

Advocate Act, 1961

Chapter III - Admission and Enrolment of 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 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.

[2](#) [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].

-
1. Substituted by Act 60 of 1993, section 13, for the words "experience and standing at the Bar."
 2. Added by Act 21 of 1964, section 8.
-

Section 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 [1](#) [including persons being citizens of India, who before the 15th day of August, 1947, were enrolled as advocates under the 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, [2](#) [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 Council Act, 1926 (38 of 1926);

(a) 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;

3 [***]

(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.

4 [(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] 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.

-
1. Substituted by Act 60 of 1973, section 14, for the words " and who within the prescribed time".
 2. Substituted by Act 21 of 1964, section 9, for the words "and, such seniority shall be determined".
 3. Clause (c) omitted by Act 60 of 1973, section 14.
 4. Inserted by Act 47 of 1980, section 2.

Section 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 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.

1 [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 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.

1. Added by Act 21 of 1964, section 10.

Section 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 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, the additions to, any such roll, as soon as the same have been made.

Section 20 - Special provision for enrolment of certain supreme court advocate

(1) Notwithstanding anything contained in this Chapter, every advocate who is entitled as of right to practice 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 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.]

Section 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.

1 [(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.]

1. Substituted by Act 60 of 1973, section 16.

Section 22 - Certificate of enrolment

1 22. Certificate of enrolment.--

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 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.]

1. Substituted by Act 60 of 1973, section 16.

Section 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- section (1) and (2), the Additional Solicitor- General of India shall have pre- audience over all other advocates.

1 [(3A) Subject to the provisions of sub-section (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), 2[(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.

1. Inserted by Act 47 of 1980, section 3.

2. Substituted by Act 47 of 1980, section 3, for the brackets, figures and word "(2) and (3)".

Section 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:

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 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 (iiia) after undergoing a three years course of study in law from any University in India which is recognized 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 recognized 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 recognized 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 articled 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 recognized by the Bar Council of India for the purpose of admission as an advocate under this Act]:

6[***]

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

7[(f) he has paid, in respect of the enrolment, stamp duty, if any, chargeable under the Indian Stamp Act, 1899, and an enrolment fee payable to the State Bar Council of 8[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 the effect from such authority as may be prescribed, the enrolment fee payable by him to the State Bar Council shall be 9[one hundred rupees and to the Bar Council of India, twenty-five rupees].

10[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) 11[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) fulfills the conditions specified in clauses (a) , (b) and (f) of sub- section (1).

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

(a) 13[***] 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 13[***] 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

14[(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 law, or who would have been so entitled had he not been in public service on the said date; or]

15[***]

(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) fulfills the conditions specified in clauses (a), (b), (e) and (f) of sub-section (1)].

[16](#)[***]

1. Substituted by Act 60 of 1973, section 18, for the words "28th day of February, 1963".

2. Substituted by Act 60 of 1973, section 18, for clause (iii).

3. Inserted by Act 21 of 1964, section 13.

4. Substituted by Act 60 of 1973, section 18, for the words "he is a barrister".

5. Inserted by Act 107 of 1976, section 6.

6. Clause (d) omitted by Act 60 of 1973, section 18.

7. Clause (f) substituted by Act 60 of 1973, section 18.

8. Substituted by Act 70 of 1993, section 6.

9. Substituted by Act 70 of 1993, section 6.

10. Inserted by Act 14 of 1962, section 2.

11. Substituted by Act 21 of 1964, section 13, for certain words.

12. Sub-section (3) and (4) inserted by Act 21 of 1964, section 13.

13. The words "before the 31st day of March, 1964 and then in force" omitted by Act 33 of 1968, section 2.

14. Sub-clause (aa) inserted by Act 60 of 1973, section 18.

15. Sub-clause (b) omitted by Act 60 of 1973, section 18.

16. Sub-section (4) omitted by Act 107 of 1976, section 6.

Section 24A - Disqualification for enrolment

[124A. Disqualification for enrolment](#)

(1) No person shall be admitted as an advocate on a State roll-

(a) if he convicted of an offence involving moral turpitude;

(b) if he is convicted of an offence under the provisions of the Untouchability (Offences) Act, 1955;

[2](#)[(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 [3](#)[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)].

-
1. Inserted by Act 60 of 1973, section 19.
 2. Inserted by Act 70 of 1993, section 7.
 3. Substituted by Act 70 of 1993, section 7.

Section 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.

Section 26 - Disposal of application 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), [1](#) [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:

[2](#) [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.

[3](#) [(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 qualification of the person whose application was refused and the grounds for the refusal.]

-
1. Inserted by Act 21 of 1964, section 14.
 2. Proviso added by Act 21 of 1964, section 14.
 3. Inserted by Act 21 of 1964, section 14.

Section 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.]

1. Substituted by Act 60 of 1973, section 20.

Section 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.

Section 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 ---

1[(a) the time within which and from 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;]

2[***]

(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.

1. Clause (a) Substituted by Act 60 of 1973, section 21.

2. Clause (b) omitted by Act 60 of 1973, section 21.
