shri Shailendra Kumar Jha) | Members |
| (f) | Secretary-cum-Treasurer appointed by the Trustee Committee | Member |

The tenure of office of the Member nominated by the Government under Sub-section (3) (c) would be four years, and the tenure of office of the members nominated

by the State Bar Council under sub-section (3) (c) would be either four years or till the period of his membership of the Bar Council whichever is earlier.

By order of the Governnor of Bihar

(Shreedeo Mishra)

Secretary of Government

(B)

स्थायी निःशक्तता तथा मृत्यु उपदान

सं० 80193

बिहार अधिवक्ता कल्याण न्यासी समिति

संकल्प 29 जनवरी 1993

27 दिसम्बर, 1992 को हुई न्यासी समिति की बैठक की कार्यवाहियों से उद्धरण

27 दिसम्बर, 1992 की मद संख्या 1—कार्य—सूची की मद संख्या 1 पर विचार किया गया और उप—समिति की ता० 27 सितम्बर, 1992 की रिपोर्ट में यथा अनुशंसित अनुसूची और अधिनियम तथा नियमावली को पूर्णतः संशोधित करने के लिए मद सं० 7, दिनांक 20, 1992 के संदर्भ में गठित दो व्यक्तियों वाली उप—समिति की रिपोर्ट प्रतिगृहीत करने का संकल्प किया जाता है।

mi & l febr] rK 20 fl rEcj] 1992 dh fjiWZ

7. सभी सुसंगत स्थानों पर स्थायी निःशक्तता के कारण सेवानिवृत्ति के मामले में अनुग्रह—भुगतान का उपबंध लुप्त करने के लिए और उस प्रयोजनार्थ न्यासी समिति से निम्नवर्णित रूप में बिहार अधिनियम, 5, 1990 बिहार अधिवक्ता कल्याण न्यासी समिति की धारा 6(1) और 7(1) के अधीन न्यासी समिति को प्रदत्त शक्तियों के अधीन अनुसूची संशोधित करने के लिए अनुरोध किया जाए।

(क) कंडिका (क) की अंतिम चार पंक्तियां लुप्त कर दी जाएं और निम्नलिखित को प्रतिस्थापित किया जाए —

“कथित” मृत्यु का स्थायी निःशक्ता लाभ और मृत्यु की दशा में उक्त मृत्यु—लाभ अनुसूची में उपदर्शित अनुग्रह भुगतान के अतिरिक्त होगा और मृत्यु या स्थायी निःशक्तता लाभ की परिसीमा—वृत्ति के 30 पूरे किए गए वर्षों से अधिक होने के बाद भी 75,000 रु० (पचहत्तर हजार रु०) से अधिक नहीं होगा, किन्तु मृत्यु की दशा में अनुग्रह—भुगतान मृत्यु—लाभ की पूर्वोक्त संगणित रकम के अतिरिक्त होगा।

(ख) कंडिका (ख) की द्वितीय पंक्ति में शब्द “या स्थायी निःशक्तता के कारण सेवा निवृत्ति” शब्द लुप्त कर दिए जाए।

और यह भी कि शब्द “स्थायी निःशक्ता” शब्द ऐसी संशोधित अनुसूची के खंड (ख) (i) से (vi) लुप्त कर दिए जाए।

□□□

THE ADVOCATES' WELFARE FUND ACT, 2001¹

[45 of 2001]

[14th September 2001]

An Act to provide for the constitution of a welfare fund for the benefit of advocates and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty second year of the Republic of India as follows:

CHAPTER I

Preliminary

1. **Short title, extent and commencement:**—(1) This Act may be called THE ADVOCATES' WELFARE FUND ACT, 2001.
 - (2) It extends to the whole of India.
 - (3) It shall come into force on such date as the Central Government may, by notification, appoint; and different dates may be appointed for different provisions of this Act and for different States, and any reference in any such provision to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.
2. **Definitions:**—In this Act, unless the context otherwise requires,—
 - (a) "Advocate" means an advocate whose name has been entered in the State roll prepared and maintained by a State Bar Council under section 17 of the Advocates Act, 1961 (25 of 1961) and who is a member of a State Bar Association or State Advocates' Association;
 - (b) "appropriate Government" means,—
 - (i) in the case of advocates admitted on the roll of a Bar Council of a State, the State Government;
 - (ii) in the case of advocates admitted on the roll of a Bar Council of a Union territory, the Central Government;
 - (c) "cessation of practice" means removal of the name of an advocate from the State roll under section 26A of the Advocates Act, 1961;
 - (d) "Chairperson" means the Chairperson of the Trustee Committee referred to in clause (a) of sub-section (3) of section 4;
 - (e) "Chartered accountant" means a chartered accountant as defined in clause (b) of subsection (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

¹ Received the assent of the President on 14-09-2001 Act published in Gazette of India; 14-09-2001, Part II, Section 1, Ext., P.1 (No. 52).

- (f) “dependants” means the spouse, parents or minor children of a member of the Fund;
- (g) “Fund” means the Advocates’ Welfare Fund constituted under sub-section (1) of section 3;
- (h) “insurer” shall have the meaning assigned to it in clause (9) of section 2 of the Insurance Act, 1938 (40 of 1938);
- (i) “Member of the Fund” means an advocate admitted to the benefits of the Fund and who continues to be a member thereof under the provisions of this Act;
- (j) “Notification” means a notification published in the Official Gazette of the appropriate Government and the expression “notified” shall be construed accordingly;
- (k) “prescribed” means prescribed by rules made under this Act;
- (l) “Schedule” means a Schedule to this Act;
- (m) “scheduled bank” shall have the meaning assigned to it in clause (e) of section 2 of the Reserve Bank of India Act, 1934 (2 of 1934);
- (n) “Stamp” means the Advocates’ Welfare Fund Stamp printed and distributed under Section 26;
- (o) “State” means a State specified in the First Schedule to the Constitution and shall include a Union territory;
- (p) “State Advocates’ Association” means an association of advocates in a State recognised by the Bar Council of that State under section 16;
- (q) “State Bar Association” means an association of advocates recognised by the Bar Council of that State under section 16;
- (r) “State Bar Council” means a Bar Council referred to in section 3 of the Advocates Act, 1961 (25 of 1961);
- (s) “suspension of practice” means voluntary suspension of practice as an advocate or suspension of an advocate by a State Bar Council for misconduct;
- (t) “Trustee Committee” means the Advocates’ Welfare Fund Trustee Committee established under sub-section (1) of Section 4;
- (u) “Vakalatnama” includes memorandum of appearance or any other document by which an advocate is empowered to appear or plead before any court, tribunal or other authority;
- (v) words and expressions used and not defined in this Act but defined in the Advocates Act, 1961 (25 of 1961) shall have the meanings respectively assigned to them in that Act.

*CHAPTER II***Constitution of Advocates Welfare Fund**

- 3. Advocates' Welfare Fund:—**(1) The appropriate Government shall constitute a fund to be called the "Advocates' Welfare Fund".
- (2) There shall be credited to the Fund—
- (a) all amounts paid by a State Bar Council under section 15;
 - (b) any other contribution made by a State Bar Council;
 - (c) any voluntary donation or contribution made to the Fund by the Bar Council of India, any State Bar Association, any State Advocates' Association or other association or institution, or any advocate or other person;
 - (d) any grant which may be made by the Central Government or a State Government to the Fund after due appropriation made in this behalf;
 - (e) any sums borrowed under section 12;
 - (f) all sums collected under section 18;
 - (g) all sums received from the Life Insurance Corporation of India or any other insurer on the death of any member of the Fund under any Group Insurance Policy;
 - (h) any profit or dividend or refund received from the Life Insurance Corporation of India or any other insurer in respect of policies of Group Insurance of the members of the Fund;
 - (i) any interest or dividend or other return on any investment made out of any part of the Fund;
 - (j) all sums collected by way of sale of stamps under section 26.
- (3) The sums specified in sub-section (2) shall be paid to, or collected by, such agencies, at such intervals and in such manner, as may be prescribed.

*CHAPTER III***Establishment of Trustee Committee**

- 4. Establishment of Trustee Committee:—**(1) With effect from such date as the appropriate Government may, by notification, appoint in this behalf, there shall be established a Trustee Committee to be called the "Advocates' Welfare Fund Trustee Committee".
- (2) The Trustee Committee shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and shall, by the said name, sue and be sued.
- (3) The Trustee Committee shall consist of—
- (a) the Advocate-General of a State — Chairperson,

ex officio;

Provided that where there is no Advocate-General of a State, the appropriate Government shall nominate a senior advocate to be the Chairperson.

(b) the Secretary to the appropriate Government in its Law Department or Ministry — Member,
ex officio;

(c) the Secretary to the appropriate Government in its Home Department or Ministry — Member,
ex officio;

(d) the Chairman of the State Bar Council — Member,
ex officio;

(e) the Government Pleader or the Public Prosecutor, as may be nominated by the appropriate Government — Member

(f) Two Advocates to be nominated by the State Bar Council — Member

(g) the Secretary of the State Bar Council — Secretary,
ex officio;

(4) A Chairperson nominated under the proviso to clause (a) of Sub-section (3) shall hold office for a period not exceeding three years from the date on which he enters upon his office.

(5) Every Member of the Trustee Committee nominated under clause (e) or clause (f) of subsection (3) shall hold office for a period not exceeding three years from the date on which he enters upon his office.

5. Disqualifications and removal of Chairperson or Member of Trustee Committee:— (1) The appropriate Government shall remove from office the Chairperson or any Member of the Trustee Committee, who—

(a) is, or at any time has been, adjudged as an insolvent; or

(b) has become physically or mentally incapable of acting as the Chairperson or a Member of the Trustee Committee; or

(c) has been convicted of an offence which, in the opinion of the appropriate Government, involves moral turpitude; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or a Member of the Trustee Committee; or

(e) has so abused his position as to render his continuation in office detrimental to the public interest; or

(f) is, or at any time has been, absent without leave of the Trustee Committee for more than three consecutive meetings of the Trustee Committee:

Provided that the Trustee Committee may, on sufficient ground, condone the absence of such Chairperson or Member.

(2) No such Chairperson or Member of the Trustee Committee shall be removed under clause (d) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard.

6. Resignation by nominated Chairperson and Members of Trustee Committee and filling up of casual vacancies:—

(1) The Chairperson referred to in sub-section (4) of Section 4 or a Member nominated under clause (e) of sub-section (3) of that section may resign his office by giving three months' notice in writing to the appropriate Government and on such resignation being accepted by the appropriate Government such Chairperson or Member shall vacate his office.

(2) A member nominated under clause (f) of sub-section (3) of Section 4 may resign his office by giving three months' notice in writing to the State Bar Council and on such resignation being accepted by the State Bar Council such Member shall vacate his office.

(3) A casual vacancy in the office of the Chairperson or a Member referred to in sub-section (1) who has resigned may be filled up, as soon as may be, by the appropriate Government and The Chairperson or a Member so nominated shall hold office only so long as the Chairperson or the Member in whose place he is nominated would have been entitled to hold office if the vacancy did not occur.

(4) A casual vacancy in the office of a member referred to in sub-section (2) who has resigned may be filled up, as soon as may be. by the State Bar Council and a Member so nominated shall hold office- only so long as the Member in whose place he is nominated would have been entitled to hold office if the vacancy did not occur.

7. Vacancies, etc., not to invalidate proceedings of Trustee Committee:— No act or proceeding of Trustee Committee shall be invalid merely by reasons of—

(a) any vacancy in, or any defect in the constitution of, the Trustee Committee; or

(b) any defect or irregularity in the nomination of a person acting as the Chairperson or a Member of the Trustee Committee; or

(c) any irregularity in procedure of the Trustee Committee not affecting the merits of the case.

8. Meeting of Trustee Committee:— (1) The Trustee Committee shall meet at least once in every three calendar months and at least four such meetings shall

be held in every year to transact business under this Act and the rules made hereunder.

- (2) Three members of the Trustee Committee shall form the quorum for a meeting of the Trustee Committee.
 - (3) The Chairperson of the Trustees Committee or, if for any reason, he is unable to attend a meeting of the Trustees Committee, any other Member chosen by the Members of the Trustee Committee present from amongst themselves at the meeting shall preside at the meeting.
 - (4) All questions which come up in a meeting of the Trustee Committee shall be decided by a majority vote of the Members of the Trustee Committee present and voting and, in the event of an equality of votes, the Chairperson, or in his absence, the Member of the Trustee Committee presiding, shall have a second or casting vote.
- 9. Travelling and daily allowances to nominated Chairperson and Member of Trustee Committee:—** The Chairperson referred to in sub-section (4) of section 4 and Members of the Trustees Committee referred to in clauses (e) and (f) of sub-section (3) of that section shall be entitled to be paid such travelling and daily allowances as are admissible to the members of the State Bar Council.
- 10. Vesting and application of Fund:—** The Fund shall vest in, and be held and applied by, the Trustee Committee subject to the provisions and for the purposes, of this Act.
- 11. Functions of Trustee Committee:—** (1) Subject to the provisions of this Act and any other law for the time being in force, the Trustee Committee shall administer the Fund.
- (2) Without prejudice to the generality of the provisions contained in sub-section (1) the Trustee Committee shall—
 - (a) hold the amounts and assets belonging to the Fund in trust;
 - (b) receive applications for admission or readmission as members to the Fund, and dispose of such applications within ninety days from the date of receipt thereof.
 - (c) receive applications from the members of the Fund, their nominees or legal heirs, as the case may be, for payment out of the Fund, conduct such enquiry as it deems necessary and dispose of the applications within five months from the date of receipt thereof;
 - (d) record in the minutes book of the Trustee Committee, its decisions on the applications;
 - (e) pay to the members of the Fund or their nominees or legal heirs, as the case may be, the amounts at the rates specified in Schedule I;

- (f) send such periodical and annual reports as may be prescribed, to the appropriate Government and the State Bar Council;
 - (g) communicate to the applicantt, by registered post with acknowledgment due or through electronic mode, the decisions of the Trustee Committee in respect of applications for admission or readmission as members to the Fund or claims to the benefit of the Fund:
 - (h) do such other acts as are, or may be, required to be done under this Act and the rules made thereunder.
- 12. Borrowing and investment:—** (1) The Trustee Committee may, with the prior approval of the appropriate Government and the State Bar Council, borrow, from time to time, any sum required for carrying out the purpose of this Act.
- (2) The Trustee Committee shall deposit all monies and receipts forming part of the Fund in any scheduled bank or invest the same in debt instruments of any corporation owned or controlled by the appropriate Government or in loans floated by the appropriate Government or in any other manner as the State Bar Council may, from time to time, direct with the prior approval of the appropriate Government.
 - (3) All amounts due and payable under this Act and all expenditure relating to the management and administration of the Fund shall be paid out of the Fund.
- 13. Accounts and audit:—** (1) The Trustee Committee shall maintain proper accounts and other relevant records and prepare an annual statement of accounts and annual report in such form and in such manner as may be prescribed.
- (2) The accounts of the Trustees Committee shall be audited annually by a chartered accountant appointed by the State Bar Council.
 - (3) The accounts of the Trustee Committee as audited by the chartered accountant together with his audit error report shall be forwarded to the State Bar Council by that Committee and the State Bar Council may issue such directions, as it deems fit, to the Trustee Committee in respect thereof.
 - (4) The Trustee Committee shall comply with the directions issued by the State Bar Council under sub-section (3).
 - (5) The Trustee Committee shall pay from the Fund the charges for the audit as may be fixed by the State Bar Council.

- 14. Power and duties of Secretary:**— The Secretary of the Trustee Committee shall,—
- (a) be the Chief Executive Authority of the Trustee Committee and responsible for carrying out of its decisions;
 - (b) represent the Trustee Committee in all suits and proceedings for and against the Trustee Committee;
 - (c) authenticate by his signature all decisions and instructions of the Trustee Committee;
 - (d) operate the bank accounts of the Trustee Committee jointly with the Chairperson;
 - (e) convene meetings of the Trustee Committee and prepare minutes of such meetings;
 - (f) attend the meeting of the Trustee Committee with all the necessary records and information;
 - (g) maintain such forms, registers and other records as may be prescribed from time to time and do all correspondence relating to the Trustee Committee;
 - (h) prepare an annual statement of business transacted by the Trustee Committee during a financial year;
 - (i) do such other acts as are or may be directed by the Trustee Committee and the State Bar Council.
- 15. Payment of certain monies to Fund by State Bar Council:**— The State Bar Council shall pay to the Fund annually an amount equal to twenty per cent of the enrolment fee received by it under clause (f) of Section 24 of the Advocates Act, 1961.

CHAPTER IV

Recognition of any association of advocates

- 16. Recognition by a State Bar Council of any association of advocates:**— (1) Any association of advocates known by any name which is registered as an association before the date of commencement of this Act may, before the date to be notified by a State Bar Council in this behalf, apply for recognition to the State Bar Council in such form as may be prescribed.
- (2) Any association of advocates known by any name which is registered as an association on or after the date of commencement of this Act may, within three months from the date of its registration as an association, apply for recognition to the State Bar Council in such form as may be prescribed.

- (3) Every application for recognition under sub-section (1) or sub-section (2) shall be accompanied by,—
- (a) a copy of the rules or bye-laws of the association;
 - (b) names and addresses of office bearers of the association;
 - (c) a list of members of the association containing the name, address, age, enrolment number and date of enrolment with the State Bar Council and the ordinary place of practice of each member.
- (4) The State Bar Council may, after such enquiry as it deems necessary, recognise the association and issue a certificate of recognition in such form as may be prescribed.
- (5) The decision of the State Bar Council on any matter regarding recognition of an association under Sub-section (4) shall be final.

Explanation.— In this section, "registered" means registered or deemed to be registered under the Societies Registration Act, 1860 (21 of 1860) or any other law for the time being in force.

- 17. Duties of State Bar Associations and State Advocates' Association:—** (1) Every State Bar Association and State Advocates' Association shall, on or before the 15th day of April of every year, furnish to the State Bar Council a list of its members as on the 31st day of March of that year.
- (2) Every State Bar Association and State Advocates' Association shall inform the State Bar Council of—
- (a) any change in the membership including admissions and readmissions within thirty days of such change.
 - (b) the death or other cessation of practice or voluntary suspension of practice of any of its members within thirty days from the date of occurrence thereof;
 - (c) such other matters as may be required by the State Bar Council from time to time.

CHAPTER V

Membership and payment out of Advocates' Welfare Fund

- 18. Membership in Fund:—** (1) Every Advocate practising, before the commencement of this Act, in any Court, tribunal or other authority in a State and being a member of a State Bar Association or a State Advocates' Association in that State, shall apply, within six months of the commencement of this Act, to

the Trustee Committee for admission as a member of the Fund, in such form as may be prescribed.

- (2) Every person,—
- (a) admitted as an advocate on the roll of a State Bar Council, after the commencement of this Act;
 - (b) practising in any Court, tribunal or other authority in a State and being a member of a State Bar Association or a State Advocates' Association in that State, shall apply, within six months of his enrolment as an advocate, to the Trustee Committee, for admission as a member of the Fund in such form as may be prescribed.
- (3) On receipt of an application under Sub-section (1) or sub-section (2), the Trustee Committee shall make such enquiry as it deems fit and either admit the applicant to the Fund or, for reasons to be recorded in writing, reject the application:
- Provided that no order rejecting an application shall be passed unless the applicant has been given an opportunity of being heard.
- (4) Every applicant shall pay an application fee of two hundred rupee along with the application to the account of the Trustee Committee.
- (5) Every advocate, being a member of the Fund, shall pay an annual subscription of fifty rupees to the Fund on or before the 31st day of March of every year:
- Provided that every Advocate, who makes an application under Sub-section (1) or Sub-section (2), shall pay his first annual subscription within three months of his becoming a member of the Fund:
- Provided further that a Senior Advocate shall pay an annual subscription of one thousand rupees.
- (6) Any member of the Fund, who fails to pay the annual subscription for any year before the 31st day of March of that year, shall be liable to be removed from the membership in the Fund.
- (7) A member of the Fund removed from the membership in the Fund under sub-section (6) may be readmitted to the Fund, on payment of arrears along with readmission free of ten rupees, within six months from the date of such removal.
- (8) Every member of the Fund shall, at the time of admission to the membership in the Fund, make nomination conferring on one or more by his dependents the right to receive, in the event of his death, any amount payable to the member under this Act.

- (9) If a member of the Fund nominates more than one person under sub-section (8), he shall specify in the nomination, the amount or share payable to each of the nominees.
- (10) A member of the Fund may, at any time, cancel a nomination by sending a notice in writing to the Trustee Committee.
- (11) Every member of the Fund, who cancel his nomination under sub-section (10), shall make a fresh nomination along with registration fee of five rupees.
- (12) Every member of the Fund, whose name has been removed from the State roll under Section 26A of the Advocates Act, 1961, (25 of 1961) or who voluntarily suspends practice, shall, within fifteen days of such removal or suspension, intimate such removal or suspension to the Trustee Committee and if any member of the Fund fails to do so without sufficient reason, the Trustee Committee may reduce, in accordance with such principles as may be prescribed, the amount payable to that member under this Act.
- 19. Ex gratia grant to a member of Fund:—** The Trustee Committee on an application made to it by a member of the Fund, and after being satisfied about the genuineness of the claim, may allow ex gratia grant to such member from the Fund—
- (a) in the case of his hospitalisation or involving major surgical operation; or
- (b) if he is suffering from tuberculosis, leprosy, paralysis, cancer, unsoundness of mind or from such other serious disease or disability.
- 20. Review:—**The Trustee Committee may, on its own motion or on an application received from any person interested, within ninety days of the passing of any order by it under the provisions of this Act, review such order, if it was passed under any mistake, whether of fact or of law or in ignorance of any material fact:
- Provided that the Trustee Committee shall not pass any order under this section adversely affecting any person unless such person has been given an opportunity of being heard.
- 21. Payment of amount of cessation of practice:—** (1) Every Advocate who has been a member of the Fund for a period of not less than five years shall, on his cessation of practice, be paid an amount at the rate specified in the Schedule I: Provided that where the Trustee Committee is satisfied that a member of the Fund ceases to practise within a period of five years from the date of his admission as member of such Fund as a result of any permanent disability, the Trustee Committee may pay such member an amount at the rate specified in Schedule I;

(2) Where a member of the Fund dies before receiving the amount payable under sub-section (1), his nominee or legal heir, as the case may be, shall be paid the amount payable to the deceased member of the Fund.

22. Restriction on alienation, attachment, etc. of interest of member in the Fund:—(1) The Interest of any member in the Fund, or the right of a member of the Fund or his nominee or legal heirs to receive any amount from the Fund, shall not be assigned, alienated or charged and shall not be liable to attachment under any decree or order of any court, tribunal or other authority.

(2) No creditor shall be entitled to proceed against the Fund or the interest therein of any member or his nominee or legal heirs.

Explanation— For the purposes of this section, "creditor" includes the State or an official assignee or official receiver appointed under the law relating to insolvency for the time being in force.

23. Exemption from income-tax:— Notwithstanding anything contained in the Income Tax Act, 1961 (43 of 1961) or any other enactment for the time being in force relating to tax on income, profits or gains, the income accrued to the Fund constituted under Sub-section (1) of Section 3 shall be exempt from income tax.

24. Group Life Insurance for members of Fund and other benefits:— The Trustee Committee may, for the welfare of the members of the Fund:

(a) obtain from the Life Insurance Corporation of India or any other insurer, policies of Group Insurance on the life of the members of the Fund; or

(b) provide in such manner as may be prescribed, for medical and educational facilities for the members of the Fund and their dependents; or

(c) provide monies to the members of the Fund for purchase of books; or

(d) provides monies to construct or maintain common facilities for the members of the Fund:

Provided that the Trustee Committee shall spend ten per cent, of the total annual subscription received under sub-section (5) of Section 18 on the construction or maintenance of common facilities for the members of the Fund practising in the subordinate Courts; or

(e) provide funds for any other purpose which the Trustee Committee may specify; or

(f) provide for such other benefits as may be prescribed.

25. Appeal against decision or order of Trustee Committee:— (1) An appeal against any decision or order of the Trustee Committee shall lie to the State Bar Council.

(2) The appeal shall be in the prescribed form and shall be accompanied by—

(a) a copy of the decision or order appealed against.

- (b) a receipt evidencing payment of twenty five rupees to the credit of the State Bar Council in any of the branches of a schedule bank.
- (3) The appeal shall be filed within thirty days from the date of receipt of the decision or order appealed against.
- (4) The decision of the State Bar Council on such appeal shall be final.

CHAPTER VI

Printing, distribution and cancellation of stamps

- 26. Printing and distribution of Advocates' Welfare Fund Stamps by State Bar Council:—** (1) The appropriate Government shall, on a request made by the State Bar Council in this behalf, cause to be printed and distributed Advocates' Welfare Fund Stamp of the value of five rupees or such other value, which may be prescribed, inscribing therein "Advocates' Welfare Fund Stamp" in such design as may be prescribed.
- (2) Every stamp referred to in sub-section (1) shall be of the size of 2.54 c.m. by 5.08 c.m. and sold to the advocates.
 - (3) The custody of the stamps shall be with the State Bar Council.
 - (4) The State Bar Council shall control the distribution and sale of the stamps through the State Bar Associations and the State Advocates' Associations.
 - (5) The State Bar Council, the State Bar Associations and the State Advocates' Association shall keep proper accounts of the stamps in such form and manner as may be prescribed.
 - (6) The State Bar Association and State Advocates' Association shall purchase the stamps from the State Bar Council after paying the value thereof as reduced by ten per cent of such value towards incidental expenses .
- 27. Vakalatname to bear stamps:—** (1) Every advocate shall affix stamp of a value of—
- (a) five rupees on every Vakalatnama filed by him in a District Court or a Court subordinate to the District Court;
 - (b) ten rupees on every Vakalatnama filed by him in a tribunal or other authority or a High Court or the Supreme Court:

Provided that the appropriate Government may prescribed the value of the stamps not exceeding twenty five rupees to be affixed under this sub-section:

Provided further that the appropriate Government may prescribe different value of the stamps to be affixed on every Vakalatnama to be filed in a District Court, or a Court subordinate to the District Court or a tribunal or other authority or a High Court or the Supreme Court.

- (2) The value of the stamp shall neither be the cost in a case nor be collected in any event from the client.
- (3) Any contravention of the provisions of sub-section (1) or sub-section (2) by any advocate shall disentitle him either in whole or in part to the benefit of the Fund and the Trustee Committee shall report such contravention to the State Bar Council for appropriate action.
- (4) Every stamp affixed on every Vakalatnama filed before a District Court or a Court subordinate to the District Court or a Tribunal or other authority or a High Court or the Supreme Court shall be cancelled in such manner as may be prescribed.

CHAPTER VII

Miscellaneous

28. **Certain persons not to be eligible for benefits:**— No senior advocate, or a person in receipt of pension from the Central Government or a State Government, shall be entitled to *ex gratia* grant under Section 19 or payment of amount on his cessation of practice under Section 21 or any benefit under clause (a) or clause (b) or clause (c) of Section 24.
29. **Protection of action taken in good faith:**— No suit, prosecution or other legal proceedings shall lie against the appropriate Government or the Trustee Committee or the Chairperson or a Member or the Secretary of the Trustee Committee or the State Bar Council or any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.
30. **Bar of jurisdiction of civil Courts:**— No civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by the Trustee Committee or the State Bar Council.
31. **Power to summon witnesses and take evidence:**— The Trustee Committee and the State Bar Council shall, for the purpose of any enquiry under this Act, have the same powers as are vested in a civil Court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely:—
 - (a) enforcing the attendance of any person or examining him on oath;
 - (b) requiring the discovery and production of documents;
 - (c) receiving evidence on affidavit;
 - (d) issuing commissions for the examination of witnesses;
 - (e) any other matter which may be prescribed;
32. **Power to amend Schedule I and II:**— (1) The appropriate Government may, on the recommendation of the Trustee Committee, by notification, and having

due regard to the availability of the amount in the Fund, amend the rates specified in Schedule I.

(2) The Central Government may, as and when considered necessary, by notification, amend Schedule II.

33. Power of appropriate Government to issue directions:— (1) Without prejudice to the generality of the foregoing provisions of this Act, the Trustee Committee shall, in exercise of the powers or the performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to professional and administrative matters, as the appropriate Government may give in writing to it from time to time.

Provided that the Trustee Committee shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the appropriate Government, whether a question is one of policy or not, shall be final.

34. Power of appropriate Government to supersede Trustee Committee:— (1) If at any time the appropriate Government is of the opinion—

(a) that, on account of circumstances beyond the control of the Trustee Committee, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Trustee Committee has persistently defaulted in complying with any direction given by the appropriate Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act; or

(c) that circumstances exist which render it necessary in the public interest so to do.

the appropriate Government may, by notification and for reasons to be specified therein, supersede the Trustee Committee for such period, not exceeding six months, as may be specified in the notification and appoint, in consultation with the Chief Justice of the High Court having jurisdiction, a Judge of the High Court to be the Controller of the Trustee Committee:

Provided that before issuing any such notification, the appropriate Government shall give a reasonable opportunity to the Trustee Committee to make representations against the proposed supersession and shall consider the representations, if any, of the Trustee Committee.

(2) Upon the publication of a notification under sub-section (1) superseding the Trustee Committee,—

- (a) the Chairperson, Members and the Secretary of the Trustee Committee shall, as from the date of supersession, vacate their offices as such;
 - (b) all powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Trustee Committee shall, until the Trustee Committee is reconstituted under sub-section (3), be exercised and discharged by the Controller of the Trustee Committee; and
 - (c) all properties and Fund owned or controlled by the Trustee Committee shall, until the Trustee Committee is reconstituted under sub-section (3), vest in the appropriate Government.
 - (3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the appropriate Government shall reconstitute the Trustee Committee by fresh appointment of its Chairperson, Members and Secretary of such Committee and in such case a person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for reappointment.
 - (4) The appropriate Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament or before each house of the State Legislature, where it consists of two Houses or where such Legislature consists of one House, before that House, as the case may be, at the earliest.
- 35. Power of Central Government to make rules:—**(1) The Central Government, being the appropriate Government, may, by notification, make rules for carrying out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
 - (a) the periodical and annual reports to be sent under clause (f) of Section 11 ;
 - (b) the form and the manner in which the annual statement of accounts and annual report shall be prepared under sub-section (1) of Section 13;
 - (c) the forms, registers and other records to be maintained under clause (g) of Section 14;
 - (d) the form in which an association of advocates may apply for recognition to the State Bar Council under sub-section (1) or sub-section (2) of Section 16;

- (e) the form in which a certificate of recognition shall be issued by the State Bar Council under sub-section (4) of Section 16;
- (f) the form in which an advocate shall apply admission as a member of the Fund under sub-section (1) or sub-section (2) of Section 18;
- (g) the principles in accordance with which the amount payable to a member of the Fund be reduced under sub-section (12) of Section 18;
- (h) the manner of providing medical and educational facilities for the members of the Fund and their dependants under clause (b) of Section 24;
- (i) the other benefits to be provided under clause (f) of Section 24;
- (j) the form of appeal under sub-section (2) of Section 25;
- (k) the value and design of stamps to be printed and distributed under sub-section (I) of Section 26;
- (1) the form and the manner in which accounts of the stamps shall be kept under sub-section (5) of Section 26;
- (m) the value of stamps not exceeding twenty five rupees as may be prescribed under the first proviso to sub-section (1) of Section 27;
- (n) the value of stamps to be affixed on every Vakalatnama under the second proviso to sub-section (4) of Section 27;
- (o) the manner of cancellation of stamps under sub-section (4) of Section 27;
- (p) any other matter which is to be, or may be prescribed.

36. Power of State Government to make rules:— (1) The State Government being the appropriate Government, may, by notification, make rules for carrying out the provisions of this Act and not inconsistent with the rules, if any, made by the Central Government.

- (2) In particular and without prejudice to the generality of the foregoing power, such rule may provide for all or any of the following matters, namely:—
- (a) the periodical and annual reports to be sent under clause (f) of Section 11;
 - (b) the form and the manner in which the annual statement of accounts and annual report shall be prepared under sub-section (1) of Section 13;
 - (c) the forms, registers and other records to be maintained under clause (g) of Section 14;

- (d) the form in which an association of advocates may apply for recognition to the State Bar Council under sub-section (1) of sub-section (2) of Section 16;
- (e) the form in which a certificate of recognition shall be issued by the State Bar Council under sub-section (4) of Section 16;
- (f) the form in which an advocate shall apply for admission as a member of the Fund under sub-section (1) or sub-section (2) of Section 18;
- (g) the principles in accordance with which the amount payable to a member of the Fund be reduced under sub-section (12) of Section 18;
- (h) the manner of providing medical and educational facilities for the members of the Fund and their dependants under clause (b) of Section 24;
- (i) the other benefits to be provided under clause (f) of Section 24;
- (j) the form of appeal under sub-section (2) of Section 25;
- (k) the value and design of stamps to be printed and distributed under sub-section (i) of Section 26;
- (1) the form and the manner in which accounts of the stamps shall be kept under sub-section (5) of Section 26;
- (m) the value of stamps not exceeding twenty-five rupees as may be prescribed under the first proviso to sub-section (1) of Section 27;
- (n) the value of stamps to be affixed on every Vakalatnama under the second proviso to sub-section (1) of Section 27;
- (o) the manner of cancellation of stamps under sub-section (4) of Section 27;
- (p) any other matter which is to be or may be prescribed.

37. Rules and notifications to be held laid Parliament or State Legislature:—

(1) Every rule made under this Act, by the Central Government and every notification issued under Section 32, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be

without prejudice to the validity of anything previously done under that rule or notification.

(2) Every rule made under this Act by a State Government and every notification issued under Section 32 shall be laid, as soon as may be after it is made, before each House of State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

38. Saving:— The provisions of this Act shall not apply to the States in which the enactments specified in Schedule II are applicable.

SCHEDULE I

[See Sections 21(1) and 32(1)]

Number of years as member of the Fund		Rate at which amount payable
30	.....	Rs. 30,000
29	.....	Rs. 29,000
28	.....	Rs. 28,000
27	.....	Rs. 27,000
26	.....	Rs. 26,000
25	.....	Rs. 25,000
24	.....	Rs. 24,000
23	.....	Rs. 23,000
22	.....	Rs. 22,000
21	.....	Rs. 21,000
20	.....	Rs. 20,000
19	.....	Rs. 19,000
18	.....	Rs. 18,000
17	.....	Rs. 17,000
16	.....	Rs. 16,000
15	.....	Rs. 15,000
14	.....	Rs. 14,000
13	.....	Rs. 13,000
12	.....	Rs. 12,000
11	.....	Rs. 11,000
10	.....	Rs. 10,000
9	.....	Rs. 9,000
8	.....	Rs. 8,000

7	.....	Rs. 7,000
6	.....	Rs. 6,000
5	.....	Rs. 5,000
4	.....	Rs. 4,000
3	.....	Rs. 3,000
2	.....	Rs. 2,000
1	.....	Rs. 1,000



ADVOCATES' (RIGHT TO TAKEUP LAW TEACHING) RULES, 1979¹

In exercise of the powers conferred by Section 49A of the Advocates Act, 1961 (25 of 1961), the Central Government hereby make the following rules, namely :—

1. Short title and commencement :—

(1) These rules may be called the **ADVOCATES' (RIGHT TO TAKE UP LAW TEACHING) RULES, 1979.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions :—

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

3. Right of practising advocates 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 exceeds three hours, be deemed, for the purposes of the Act and the rules made thereunder, to be a part-time employment irrespective of the manner in which such employment is described or the remuneration receivable (whether by way of a fixed amount or on the basis of any time scale of pay or in any other manner) by the advocate for such employment.



¹ Vide G.S.R. 587 (E), dated 26-10-1979, Published in the Gazette of India, Ext., Pt. II; S.3(i), dated 26-10-1979.

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