

THE ADVOCATES ACT, 1961

[ACT NO. 25 OF 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:--

CHAPTER I PRELIMINARY

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

(2) It extends to the whole of India.

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

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

2. Definitions.- (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;

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

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

* * * * *

(g) "High Court", except in sub-section (1) and sub-section (1A) of section 34 and in sections 42 and 43, does not include a court of the Judicial Commissioner, and, in relation to a State Bar Council, means,--

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

(ii) in the case of the Bar Council constituted for Delhi, the High Court of Delhi;

(h) "law graduate" means a person who has obtained a bachelors degree in law from any University established by law in India;

(i) "legal practitioner" means an advocate ⁷[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 a State Bar Council under section 17.1^{*}[(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.

3. State Bar Councils.- (1) There shall be a Bar Council--

(a) for each of the States of Andhra Pradesh, Bihar, Gujarat, 2*[Jammu and Kashmir,] Madhya Pradesh, 3***, 4***, 5*[Karnataka], Orissa, Rajasthan and Uttar Pradesh, to be known as the Bar Council of that State;

6*[(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 Laccadive, Minicoy and Amindivi Islands, to be known as the Bar Council of Kerala;

7*[(cc) for the 8*[State of Tamil Nadu] and the Union territory of Pondicherry to be known as the Bar Council of Madras;]

9*[(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;]

(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 2*[Union territory of Andaman and Nicobar Islands], to be known as the Bar Council of West Bengal; and

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

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

(a) in the case of the State Bar Council of Delhi, the Additional Solicitor-General of India, ex officio; 3*[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;

4*[(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 a 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:]

5*[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

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

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

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

2*[(4) An advocate shall be disqualified from voting at an election under sub-section (2) or for being chosen as, and for being, a member of 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, 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.]

3*[(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.

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;

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

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

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

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

Provided that such person shall continue to carry on the duties of his office until the Chairman or the Vice-Chairman, as the case may be, of the Council

cil, elected after the commencement of the Advocates (Amendment) Act, 1977 (38 of 1977), assumes charge of the office.]

4*[(3) The term of office of a member of the Bar Council of India elected by the State Bar Council shall--

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

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

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

5. Bar Council to be body corporate.

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 be 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;

1*[(dd) to promote the growth of Bar Associations for the purposes of effective implementation of the welfare schemes referred to in clause (a) of subsection (2)

of this section and clause (a) of sub-section (2) of section 7;]

(e) to promote and support law reform;

2*[(ee) to conduct seminars and organise talks on legal topics by eminent jurists and publish journals and papers 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;

1*[(gg) to visit and inspect Universities in accordance with the directions given under clause (i) of sub-section (1) of section 7;]

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

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

3*[(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;

1*[(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.

7. Functions of Bar Council of India.- 4*[(1)] The functions of the Bar Council

il of India shall be--

5* * * * *

- (b) to lay down standards of professional conduct and etiquette for advocates;
- (c) to lay down the procedure to be followed by its disciplinary committee and the disciplinary committee of each State Bar Council;
- (d) to safeguard the rights, privileges and interests of advocates;
- (e) to promote and support law reform;
- (f) to deal with and dispose of any matter arising under this Act, which may be referred to it by a State Bar Council;
- (g) to exercise general supervision and control over State Bar Councils;
- (h) to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils;
- (i) to recognise Universities whose degree in law shall be a qualification for enrolment as an advocate and for that purpose to visit and inspect Universities 1*[or cause the State Bar Councils to visit and inspect Universities in accordance with such directions as it may give in this behalf;]
- 2*[(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;
- (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.

2*[(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.

3*[(c) establishing law libraries.]

(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.]

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

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.

8A. Constitution of Special Committee in the absence of election.-

(1) Where a State Bar Council fails to provide for the election of its members before the expiry of the term of five years or the extended term, as the case may be, referred to in section 8, the Bar Council of India shall, on and from the date immediately following the day of such expiry, constitute a Special Committee consisting of--

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

Provided that where there are more than one exofficio 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

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

9. Disciplinary committees.

3*[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.]

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

(2) The qualifications, the method of selection and the term of office of the members of a 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.

10A. Transaction of business by Bar Councils and committees thereof.- 2*[(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.]

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

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.

(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 act done by a Bar Council or any committee thereof shall be called

d 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.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for--

(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 results of election shall be published;]

(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 2*[or to the office of the Chairman or Vice-Chairman] shall be finally decided;

3* * * * *

(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;

(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, 5*** 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 other employees of the Bar Council;

(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 ability, 1*[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 interests 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:

[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 day 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 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, 1* [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) of 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;

2* * * * *

(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.

(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

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 rea

son it appears to the Bar Council of India that the application for transfer has not been made bona fide 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.

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 of Delhi.]

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.

(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.

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 preaudience.

23. Right of preaudience.- (1) The Attorney-General of India shall have preaudience 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.

3*[(3A) 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), 4*[(2), (3) and (3A)], 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 inter se and other advocates inter se shall be determined by their respective seniority.

24. Persons who may be admitted as advocates on a State roll.

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:

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1. Subs. by Act 60 of 1973, s. 16, for sub-section (2) (w.e.f. 31-1-1974).
 2. Subs. by s. 17, *ibid.*, for s. 22 (w.e.f. 31-1-1974).
 3. Ins. by Act 47 of 1980, s. 3.4. Subs. by s. 3, *ibid.*

65. 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 1*[12th day of March, 1967], from any University in the territory of India; or

(ii) before the 15th day of 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

2*[(iii) after the 12th day of March, 1967, save as provided in sub-clause (i) (ii), 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

(iiia) 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]

3*[(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]

4*[he is a barrister and is called to the Bar on or before the 31st day of December, 1976; 5*[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] ;

6* * * * *

(e) he fulfils such other conditions as may be specified in the rules made by the State Bar Council under this Chapter;

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1. Subs. by Act 60 of 1973, s. 18, for "28th day of February, 1963" (w.e.f. 31-1-1974).
 2. Subs. by s. 18, *ibid.*, for sub-clause (iii) (w.e.f. 31-1-1974).
 3. Ins. by Act 21 of 1964, s. 13.4. Subs. by Act 60 of 1973, s. 18, for "he is a barrister" (w.e.f. 31-1-1974).
 5. Ins. by Act 107 of 1976, s. 6 (w.e.f. 15-10-1976).
 6. Cl. (d) omitted by Act 60 of 1973, s. 18 (w.e.f. 31-1-1974).

66.3*[(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 of 2*[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 2*[one hundred rupees and to the Bar Council of India, twenty-five rupees".]

3*[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), 4*[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).

5*[(3) Notwithstanding anything contained in sub-section (1) a person who--

(a) 6*** 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 7*** 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

8*[(aa) before the 1st day of December, 1961, was entitled otherwise than as an advocate to practise the profession of law (whether

1. Subs. by Act 60 of 1973, s. 18, for cl. (f) (w.e.f. 31-1-1974).

2. Subs. by Act 70 of 1993, s. 6 (w.e.f. 26-12-1993).

3. Ins. by Act 14 of 1962, s. 2.4. Subs. by Act 21 of 1964, s. 13, for certain words.

5. Ins. by s. 13, *ibid*.

6. 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).

7. The words "then in force" omitted by s. 2, *ibid*. (w.e.f. 5-6-

1968).

8. Ins. by Act 60 of 1973, s. 18 (w.e.f. 31-1-1974).

67.by way of pleading or acting or both) by virtue of the provisions of any law, or who would have been so entitled had he not been in public service on the said date; or]

1* * * * *

(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 (f) of sub-section (1).

2* * * * *]

24A.

Disqualification for enrolment.

3*[24A. 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 of the Untouchability (Offences) Act, 1955 (22 of 1955):

4*[(c) if he is dismissed or removed from employment or office under the St

ate on any charge involving moral turpitude.

Explanation.--In this clause, the expression "State" shall have the meaning as signed 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 5*[released 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.

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.

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 committee, and subject to the provisions of sub-sections (2) and (3) 6*[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:

1. Cl. (b) omitted by Act 60 of 1973, s. 18 (w.e.f. 31-1-1974).

2. Omitted by Act 107 of 1976, s. 6.3. Ins. by Act 60 of 1973, s. 19 (w.e.f. 31-1-1974).

4. Ins. by Act 70 of 1993, s. 7 (w.e.f. 26-12-1993).

5. Subs. by s. 7, ibid. (w.e.f. 26-12-1993).

6. Ins. by Act 21 of 1964, s. 14.68.1*[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 subsection (2) in conformity with the opinion of the Bar Council of India.

1*[(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.]

26A.

Power to remove names from roll.

2*[26A. 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.

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.

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--

3*[(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;]

4* * * * *

1. Ins. by Act 21 of 1964, s. 14.2. Subs. by Act 60 of 1973, s. 20, for s. 26A (w.e.f. 31-1-1974).

3. Subs. by s. 21, *ibid.*, for cl. (a) (w.e.f. 31-1-1974).

4. Cl. (b) omitted by s. 21, *ibid.*

69.(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.

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.

30. Right of advocates to practise. Subject to the provisions of this Act, every advocate whose name is entered in the 1*[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.[Repealed.]

31. [Special provision for attorneys.]- Rep. by Act 107 of 1976, s. 7 (w.e.f. 1-1-1977).

32. Power of court to permit appearances in particular cases.

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.

1. Subs. by Act 60 of 1973, s. 22, for "common roll" (w.e.f. 31-1-1974).

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33. Advocates alone entitled to practise.

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.

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.

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

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

CHAPTER V

CONDUCT OF ADVOCATES

35. Punishment of advocates for misconduct.

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.

3*[(1A) The State Bar Council may, either of its own motion or on application made to it by any person interested, withdraw a proceeding pending before its disciplinary committee and direct the inquiry to be made by any other disciplinary committee of that State Bar Council.]

(2) The disciplinary committee of a State Bar Council 4*** 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;

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1. Ins. by Act 60 of 1973, s. 23 (w.e.f. 31-1-1974).
 2. Ins. by Act 38 of 1977, s. 6 (w.e.f. 31-10-1977).
 3. Ins. by Act 60 of 1973, s. 24 (w.e.f. 31-1-1974).
 4. The words ", if it does not summarily reject the complaint," omitted by s. 24, *ibid.* (w.e.f. 31-1-1974).

71.(b) reprimand the advocate;

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

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

(4) Where an advocate is suspended from practice under clause (c) of sub-section (3), he shall, during the period of suspension, be debarred from 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

ring on his behalf.

1*[Explanation.--In this section, 2*[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.

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 3*** 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, 4*[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

1. Ins. by Act 21 of 1964, s. 17. 2. Ins. by Act 60 of 1973, s. 24 (w.e.f. 31-1-1974).

3. The words "on the common roll" omitted by s. 25, *ibid.* (w.e.f. 31-1-1974).

4. Subs. by s. 25, *ibid.*, for "of its own motion" (w.e.f. 31-1-1974).

72.(3) of section 35, and where any proceedings have been withdrawn for inquiry 1*[before the disciplinary committee of the Bar Council of India], the State Bar Council concerned shall give effect to any such order.

36A.

Changes in constitution of disciplinary committees.

2*[36A. Changes in constitution of disciplinary committees.-

Whenever in respect of any proceedings under section 35 or section 36, a disciplinary committee of the State Bar Council or a disciplinary committee of the Bar Council of India ceases to exercise jurisdiction and is succeeded by another committee which has and exercises jurisdiction, the disciplinary committee of the State Bar Council or the disciplinary committee of the Bar Council of India, as the case may be, so succeeding may continue the proceedings from the stage at which the proceedings were so left by its predecessor committee.

36B.

Disposal of disciplinary proceedings.

36B. Disposal of disciplinary proceedings.- (1) The disciplinary committee of a State Bar Council shall dispose of the complaint received by it under section 35 expeditiously and in each case the proceedings shall be concluded within a period of one year from the date of the receipt of the complaint or the date of initiation of the proceedings at the instance of the State Bar Council, as the case may be, failing which such proceedings shall stand transferred to the Bar Council of India which may dispose of the same as if it were a proceeding withdrawn for inquiry under sub-section (2) of section 36.(2) Notwithstanding anything contained in sub-section (1), where on the commencement of the Advocates (Amendment) Act, 1973 (60 of 1973), any proceedings in respect of any disciplinary matter against an advocate is pending before the disciplinary committee of a State Bar Council, that disciplinary committee of the State Bar Council shall dispose of the same within a period of six months from the date of such commencement or within a period of one year from the date of the receipt of the comp

laint 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 proceedings shall stand transferred to the Bar Council of India for disposal under sub-section (1).]

37. Appeal to the Bar Council of India.

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 3*[under section 35] 4*[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.

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1. Subs. by Act 60 of 1973, s. 25, for "before the Bar Council of India" (w.e.f. 31-1-1974).
 2. Ins. by s. 26, *ibid.* (w.e.f. 31-1-1974).
 3. Subs. by Act 21 of 1964, s. 18, for "under sub-section (3) of section 35".
 4. Ins. by Act 60 of 1973, s. 27 (w.e.f. 31-1-1974).

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

1*[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.

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 2*[or the Attorney-General of India or the Advocate-General of the State concerned, as the case may be,] may, within sixty days of the date on which the order is communicated to him, prefer an appeal to the Supreme Court and the Supreme Court may pass such order 2*

[including an order varying the punishment awarded by the disciplinary committee of the Bar Council of India)] thereon as it deems fit:

2*[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.]

39. Application of sections 5 and 12 of Limitation Act, 1963. 3*[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.

40. Stay of order.- 4*[(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.

5*[(2) Where an application is made for stay of the order before the expiration of the time allowed for appealing therefrom under section 37 or

1. Ins. by Act 60 of 1973, s. 27 (w.e.f. 31-1-1974).

2. Ins. by s. 28, *ibid.* (w.e.f. 31-1-1974).

3. Subs. by s. 29, *ibid.* (w.e.f. 31-1-1974).

4. S. 40 was re-numbered as sub-section (1) of that section by s. 30, *ibid.* (w.e.f. 31-1-1974).

5. Ins. by s. 30, *ibid.* (w.e.f. 31-1-1974).

74. 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