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Advocate Act, 1961

Chapter II - Bar Council

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(1) Thereshall be a Bar Council-

(a) foreach of the States of Andhra Pradesh, Bihar, Gujarat, 1 [Jammuand Kashmir], Madhya Pradesh, 2 [** *], 3 [** *], 4 [Karnataka],Orissa, Rajasthan and Uttar-Pradesh, to be known as the BarCouncil of that State:

5 [(b)for the State of Arunachal Pradesh, Assam, Manipur, Meghalaya,Mizoram, Nagaland, and Tripura to be known as the Bar Council ofAssam, Nagaland, Meghalaya, Manipur and Tripura, Mizoram andArunachal Pradesh;]

(c) for the State of Kerala and theUnion territory of 5 [Lakshadweep],Minicoy and Amindivi Islands, to be known as the Bar Council ofKerala;

6 [(cc)for the 7 [State of TamilNadu] and the Union territory ofPondicherry to be known as the Bar Council of Madras;]

8 [(ccc)for the State of Maharashtra and Goa, and the Union territories ofDadra and Nagar Haveli and Daman and Diu, to be known as the BarCoucil of Maharashtra and Goa;]

9 [(d)for the State of Punjab and Haryana, and the Union territory ofChandigarh to be known as the Bar Council of Punjab and Haryana;

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

(e) forthe State of West Bengal and the 10 [Unionterritories of Andaman and Nicobar Islands], to be known as the BarCouncil of West Bengal; and

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

(2) AState Bar Council shall consist of the following members namely:-

(a) In thecase of the State Bar Council of Delhi, the AdditionalSolicitor-General of India, ex-officio; 11 [inthe case of the State Bar Council of Assam, Nagaland,

(a) Meghalaya, Manipur and Tripura, the Advocate-General of each of theState of Assam, Manipur, Meghalaya, Nagaland and Tripura, ex officio;in the case of the State Bar Council of Punjab and Haryana, theAdvocate-General of each of the State of Punjab and Haryana,,ex-officio;] and in the case ofany other State Bar Council, the Advocate-General of the State, exofficio;

12 [(b)In the case of the State Bar Council with an electorate not exceedingfive thousand, fifteen members, in the case of a State Bar Council,with an electorate exceeding five thousand but not exceeding tenthousand, twenty members, and in the case of a State Bar Council withan electorate exceeding ten thousand, twenty-five members, elected inaccordance with the system of proportional representation by means ofthe single transferable vote from amongst advocates on the electoralroll of the Sate Bar Council:]

13 [Providedthat as nearly as possible one-half of such elected members shall,subject to any rules that may be made in this behalf by the BarCoucil of India, be persons who have for at least ten years beenadvocates on a State roll, and in computing the said period of tenyears in relation to any such person, there shall be included anyperiod during which the person has been an advocate enrolled underthe Indian Bar Coucils Act, 1926 (38 of 1926)].

14 [(3)There shall be a Chairman and a Vice-Chairman of each StateBar Council elected by the Council in such manner as may beprescribed**.**

(3-A) Every personholding office as Chairman or as Vice-Chairman of any State BarCouncil immediately before the commencement of the Advocates(Amendment) Act, 1977, shall, on such commencement, cease to holdoffice as Chairman or Vice-Chairman, as the case may be :

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

15 [(4)An advocate shall be disqualified from voting at an election undersub-section (2) or for being chosen as, and for being a member of aState Bar Council, unless he possesses such qualifications orsatisfies such conditionis as may be prescribed in this behalf by theBar 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 byeach State Bar Council.

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

16 [(6)Nothing in clause (b) of sub-section (2) shall affect therepresentation of elected members in any State Bar Council asconstituted immediately before the commencement of the Advocates(Amendment) Act, 1973 (60 of 1973), until that State Bar Council isreconstituted in accordance with the provisions of this Act.]

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1. Inserted by Act 60 of 1973, section 4.

2. Theword "Madras" omitted by Act 26 of 1968, section 3 andSchedule.

3. Theword "Maharashtra" omitted by the Dadra and Nagar HaveliCivil Courts and Misellaneous Provisions Regulations, 1963 8 of 1963,**se**ction 12.

4. Substitutedby the Mysore State Alteration of Name Adaptation of Laws on UnionSubjects Order, 1974.

5. Substitutedby Act 69 of 1986, section 19, for clause (6) as earlier amended byAct 81 of 1971, section 34 and Act 34 of 1986, section 16.

5a. Substitutedby Act 34 of 1973, section 12.

6. Insertedby Act 26 of 1968, section 3 and Schedule.

7. Substituedby the Madras State (Alteration of Name) (Adaptation of Laws on UnionSubjects) order, 1970, for the words "State of Madras".

8. Substitutedby act 18 of 1987, section 21, for clause (ccc) as initially insertedby Regulation 8 of 1963, section 12 and relettered by Act 26 of

1968,section 3 and Schedule and subsequently amended by Act 60 of 1973,section 4.

9. Substituedby Act 53 of 1970, section 24, for clause (d).

10. Substitutedby Act 81 of 1971, section 34, for "Union Territories ofTripura and the Andaman and Nicobar Islands".

11. Insertedby Act 60 of 1973, section 4.

12. Substitutedby Act 60 of 1973, section 4.

13. Insertedby Act 21 of 1964, section. 2.

14. Substitutedby Act 38 of 1977, section 2, for clause (3) as Inserted by Act 107of 1976, section 3.

15. Insertedby Act 21 of 1964, section 2.

16. Sub-clause(6) inserted by Act 60 of 1973, section 4.

Section 4 - Bar Council of India

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(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;

1[* * *]

(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 provisio 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, 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, 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 5[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 as a member of the Bar Council of India until his successor is elected.]

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1. Clause (bb) omitted by Act 38 of 1977, section 3.

2. Inserted by Act 60 of 1973, section 5.

3. Substituted by Act 38 of 1977, section 3.

4. Inserted by Act 21 of 1964, section 3.

5. Inserted by Act 60 of 1973, section 5.

Section 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**.**

Section 6 - Functions of State Bar Councils

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(1) Thefunctions of a State Bar Council shall be-

(a) to admit persons asadvocates on its roll;

(b) to prepare andmaintain such roll;

(c) to entertain anddetermine cases of misconduct against advocates on its roll;

(d) to safeguard therights, privileges and interests of advocates on its roll;

1 [(dd)to promote the growth of Bar Associations for the purposes ofeffective 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 andsupport law reform;

2 [(ee)to conduct seminars and organize talks on legal topics by eminentjurists and publish journals and papers of legal interest;

(eee) toorganize legal aid to the poor n the prescribed manner;]

(f) to manage andinvest the funds of the Bar Council;

(g) to provide for theelection of its members;

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

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

(i) to doall other things necessary for discharging the aforesaid functions**.**

4 [(2)A State Bar Council may constitute may constitute one or more fundsin the prescribed manner for the purpose of-

(a) givingfinancial assistance to organize welfare schemes for the indigent,disabled or other advocates;

(b) givinglegal aid or advice in accordance with the rules made in thisbehalf;]

5 [(c)establishing law libraries.]

(3) AState Bar Council may receive any grants, donations, gifts orbenefactions for all or any of the purposes specified in sub-section(2) which shall be credited to the appropriate fund or fundsconstituted under that sub-section]

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1. Insertedby Act 70 of 1993, section 2 (i)(a).

2. Insertedby Act 60 of 1973, section 6.

3. Insertedby Act 70 of 1993, section 2 (i)(b).

4. Sub-sections(2) and (3) substituted by Act 60 of 1973, section 6, for sub-section(2).

5. Inserted by Act 70 of 1993, section 2 (ii).

Section 7 - Functions of Bar Council of India

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1 [(1)]The functions of the Bar Council of India shall be-

2 [** *]

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

(c) to lay down the procedure to befollowed by its disciplinary committee and the disciplinary committeeof each State Bar Council;

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

(e) to promote andsupport law reform;

(f) to deal with and dispose of anymatter arising under this Act, which may be referred to it by a StateBar Council;

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

(h) to promote legaleducation and to lay down standards of such education in consultationwith the Universities in India imparting such education and the StateBar Councils;

(i) torecognise Universities whose degree in law shall be a qualificationfor enrolment as an

advocate and for that purpose to visit andinspect Universities [3] [orcause the State Bar Councils to visit and inspect Universities inaccordance with such directions as it may give in this behalf];

[4] [(ia)to conduct seminars and organize talks on legal topics by eminentjurists and publish journals and papers of legal interest;

(ib) to organize legalaid to the poor in the prescribed manner;

(ic) torecognize on a reciprocal basis foreign qualifications in lawobtained outside India for the purpose of admission as advocate underthis Act;]

(j) to manage andinvest the funds of the Bar Council;

(k) to provide for theelection of its members;

(l) to perform allother functions conferred on it by or under this Act;

(m) to doall other things necessary for discharging the aforesaid functions**.**

[5] [(2)The Bar Council of India may constitute one or more funds in theprescribed manner for the purpose of-

(a) giving financialassistance to organize welfare schemes for indigent, disabled orother advocates;

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

[6] [(c)establishing law libraries.]

(3) The Bar Council ofIndia may receive any grants, donations, gifts or benefactions forall or any of the purposes specified in sub-section (2) which shallbe credited to the appropriate fund or funds constituted under thatSub-section].

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1. Section7 renumbered as sub-section (1) thereof by Act 60 of 1973, Section 7.

2. Clause(a) omitted by Act 60 of 1973, section 7.

3. Insertedby Act 70 of 1993, section 3(i).

4. Insertedby Act 60 of 1973, section 7.

5. Sub-sections(2) and (3) inserted by Act 60 of 1973, section 7.

6. Insertedby Act 70 of 1993, section 3 (ii).

Section 7A - Membership in international bodies

[1][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.]

1. Inserted by Act 60 of 1973, section 8.

Section 8 - Term of office of members of State Bar Council

[1]Section 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, 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.

1. Substituted by Act 70 of 1993, section

Section 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 ter, as the case may be, referred to in section 8, the Bar Council of India shall, on and from the date immediately following the day of such expiry, constitute a Special Committee consisting of

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

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

Section 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 proceeding pending before it as if this section had not been amended by the said Act.

Section 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 member of a legal aid committee shall be such as may be prescribed].

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1. Inserted by Act 60 of 1973, section 9.

Section 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**.**

Section 10A - Transaction of business by Bar Councils and committees thereof

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[1][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 otherplace as it may, for reasons to be recorded in writing, determine.

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

(3) The committees other thandisciplinary committees constituted by the Bar Councils shall meet atthe headquarters of the respective Bar Councils.

(4) Every Bar Council and everycommittee thereof except the disciplinary committees shall observesuch rules of procedure in regard to the transaction of business attheir meetings as may be prescribed.

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

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1. Insertedby Act 60 of 1973, section 10.

2. Substituedby Act 70 of 1993, section 5.

Section 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].

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1. Original section 10A renumbered as section 10B by Act 60 of 1973, section 10.

Section 11 - Staff of Bar Council

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(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**.**

Section 12 - Accounts and audit

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(1)Every Bar Council shall cause to be maintained such books of accounts and otherbooks 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 actas auditors of companies under the Companies Act, 1956, (1 of 1956) at suchtimes and in such manner as may be prescribed**.**

1 [(3)As soon as may be practicable at the end of each financial year, but not laterthan the 31st day of December of the year next following, a State BarCouncil shall send a copy of its accounts together with a copy of the report ofthe auditors thereon to the Bar Council of India and shall cause the same to bepublished in the Official Gazette.

(4)As soon as may be practicable at the end of each financial year, but not laterthan the 31st day of December of the next following the Bar Councilof India shall send a copy of its accounts together with a copy of the report ofthe auditors thereon to the Central Government and shall cause the same to bepublished in the Gazette of India].

1.Substituted by Act 60 of 1973, section 11.

Section 13 - Vacancies in Bar Councils and committees thereof not to invalidate action taken

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No act 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**.**

Section 14 - Election to Bar Councils not to be questioned on certain grounds

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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**.**

Section 15 - Power to make rules

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(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-

1[(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 elections shall be published];

2[***]

3[(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 4[or to the office of the Chairman or Vice- Chairman]shall be finally decided;

5 [***]

(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;

6[(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) organization 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, 7[***] the 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**.**

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1. Substitued by Act 60 of 1973, section 12.

F41">**F42">F43">F44">F45">F46">** The words " font 12.< section 1973, of 60 Act by omitted held? be to are meetings such where places and times the>

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