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MINISTRY OF LAW

(Legislative Department)

New Delhi, the 19th May, 1961/Vaisakha 29, 1883 (Saka)

The following Act of Parliament received the assent of the President on the 19th May, 1961, and is hereby published for general information:—

THE ADVOCATES ACT, 1961

No. 25 of 1961

[19th May, 1961]

An Act to amend and consolidate the law relating to legal practitioners and to provide for the constitution of Bar Councils and an All-India Bar.

Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Advocates Act, 1961.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall 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.
2. 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;
 - (c) "attorney" includes a solicitor;

Short title,
extent and
commence-
ment.

Definition.

(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;

(f) "common roll" means the common roll of advocates, prepared and maintained by the Bar Council of India under section 20;

(g) "High Court", except in sub-section (1) 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 Punjab;

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

(i) "legal practitioner" means an advocate, vakil or attorney 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.

CHAPTER II

BAR COUNCILS

State Bar
Councils.

3. (1) There shall be a Bar Council—

(a) for each of the States of Andhra Pradesh, Bihar, Gujarat, Madhya Pradesh, Madras, Maharashtra, Mysore, Orissa, Rajasthan and Uttar Pradesh, to be known as the Bar Council of that State;

(b) for the State of Assam and the Union territory of Manipur, to be known as the Bar Council of Assam;

(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;

(d) for the State of Punjab and the Union territory of Himachal Pradesh, to be known as the Bar Council of Punjab;

(e) for the State of West Bengal and the Union territories of Tripura and the 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*; and in the case of any other State Bar Council, the Advocate-General of the State, *ex-officio*;

(b) in the case of the Bar Council of Assam, the Bar Council of Orissa and the Bar Council of Delhi, fifteen members and in every other case, twenty members, elected in accordance with the system of proportional representation by means of the single transferable vote from amongst advocates on the roll of the State Bar Council.

(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.

4. (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*;

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

(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.

5. 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.

Bar Council to be body corporate.

Functions of
State Bar
Councils.

6. (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;
- (e) to promote and support law reform;
- (f) to manage and invest the funds of the Bar Council;
- (g) to provide for the election of its members;
- (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.

(2) A State Bar Council may constitute a fund in the prescribed manner for the purpose of giving financial assistance to indigent or disabled advocates.

Functions of
Bar Council
of India.

7. The functions of the Bar Council of India shall be—

- (a) to prepare and maintain a common roll of advocates;
- (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;

(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.

8. The term of office of the elected members of a Bar Council shall be six years, but as nearly as possible one-third of the members first elected to each such Council shall retire on the expiration of every second year in the prescribed manner, and the vacancies so caused shall be filled by the election of new members in the prescribed manner.

Term of office of members of Bar Council.

9. (1) A State Bar Council shall constitute one or more disciplinary committees, each of which shall consist of five persons of whom three shall be persons elected by the Council from amongst its members and two shall be persons elected by the Council from amongst advocates on its roll who are not members of the Council.

Disciplinary committees.

(2) The Bar Council of India shall constitute a disciplinary committee consisting of five persons of whom three shall be persons elected by the Council from amongst its members and two shall be persons elected by the Council from amongst advocates on the common roll who are not members of the Council.

10. (1) A State Bar Council shall constitute the following standing committees, namely:—

Constitution of committees other than disciplinary committees.

(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.

Staff of Bar Council. 11. (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.

Accounts and audit. 12. (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, at such times and in such manner as may be prescribed.

1 of 1956,

(3) As soon as the accounts of a State Bar Council have been audited, that Bar Council shall send a copy of such accounts together with a copy of the report of the auditors thereon, to the Bar Council of India.

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

Election to Bar Councils not to be questioned on certain grounds. 14. 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.

Power to make rules. 15. (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 manner in which the election of members of the Bar Council shall be held and the manner in which results of elections shall be published;

(b) in the case of a State Bar Council, the constitution of a fund for giving financial assistance to indigent or disabled advocates;

(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 or to the office of the Chairman or Vice-Chairman shall be finally decided;

(e) the manner in which the order of retirement by rotation of the members of the Bar Council shall be determined;

(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;

(h) the summoning and holding of meetings of the Bar Council, the times and places where such meetings are to be held, 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. (1) There shall be two classes of advocates, namely, senior advocates and other advocates. Senior 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, experience and 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.

State Bar Councils to maintain roll of advocates, 17. (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, immediately before the appointed day and who, within the prescribed time, express an intention in the prescribed manner to practise within the jurisdiction of the Bar Council;

38 of 1926.

(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, and 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;

(c) notwithstanding anything contained in clause (a), the seniority of a vakil, pleader or an attorney who was enrolled as an advocate immediately before the appointed day, or who is enrolled as an advocate after that day, shall be determined in accordance with the date of his entry in the register of vakils, pleaders or attorneys, as the case may be;

(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) No person shall be enrolled as an advocate on the roll of more than one State Bar Council.

18. (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.

Transfer of name from one State roll to another.

(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. 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.

State Bar Councils to send copies of rolls of advocates to the Bar Council of India.

20. (1) The Bar Council of India shall prepare and maintain a common roll of advocates which shall comprise the entries made in all State rolls and shall include the names of all advocates entitled as of right to practise in the Supreme Court immediately before the appointed day whose names are not entered in any State roll.

Common roll of advocates.

(2) The common 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 common roll shall be in the order of seniority and such seniority shall be determined as follows:—

(a) the seniority of an advocate enrolled in a State roll shall be determined in accordance with his seniority in that roll;

(b) the seniority of any person who was a senior advocate of the Supreme Court immediately before the appointed day and whose name is not entered in any State roll shall, for the purposes of the first part of the common roll, be determined in accordance with such principles as the Bar Council of India may specify in this behalf;

(c) the seniority of any person who was an advocate (but not a senior advocate) of the Supreme Court immediately before the appointed day and whose name is not entered in any State roll shall, for the purposes of the second part of the common roll, be determined in accordance with the date of his enrolment as an advocate of the Supreme Court.

(4) There shall be entered in the common roll of advocates all alterations and additions communicated to the Bar Council of India under section 19 by a State Bar Council.

Disputes
regarding
seniority.

21. (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,—

(a) if the dispute relates to seniority in a State roll, to the State Bar Council;

(b) if the dispute relates to seniority in the common roll, to the Bar Council of India;

and the decision of the State Bar Council or the Bar Council of India, as the case may be, in respect of such dispute shall be final.

Certificate
of enrolment.

22. There shall be issued a certificate of enrolment in the prescribed form to every person whose name is entered in any roll of advocates maintained under this Act.

Right of
pre-audience.

23. (1) The Attorney-General of India shall have pre-audience over all other advocates.

(2) Subject to the provisions of sub-section (1), the Solicitor-General of India shall have pre-audience over all other advocates.

(3) Subject to the provisions of sub-sections (1) and (2), the Additional Solicitor-General of India shall have pre-audience over all other advocates.

(4) Subject to the provisions of sub-sections (1), (2) and (3), 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. (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:—

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

(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 appointed day, 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

(iii) after the appointed day, from any University in the territory of India or elsewhere, if the degree is recognised for the purposes of this Act by the Bar Council of India; or

he is a barrister;

(d) he has undergone a course of training in law and passed an examination after such training both of which shall be prescribed by the State Bar Council:

Provided that this clause shall not apply to—

(i) a barrister who has received practical training in England or a person who has obtained a degree in law from any University in India before the appointed day;

(ii) any person who has for at least two years held a judicial office in the territory of India or is a member of the Central Legal Service;

(iii) any person who has for at least two years held a judicial office in any area which was comprised before the 15th day of August, 1947, within India as defined in the Government of India Act, 1935, or has been an advocate of any High Court in any such area;

(iv) any person who has practised before any High Court and who has discontinued practice by reason of his taking up employment under the Government, a local authority or any other person; and

(v) any other class of persons who by reason of their legal training or experience are declared by the Bar Council of India to be exempt from the provisions of this clause;

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

(f) he has paid an enrolment fee of two hundred and fifty rupees to the State Bar Council.

(2) Notwithstanding anything contained in sub-section (1), a vakil, pleader or an attorney who is a law graduate, or who is not a law graduate but was entitled to be enrolled as an advocate of a High Court immediately before the appointed day under any law then in force, 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).

Authority to whom applications for enrolment may be made. 25. 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.

Disposal of applications for admission as an advocate. 26. (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), such committee shall dispose of the application in the prescribed manner.

(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.

27. 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.

Application once refused not to be entertained by another Bar Council except in certain circumstances.

28. (1) A State Bar Council may make rules to carry out the purposes of this Chapter.

Power to make rules.

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

(a) the time within which and the manner in which an intention to practise within the jurisdiction of the Bar Council shall be expressed;

(b) a course of practical training in law and the examination to be passed after such training for admission as an advocate on the roll of the Bar Council;

(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. 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.

Advocates to be the only recognised class of persons entitled to practise law.

Right of
advocates to
practise.

30. Subject to the provisions of this Act, every advocate whose name is entered in the common 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.

Special pro-
vision for
attorneys.

31. Notwithstanding anything contained in sections 29 and 30, the High Court at Calcutta or the High Court at Bombay may provide for the admission of proper persons to be attorneys and shall have power to remove or to suspend from practice on reasonable cause, any such attorney.

Power of
court to
permit
appearances
in particular
cases.

32. 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.

Advocates
alone entit-
led
to
practise.

33. 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.

Power of
High Courts
to make
rules

34. (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.

(2) Without prejudice to the provisions contained in sub-section (1), the High Court at Calcutta and the High Court at Bombay may make rules—

(i) providing for the qualification and admission of proper persons to be attorneys;

(ii) declaring what shall be deemed to be the functions, powers and duties of such attorneys and the procedure to be followed in removing or suspending any such attorney from practice;

(iii) determining the persons who shall be entitled respectively to plead and to act in the High Court in the exercise of its original jurisdiction.

(3) Until rules are made under this section, any rules made by a High Court under its Letters Patent or any other law relating to any of the matters specified in this section which were in force immediately before the appointed day, shall continue in force so far as consistent with this Act, and shall be deemed to be rules made under this section.

CHAPTER V

CONDUCT OF ADVOCATES

35. (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.

Punishment
of advocates
for miscon-
duct.

(2) The disciplinary committee of a State Bar Council, if it does not summarily reject the complaint, shall fix a date for the hearing of the case and shall cause a notice thereof to be given to the advocate concerned and to the Advocate-General of the State.

(3) The disciplinary committee of a State Bar Council after giving the advocate concerned and the Advocate-General an opportunity of being heard, may make any of the following orders, namely:—

(a) dismiss the complaint or, where the proceedings were initiated at the instance of the State Bar Council, direct that the proceedings be filed;

(b) reprimand the advocate;

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

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

(4) Where an advocate is suspended from practice under clause (c) of sub-section (3), he shall, during the period of suspension, be debarred from practising in any court or before any authority or person in India.

(5) Where any notice is issued to the Advocate-General under sub-section (2), the Advocate-General may appear before the disciplinary committee of the State Bar Council either in person or through any advocate appearing on his behalf.

Disciplinary
powers of
Bar Council
of India.

36. (1) Where on receipt of a complaint or otherwise the Bar Council of India has reason to believe that any advocate on the common roll 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, of its own motion, withdraw for inquiry before itself any proceedings for disciplinary action against any advocate pending before the disciplinary committee of any State Bar Council and dispose of the same.

(3) The disciplinary committee of the Bar Council of India, in disposing of any case under this section, shall observe, so far as may be, the procedure laid down in section 35, the references to the Advocate-General in that section being construed as references to the Attorney-General of India.

(4) In disposing of any proceedings under this section the disciplinary committee of the Bar Council of India may make any order which the disciplinary committee of a State Bar Council can make under sub-section (3) of section 35, and where any proceedings have been withdrawn for inquiry before the Bar Council of India, the State Bar Council concerned shall give effect to any such order.

Appeal to
the Bar
Council
of
India.

37. (1) Any person aggrieved by an order of the disciplinary committee of a State Bar Council made under sub-section (3) of section 35 may, within sixty days of the date of the communication of the order to him, prefer an appeal to the Bar Council of India.

(2) Every such appeal shall be heard by the disciplinary committee of the Bar Council of India which may pass such order thereon as it deems fit.

Appeal to
the Supreme
Court.

38. Any person aggrieved by an order made by the disciplinary committee of the Bar Council of India under section 36 or section 37 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 thereon as it deems fit.

Application
of sections 5
and 12 of the
Indian Limi-
tation Act.

39. The provisions of sections 5 and 12 of the Indian Limitation Act, 1908 shall, so far as may be, apply to appeals under section 37 and section 38.

9 of 1908.

Stay of
order.

40. 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.

41. (1) Where an order is made under this Chapter reprimanding or suspending an advocate, a record of the punishment shall be entered against his name—

Alteration in roll of advocates.

(a) in the case of an advocate whose name is entered in a State roll, in that roll;

(b) in the case of an advocate whose name is entered in the common roll and not in any State roll, in the common roll;

and where any order is made removing an advocate from practice, his name shall be struck off the State roll or the common roll, as the case may be.

(2) Where in respect of any advocate a record of punishment is entered in a State roll or where the name of an advocate is struck off any such roll, a record of such punishment shall also be entered in the common roll, or, as the case may be, his name shall be struck off the common roll.

(3) Where any advocate is suspended or removed from practice, the certificate granted to him under section 22, in respect of his enrolment shall be recalled.

42. (1) The disciplinary committee of a Bar Council shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

Powers of disciplinary committee.

5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring discovery and production of any documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents;

(f) any other matter which may be prescribed:

Provided that no such disciplinary committee shall have the right to require the attendance of—

(a) any presiding officer of a court except with the previous sanction of the High Court to which such court is subordinate;

(b) any officer of a revenue court except with the previous sanction of the State Government.

(2) All proceedings before a disciplinary committee of a Bar Council shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code, and every such disciplinary committee shall be deemed to be a civil court for the purposes of sections 480, 482 and 485 of the Code of Criminal Procedure, 1898.

45 of 1860.

5 of 1898.

(3) For the purposes of exercising any of the powers conferred by sub-section (1), a disciplinary committee may send to any civil court in the territories to which this Act extends, any summons or other process, for the attendance of a witness or the production of a document required by the committee or any commission which it desires to issue, and the civil court shall cause such process to be served or such commission to be issued, as the case may be, and may enforce any such process as if it were a process for attendance or production before itself.

Cost of proceedings before a disciplinary committee.

43. The disciplinary committee of a Bar Council may make such order as to the costs of any proceedings before it as it may deem fit and any such order shall be executable as if it were an order—

(a) in the case of an order of the disciplinary committee of the Bar Council of India, of the Supreme Court;

(b) in the case of an order of the disciplinary committee of a State Bar Council, of the High Court.

Review of orders disciplinary committee.

44. The disciplinary committee of a Bar Council may of its own motion or otherwise review any order passed by it under this Chapter:

Provided that no such order of review of the disciplinary committee of a State Bar Council shall have effect unless it has been approved by the Bar Council of India.

CHAPTER VI

MISCELLANEOUS

Penalty for person illegally practising in courts and before other authorities.

45. Any person who practises in any court or before any authority or person, in or before whom he is not entitled to practise under the provisions of this Act, shall be punishable with imprisonment for a term which may extend to six months.

Payment of part of enrolment fees to the Bar Council of India.

46. Every State Bar Council shall, before the thirtieth day of April in each financial year, pay to the Bar Council of India a sum equivalent to forty per cent. of the total of the enrolment fees realised by it under this Act during the financial year immediately preceding that year.

47. (1) Where any country, specified by the Central Government Reciprocity. in this behalf by notification in the Official Gazette, prevents citizens of India from practising the profession of law or subjects them to unfair discrimination in that country, no subject of any such country shall be entitled to practise the profession of law in India.

(2) Subject to the provisions of sub-section (1), the Bar Council of India may prescribe the conditions, if any, subject to which foreign qualifications in law obtained by persons other than citizens of India shall be recognised for the purpose of admission as an advocate under this Act.

48. No suit or other legal proceeding shall lie against any Bar Indemnity Council or any committee thereof or a member of a Bar Council against legal proceedings. for any act in good faith done or intended to be done in pursuance of the provisions of this Act or of any rules made thereunder.

49. The Bar Council of India may make rules for discharging its General power of the Bar Council of functions under this Act, and, in particular, such rules may prescribe— to rules.

(a) the manner in which the name of an advocate may be prevented from being entered in more than one State roll;

(b) the form in which an application shall be made for the transfer of the name of an advocate from one State roll to another;

(c) the standards of professional conduct and etiquette to be observed by advocates;

(d) the standards of legal education to be observed by Universities in India and the inspection of Universities for that purpose;

(e) the foreign qualifications in law obtained by persons other than citizens of India which shall be recognised for the purpose of admission as an advocate under this Act;

(f) the procedure to be followed by the disciplinary committee of a State Bar Council and by its own disciplinary committee;

(g) the restrictions in the matter of practice to which senior advocates shall be subject;

(h) the fees which may be levied in respect of any matter under this Act;

(i) general principles for guidance of State Bar Councils:

Provided that no rules made with reference to clause (e) shall have effect unless they have been approved by the Central Government.

cRepea
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nactments

50. (1) On the date on which a State Bar Council is constituted under this Act, the provisions of sections 3 to 7 (inclusive), sub-sections (1), (2) and (3) of section 9, section 15 and section 20 of the Indian Bar Councils Act, 1926, shall stand repealed in the territory for which the State Bar Council is constituted.

38 of 1926.

(2) On the date on which Chapter III comes into force, the following shall stand repealed, namely:—

(a) sections 6, 7, 18 and 37 of the Legal Practitioners Act, 1879, and so much of sections 8, 9, 16, 17, 19 and 41 of that Act as relate to the admission and enrolment of legal practitioners;

18 of 1879.

(b) sections 3, 4 and 6 of the Bombay Pleaders Act, 1920;

Bombay Act,
17 of 1920.

(c) so much of section 8 of the Indian Bar Councils Act, 1926, as relates to the admission and enrolment of legal practitioners;

38 of 1926.

(d) the provisions of the Letters Patent of any High Court and of any other law in so far as they relate to the admission and enrolment of legal practitioners.

(3) On the date on which Chapter IV comes into force, the following shall stand repealed, namely:—

(a) sections 4, 5, 10 and 20 of the Legal Practitioners Act, 1879, and so much of sections 8, 9, 19 and 41 of that Act as confer on legal practitioners the right to practise in any court or before any authority or person;

18 of 1879.

(b) sections 5, 7, 8 and 9 of the Bombay Pleaders Act, 1920;

Bombay Act
17 of 1920.
38 of 1926.

(c) section 14 of the Indian Bar Councils Act, 1926, and so much of sections 8 and 15 of that Act as confer on legal practitioners the right to practise in any court or before any authority or person;

(d) the Supreme Court Advocates (Practice in High Courts) Act, 1951;

18 of 1951.

(e) the provisions of the Letters Patent of any High Court and of any other law conferring on legal practitioners the right to practise in any court or before any authority or person.

(4) On the date on which Chapter V comes into force, the following shall stand repealed, namely:—

(a) sections 12 to 15 (inclusive), sections 21 to 24 (inclusive) and sections 39 and 40 of the Legal Practitioners Act, 1879, and so much of sections 16, 17 and 41 of that Act as relate to the suspension, removal or dismissal of legal practitioners;

18 of 1879.

Bombay Act
17 of 1920.

(b) sections 24 to 27 (inclusive) of the Bombay Pleaders Act, 1920;

38 of 1926.

(c) sections 10 to 13 (inclusive) of the Indian Bar Councils Act, 1926;

(d) the provisions of the Letters Patent of any High Court and of any other law in so far as they relate to the suspension, removal or dismissal of legal practitioners.

(5) When the whole of this Act has come into force—

18 of 1879.

(a) the remaining provisions of the Acts referred to in this section which do not stand repealed by virtue of any of the foregoing provisions of this section (except sections 1, 3 and 36 of the Legal Practitioners Act, 1879) shall stand repealed;

(b) the enactments specified in the Schedule shall stand repealed to the extent mentioned therein.

51. On and from the appointed day, references in any enactment to an advocate enrolled by a High Court in any form of words shall be construed as references to an advocate enrolled under this Act. Rule of construction.

52. Nothing in this Act shall be deemed to affect the power of the Supreme Court to make rules under article 145 of the Constitution— Saving.

(a) for laying down the conditions subject to which a senior advocate shall be entitled to practise in that Court;

(b) for determining the persons who shall be entitled to act in that Court.

CHAPTER VII

TEMPORARY AND TRANSITIONAL PROVISIONS

53. Notwithstanding anything contained in this Act, the elected members of a State Bar Council, constituted for the first time under this Act, shall be elected by and from amongst advocates, vakils, pleaders and attorneys who, on the date of the election, are entitled as of right to practise in the High Court and are ordinarily practising within the territory for which the Bar Council is to be constituted. Elections to first State Bar Council.

Explanation.—Where the territory for which the Bar Council is to be constituted includes a Union territory, the expression "High Court" shall include the Court of the Judicial Commissioner of that Union territory.

Term of office of members of first Bar Council of India and State Bar Councils.

54. Notwithstanding anything contained in this Act, the term of office of the nominated and elected members of the Bar Council of India and a State Bar Council constituted for the first time, shall be two years from the date of the first meeting of the Council.

Rights of certain existing legal practitioners not affected

55. Notwithstanding anything contained in this Act,—

(a) every pleader or vakil practising as such immediately before the date on which Chapter IV comes into force (hereinafter in this section referred to as the said date) by virtue of the provisions of the Legal Practitioners Act, 1879, the Bombay Pleaders Act, 1920, or any other law who does not elect to be, or is not qualified to be, enrolled as an advocate under this Act;

18 of 1879.
Bombay Act
17 of 1920.

(b) every attorney practising as such immediately before the said date by virtue of the provisions of the Legal Practitioners Act, 1879, or any other law who does not elect to be, or is not qualified to be, enrolled as an advocate under this Act;

18 of 1879.

(c) every mukhtar and revenue agent practising as such immediately before the said date by virtue of the provisions of the Legal Practitioners Act, 1879, or any other law;

18 of 1879.

shall, notwithstanding the repeal by this Act of the relevant provisions of the Legal Practitioners Act, 1879, the Bombay Pleaders Act, 1920, or other law, continue to enjoy the same rights as respects practice in any court or revenue office or before any authority or person and be subject to the disciplinary jurisdiction of the same authority which he enjoyed or, as the case may be, to which he was subject immediately before the said date and accordingly the relevant provisions of the Acts or law aforesaid shall have effect in relation to such persons as if they had not been repealed.

18 of 1879.
Bombay Act
17 of 1920.

Dissolution of existing Bar Councils.

56. (1) On the constitution under this Act of a State Bar Council, other than the Bar Council of Delhi (hereinafter referred to as the new Bar Council)—

(a) all properties and assets vesting in the corresponding Bar Council shall vest in the new Bar Council;

(b) all rights, liabilities, and obligations of the corresponding Bar Council, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the new Bar Council;

(c) all proceedings pending before the corresponding Bar Council in respect of any disciplinary matter or otherwise shall stand transferred to the new Bar Council.

(2) In this section, "corresponding Bar Council" in relation to a State Bar Council, other than the Bar Council of Delhi, means the Bar Council for the High Court in the territory for which the State Bar Council is constituted under this Act.

57. Until a Bar Council is constituted under this Act, the power of that Bar Council to make rules under this Act shall be exercised—

(a) in the case of the Bar Council of India, by the Supreme Court;

(b) in the case of a State Bar Council, by the High Court.

Power to make rules pending the constitution of a Bar Council.

THE SCHEDULE

[See section 50 (5)]

REPEAL OF CERTAIN ENACTMENTS

Short title	Extent of repeal
1. The Legal Practitioners (Women) Act, 1923 (23 of 1923).	The whole.
2. The Legal Practitioners (Fees) Act, 1926 (21 of 1926).	The whole.
3. The States Reorganisation Act, 1956 (37 of 1956).	Section 53.
4. The Bombay Reorganisation Act, 1960 (11 of 1960).	Section 31.

R. C. S. SARKAR,
Secy. to the Govt. of India.

