

CHAPTER 6

Legal Practitioners

Note—Delhi High Court has not so far made any rules under the Advocates Act, 1961 so these rules are still applicable in Delhi. In Union Territories Advocates can also take the benefit of Section 58-A(4) of the Advocates Act, 1961.

Part A THE ADMISSION OF ADVOCATES

The provisions of Sections 3 to 16 of the Indian Bar Councils Act, 1926 (XXXVIII of 1926), having come into force in respect of the Punjab High Court by virtue of Punjab Government, Home/Judicial, Notification No. 5056.JJ-48/52532, dated the 28th September, 1948, the Honourable the Chief Justice and Judges of the Punjab High Court are pleased to sanction the following rules framed by the Bar Council under Section 9 of the said Act:

1. Rules Under Section 9—The following persons may be admitted to Roll of Advocates of the High Court of Judicature for the State of Punjab:

(i) Any pleader enrolled in the Punjab High Court, who has practised as such for a period of not less than one year in Courts subordinate to the said High Court.

(ii) Members of the Bar of England or Northern Ireland, Members of the Faculty of Advocate in Scotland and persons who have obtained the degree of LL.M, or LL.D., of any of the Universities established by law in the Union of India or in the Dominion of India or in undivided India before 15th August, 1947.

(iii) Advocates of any other High Court (including the Courts of the Judicial Commissioners) in the Union of India or in the Dominion of India who shall have practised as Advocates for not less than two years:

Provided that any such Advocate undertakes in his application to have his name removed from the Roll of Advocates of the High Court within three months from the date of his admission to the Punjab High Court. In the event of such undertaking not being carried out the Court may direct that the Advocate's name be removed from the Roll.

(iv) Displaced persons who were Advocates or first grade Pleaders of the Courts of Judicial Commissioners of N.W.F. Province or Baluchistan or Advocates of the Chief Court of Sind or of the High Court of Bahawalpur State and have practised as such for a

period of two years in their respective Courts.

(v) Any person who has obtained the degree of Bachelor of Laws of any of the recognised universities in the Union of India, the Dominion of India or in undivided India before the 15th August, 1947, or in the United Kingdom and has held judicial office for a period not less than five years:

Provided that no person shall be admitted as an Advocate.....

(a) if he has been declared insolvent;

(b) if he has been dismissed from the service of Government unless he can show that his dismissal was not due to conduct rendering him unfit to be admitted as an Advocate. Discharged insolvents will be admitted if their insolvency was due to misfortune or circumstances beyond their control.

(vi) Any law graduate who has passed the University examination or special test held by the Punjab University in the Punjab Customary laws, Punjab Land Revenue Act and is enrolled as a Pleader in the Pepsu High Court:

Provided that persons who were enrolled as pleaders in the erstwhile Pepsu High Court and were as such enrolled pleader of the Punjab High Court under Rule 1-A; Chapter 6-D, High Court Rules and Orders, Volume V will not be entitled to be enrolled as Advocates if they are not law Graduates.

2. Application to be admitted to the Roll of Advocates of the High Court shall be in writing, addressed to the Chief Justice and Judges of the Court, and shall be delivered to the Registrar or the Deputy Registrar of the Court personally or through an Advocate of the High Court. The application, which must be dated, stamped with a Court-fee label of the prescribed value and signed by the applicant, shall state:

(i) the age of the applicant;

(ii) the date on which the applicant acquired necessary qualifications under Rule 1;

(iii) whether or not it is his intention to practice within the jurisdiction of the Court, and, if so, the district which he proposes to make his ordinary place of business;

(iv) whether or not he holds any appointment under Government, and, if so, the nature of the appointment held;

(v) whether or not he is engaged in any business in India, and if he is, the nature of such business and the place where it is carried on;

(vi) whether he has been convicted by a Criminal Court or dismissed from Government service, if so, he should give further particulars to show that the conviction or dismissal was not due to conduct rendering him unfit to be enrolled as an Advocate;

(vii) whether he has been declared insolvent;

(viii) whether he is a discharged insolvent, and, if so, he should further give particulars to show that his insolvency was due to misfortune or circumstances beyond his control.

The application shall be accompanied by:

(a) satisfactory evidence of the applicant's qualifications under Rule 1;

(b) two testimonials of good character and conduct of the applicant from Advocates of the High Court.

(c) if the applicant has been enrolled as an Advocate of any one or more of the other High Courts (including Courts of Judicial Commissioner) in the Union of India, a certificate or certificates of other satisfactory evidence of such admission, showing that his name is still borne on the Roll of such other High Court or High Courts, or, if his name has been removed, the circumstances under which it was removed;

(d) if the applicant has practised under any other High Court, evidence that his conduct as an Advocate has been satisfactory;

(e) an extra copy of the application for the records of the Bar Council; and

(f) a written undertaking that:

(i) he will within six months of his enrolment as an Advocate apply for membership of a Bar Association, and if admitted, continue to be a member.

(ii) he will abide by the rules regulating the appointment of clerks by legal practitioners.

(iii) he will faithfully observe and obey all rules made by the Courts of the Punjab High Court, Chandigarh.

(iv) Whether he has made any previous application for admission as an Advocate to any High Court and whether it has been refused.

3. No woman shall be disqualified for admission as an Advocate by reason only of her sex.

(a) The Chief Justice and Judges may, if for any special reason, they think it desirable to do so relax the provisions of any of these rules and permit the enrolment of any other person who in their opinion is sufficiently qualified as an Advocate or permit such person to appear as an Advocate in a particular case.

4. On receipt of the application, the Registrar or the Deputy Registrar shall cause a notice of the said application to be served on the Secretary, Bar Council, together with the

application and enclosures or copies of the same, intimating that the application will be taken into consideration after ten days from the date of the service of the notice and inquiring whether the Bar Council has any objection to the granting of the application.

The Registrar or the Deputy Registrar shall forward the copy of the application to the Secretary, Bar Council, which will be retained by him for the records of the Bar Council.

5. Every candidate for admission as an Advocate, shall attend in person, if so required by the Bar Council, for the purpose of giving further information touching any matter mentioned in his application for enrolment, certificates and statements filed by him.

6. If the Bar Council prefers any objection to the admission of the applicant, such, objection shall be laid before the High Court for hearing in accordance with the provisions of Section 9, sub-section 2(d) of the Indian Bar Councils Act, 1926.

7. At such hearing the applicant and the Bar Council will be entitled to be heard and represented by counsel, if they so choose.

8. The fee payable to the Bar Council by every applicant for admission as an Advocate of the High Court shall be Rs. 100 or such other sum as may be fixed by the Bar Council from time to time.

9. If the application for enrolment as an Advocate be granted, the Registrar or the Deputy Registrar will, on payment, of the stamp duty, if any, chargeable under the Stamp Law for the time being in force in the State of Punjab and on production of a receipt from the Secretary, Bar Council, showing that admission of the Bar Council, has been paid, deliver to the applicant a certificate of admission and enrolment in the form annexed to these rules under his signatures and the seal of the High Court and enrol his name in the Court's Roll of Advocates.

Part B POWERS AND DUTIES OF ADVOCATES

The provisions of Sections 3 to 16 of the Indian Bar Councils Act, 1926 (XXXVIII of 1926) having come into force in respect of East Punjab, High Court by virtue of East Punjab Government Home/Judicial Notification No. 5056-JJ-48/5232, dated the 28th September, 1948, the Hon'ble the Chief Justice and Judges of the Punjab High Court are pleased to sanction the following rules framed by the Bar Council under Section 15 of the said Act:

Rules under Section 15

1. An advocate is bound to accept any brief in the Court in which he profess to practise at a proper professional fee, according to the length and difficulty of the case, unless there are special circumstances, which *inter alia* would include personal relationship want of time, ill-health, the fact the client has already retained another lawyer to justify his refusal.

2. An Advocate shall not take instructions in any case except from the party on whose behalf he is retained or some person who is the recognised agent of such part

within the meaning of the Code of Civil Procedure, or is a pleader or Vakil or solicitor employed by such party for the case, or some servant, relative or friend believed by the Advocate to be authorised by the party to give such instruction.

- 3.** No Advocate should appear before a local authority of which he is a member.
- 4.** No Advocate should appear in a case against the local authority of which he is a member.
- 5.** When an Advocate accepts any appointment under Government or in a limited liability or other company or engages in any trade or business, he shall forthwith give notice thereof to the High Court and the Chief Justice and Judges may suspend him from practice or pass such orders as they may think fit.
- 6.** No Advocate shall do anything by way of advertisement or touting or soliciting for work.
- 7.** An advocate should not, accept any brief through a person who has been proclaimed a tout under Section 36 of the Legal Practitioners' Act, 1879, or is reputed to be tout or pay any fraction of his fee to person through whom he has been engaged.
- 8.** To enter into an agreement with a client for any consideration over and above his fees in case of success is unprofessional for an Advocate.
- 9.** Filing a false certificate of fees is professional misconduct.
- 10.** (i) An Advocate shall be entitled to deduct of any moneys of the client remaining his hands, at the termination of the proceedings for which he had been engaged, the fee due to him. The balance, if any, shall be refunded to the client.

(ii) An Advocate is under no obligation, to appear for the client if the whole of the settled fee is not paid to him before the hearing of the case or to appear at a place for which he has not been engaged.
- 11.** No Advocate shall in his own name or in the name or names of any other person or persons, purchase any property or any share or interest in any property sold in execution of a decree or order in any suit appeal or other proceedings in which he was in any way professionally engaged.
- 12.** An Advocate is entitled to charge any fees which may be agreed upon between him and his client whether they are above or below the prescribed fee for the purpose of taxation of costs.

The Advocate is entitled to charge an additional fee, if a case is referred to a larger Bench or is placed before a third Judge on difference of opinion between two Judges.

- 13.** No Advocate can be required to accept a retainer or brief or to advise pleadings in any

case where he has previously advised another party on or in connection with the case, and he ought not to do so in any case in which he would be embarrassed in the discharge of his duty by reason of confidence reposed in him by the other party or his action would be inconsistent with the obligation of any retainer held by him; and in any such case it is his duty to refuse to accept such retainer brief or to advise or to draw pleadings; and in case such retainer or brief has been inadvertently accepted, to return the case along with the fee, if any, received by him.

14. An Advocate who has accepted a retainer from a party should not accept the retainer or brief offered by the opposite party unless he has given the former reasonable notice and that party has defaulted in giving him the brief within a reasonable time; and in such case the retainer is forfeited.

Provided that no notice is necessary where the client has by his conduct shown that he does not wish to engage the counsel originally retained.

15. It is not proper for an Advocate to accept a retainer or brief in a case in which he has acted in a Judicial or quasi-judicial Character as Commissioner or Arbitrator.

16. An Advocate of another High Court in the Union of India including the High Court for the State of Jammu and Kashmir may, with the special permission of the Hon'ble the Chief Justice or the Bench hearing the case, granted for a particular case, appear and plead in the Punjab High Court, provided an Advocate of the Punjab High Court appears along with him in the case.

17. The surplus funds of the Bar Council shall be invested in Government securities in accordance with the directions of the Council from time to time.

18. All moneys received by the Secretary shall be sent to the State Bank of India, Chandigarh, or any other Schedule Bank approved by the Bar Council or other branches of the said Bank in accordance with the directions of the Council from time to time. All expenses except petty items shall be paid by cheques drawn on the said Bank.

19. Every cheque on the Bank shall be signed by the Chairman (or any other member authorised by the Chairman) and the Secretary.

20. The Secretary shall maintain a true account of all income and expenditure together with proper Voucher. He shall be assisted by the Treasurer, who shall act under the guidance of the Secretary.

21. The Accounts shall be audited every year by such agency as the Council may by resolution determine.

Note : The High Court of Punjab & Haryana has made Rules in 1970 under Section 34(1) of the Advocates Act. These rules are not applicable in Delhi. But the High Court of Delhi has amended these rules by substituted Rule 15. *Vide* Notification No. 50/DHC/Rules, Dated 18-2-1982.

Part C
SUSPENSION AND DISMISSAL OF ADVOCATES

[*Note:* These rules are prior to the enactment of Advocates Act 1961. *See* also Advocates Act. Delhi High Court has not framed rules so for under Advocate Act, 1961.]

I. Introductory—The procedure in a case for professional or other misconduct against an Advocate is governed by Sections 10 to 13 of the Indian Bar Councils Act, 1926 (XXXVIII of 1926) and rules framed under Section 12 of that Act.

II. Insolvency or conviction for an offence to be reported to the High Court—When any Court subordinate to the High Court adjudges an Advocate to be insolvent or convicts an advocate of any offence it shall forthwith report the fact and send a copy of the order or judgment to the High Court for an order under Section 10(2) of the Indian Bar Councils Act.

III. Complaint to be in the form of a petition supported by affidavit—Any person making allegations of misconduct against an advocate shall be required to submit them in the form of a written petition and, unless the complainant is a public servant acting in his official capacity, shall be required to support them by an affidavit.

IV. Rules—The following rules have been framed by the Punjab High Court under Section 12 of the Indian Bar Councils Act:

Rules under Section 12

1. Upon receipt of a case referred for enquiry to the Bar Council under Section 10, the Secretary of the Bar Council shall:

(a) supply a copy of the complaint and of the reference to all members of the Bar Council, to the person or authority making the complaint under Section 10(2) (hereinafter called the complainant) and to the Advocate whose conduct is the subject of the complaint (hereinafter called the Advocate); and

(b) convene a meeting of the Tribunal for the earliest suitable date.

2. The Tribunal shall at the said meeting:

(a) frame charges on the basis of the complaint;

(b) fix a date, hour and place for the enquiry;

(c) give notice thereof to the complainant and the Advocate;

(d) (i) inform the Advocate that he must deliver to the Secretary of the Bar Council his written answer within fourteen days of the date of the notice referred to in Rule 2(c);

(ii) inform the complainant and the Advocate that they must, within a further period of fourteen days, make application to the Secretary of the Bar Council, in respect of any evidence they may desire to have summoned, depositing with the application the necessary expenses, or bring their evidence on the date fixed, without invoking the assistance of the Tribunal;

(e) in default of the complainant or the Advocate or either of them appearing, the Tribunal may proceed *ex parte* and make such enquiry as it thinks fit.

(f) the proceedings of Tribunal shall be recorded and maintained by the Secretary of the Bar Council or by such other person as the President of the Tribunal may direct.

3. The Secretary of the Bar Council shall supply to all the members of the Tribunal copies of the charges framed under Rule 2(a) and copies of the written answer delivered by the Advocate under Rule 2(d) (i).

4. At the commencement of the enquiry the charges shall be read to the Advocate, his written answer shall be read and he shall further, if necessary, be called up to supplement his written answer and to plead orally to the charges; and further, the Tribunal may, at any stage of the enquiry, put such questions to the complainant, the Advocate or any witness, as they may deem necessary and proper.

5. If, after considering the reply to the charges, the Tribunal deems proper to proceed with the enquiry, the case shall be opened on behalf of the complainant; and the evidence in chief in support of the charges and cross-examination and re-examination shall follow.

6. The Advocate shall then be called upon to enter upon his defence, if he desires to make any defence, and, after opening his case, shall give evidence on his own behalf and then produce his witness.

7. The Tribunal shall then proceed to consider and record its findings:

Provided (1) that each member of the Tribunal shall if he so desires, be entitled to record a separate finding;

Provided (2) further that the Tribunal may at any stage close the proceedings and record its findings, if in the unanimous opinion of its members, no case has or can be made against the Advocate.

8. At the enquiry, it made upon a complaint by the Bar Council, the complainant shall be represented by a member of the Bar Council or an Advocate appointed by the Chairman of the Bar Council; and in any other case the complainant may be represented by a counsel of his choice and, failing that, by a counsel to be appointed by the Chief Justice. The Advocate may, if he so desires, be represented counsel.

9. The Tribunal may adjourn the enquiry from time to time to a date and place to be fixed at the time of adjournment and may make such orders and give such directions in regard to the enquiry and all matters relating thereto as it may think fit and shall make all orders as may be necessary in regard to matters specified in the Indian Bar Councils Act, 1926,

Section 13.

10. Upon receipt of a case referred to a District Judge, he shall follow, as nearly as may be, the procedure indicated in Rules 2 to 9 above.

11. At the enquiry by the District Judge, the complainant may be represented by a counsel of his choice or by the Government Pleader, if the District Judge so directs and the Advocate shall be entitled to be represented by a counsel of his choice.

12. Generally and in so far as may be but without prejudice to the foregoing rules, the Tribunal or the District Judge, as the case may be, shall observe the procedure prescribed by the Civil Procedure Code, 1908.

V. Benches—For constitution of Benches in such cases, please *see* Rule 2 of Chapter 3-B of this Volume.

VI. Orders to be published in the Gazette—Every order of the High Court by which an Advocate is suspended or dismissed or reinstated shall be notified by the Registrar in the Punjab Government Gazette.

Part D
THE ADMISSION OF PLEADERS

1. The following persons may be admitted as pleaders:

(i) Persons who have graduated in the Faculty of Arts or of Science or of Commerce or of Agriculture and have also in the case of University of the Punjab either passed the LL.M., examination or the LL.B. examination under the old Regulations, or the LL.B. Final Examination under the new Regulations, which come into force with the Law examination of 1951, or have obtained the degree of Master of Laws or Bachelor of Laws at one of the other recognised universities in India or the United Kingdom; provided that any person applying on or after 1st May, 1939, whose qualification is that of LL.B. under the revised regulations extending the LL.B. course from 2 to 3 years at the Universities of the Punjab or Delhi, shall produce a certificate that he has attended 75 percent of the course of lectures, on Legal Ethics; and also those who have passed the Bachelor of Civil Laws Examination of Delhi University; provided further any person applying on or after the last May, 1974, whose qualification in that of LL.B. under the revised regulations reducing the LL.B. course from three to two years at the University of Delhi, shall further be required to pass the certificate of Proficiency Examination in Law of that University after undergoing a regular course of study for one year at the University;

(ii) Advocate, Vakils, Attorney and Pleaders of any other High Court in India whose names are still borne on the Roll of such Court:

Provided that every person applying for admission who does not hold the degree of Master of Laws or Bachelor of Laws of the University of the Punjab or University of Delhi or Bachelor of Civil Laws of Delhi University or the degree of Master of Laws' or Bachelor of Laws at one of the recognised Universities in the United Kingdom, shall

have previously passed an examination held by the University of the Punjab or the University of Delhi or the University of Aligarh or the University of Benaras in the Punjab Customary Laws, Punjab Land Revenue Act, Punjab Tenancy Act and Punjab Pre-emption Act and shall have practised as a pleader for not less than 3 years anywhere in India. These conditions, however, shall not apply to those law graduates of the recognised universities of India who have passed the LL.B., final examination of the Punjab University or the Certificate of Proficiency Examination in Law of Delhi University or the Certificate a regular course of study for one year at the Punjab University Law College or the Delhi University, as the case may be:

Provided further that the High Court may, in a special case exempt a candidate from the operation of the condition with regard to the passing of examination in the Punjab Customary Laws, Punjab Land Revenue Act, Punjab Tenancy Act and Punjab Pre-emption Act, laid down in proviso 1;

Provided further that in the case of a displaced Pleader of the Chief Court of Sind, Judicial Commissioner's Court of North-West Frontier Province and Baluchistan and the High Court of Bahawalpur State, who has practised as such in his province of area for six months, this rule shall have effect as if the preceding two provisos were omitted and the said Pleader shall be admitted as a Pleader of this Court if he possesses the qualifications specified in clause (i) or (ii) of this rule.

Admission of insolvents, dismissed Government servants and discharged insolvents

Note—No such person shall, however, be admitted as a Pleader—

(a) if he has been declared insolvent; or

(b) if he has been dismissed from the service of Government unless he can show that his dismissal was not due to conduct showing him unfit to be admitted as a Pleader.

Discharged insolvents will be admitted if their insolvency was due to misfortune or circumstances beyond their control.

1-A (i) Notwithstanding anything Court contained in these rules all persons who were admitted as Pleaders in the erstwhile Pepsu High Court on or before the 31st October, 1956, shall be deemed to have been admitted as Pleaders of the Punjab High Court with effect from the 1st November, 1956.

(2) For purpose of seniority, a Pepsu Pleader shall be deemed to have been admitted as a pleader of this Court on date of his admission as a Pleader in Pepsu High Court or in any of the covenanting States if earlier.

2. Mode of applying and particulars to be stated in application—Application to be admitted as a Pleader under the provisions of the Legal Practitioners' Act, 1879, shall be by petition to the High Court stamped under clause (b) (iii) of Article (1), Schedule II of the Indian Court-fees Act, 1870, as amended by Punjab Act No. XXVI of 1949. The application which must be dated and signed by the applicant shall state:

(a) the age of applicant;

- (b) the nature of the qualification under Rule I in respect of which the application is made;
- (c) the year in which he graduated;
- (d) the year or years in which he passed the Law Examination(s) mentioned in Rule 1;
- (e) whether or not he holds any appointment under Government, and if so, the nature of the appointment held;
- (f) whether he has been convicted by a Criminal Court or dismissed from Government service;
- (g) that it is his intention to practise within the jurisdiction of the High Court.
- (h) the district which he proposes to make his ordinary place of business.
- (i) whether he has been declared insolvent.
- (j) whether he is a discharged insolvent, and if so, he should give further particulars to show that his insolvency was due to misfortune or circumstances beyond his control.

Documents to accompany application

The petition shall be accompanied by evidence of the qualifications required, and by the fee fixed by the rules for the time being in force. The applicant must produce a certificate from the Principal of the Law College (which may in suitable cases be dispensed with) and another certificate from a person of standing and respectability (not a member of the Law College Staff) that he is suitable in every way for admission as a Pleader. If the applicant holds any appointment under Government or carries on any trade or business at the time of his application the fact shall be stated in the petition.

The application shall also be accompanied by a written undertaking that:

- (i) he will within six months of his enrolment as a Pleader apply for membership of a Bar Association, and if admitted, continue to be a member;
- (ii) he will abide by the High Court rules regulating the appointment of clerks by legal practitioners and make a declaration from time to time in the following form of his clerk's qualifications or disqualifications :—
 - (1) name;
 - (2) father's name;
 - (3) qualifications, *i.e.*, whether a matriculate qualified petition-writer, or legal practitioner's clerk in service without break from a date prior to the date of the issue of the orders, *viz.*, 20th November, 1936;
 - (4) disqualifications, *i.e.*, whether he was ever declared a tout, convicted of an offence involving moral turpitude, or dismissed from Government service, the date of conviction or dismissal being given.

3. Mode of presenting application-grant of certificate—The petition shall be presented by the applicant in person, or by an Advocate practising in the High Court, and if it be granted, the Registrar shall to the applicant a certificate in the Form annexed to these rules on the applicant's furnishing the requisite stamp paper and a declaration in writing stating the Civil and Criminal Courts and the Revenue Courts and Offices which he desires to be specified therein. The Registrar shall notify the admission in the Punjab Government Gazette;

Provided that if the certificate be not taken out in the year in which the applicant is admitted, it shall not be issued without a special order of the Court.

4. Fees for admission—A fee of ten rupees shall be payable by every person admitted by the High Court to be a Pleader under the fore-going rules.

FORM OF PLEADER'S CERTIFICATE

Pursuit to "The Legal Practitioners' Act, 1879" as amended by the Legal "Practitioner" Act 1884", I hereby certify that..... whose ordinary place of business is at..... has been duly admitted by the Punjab High Court as a Pleader on the.....and is entitled to practise as such, subject to the provision of the Act above recited and to the rules made thereunder, during the current calendar year in the Courts and Offices specified below, that is to say:

Civil Courts

The District Court and all Civil Courts of Subordinate jurisdiction.

Criminal Courts

The Court of Session and all Criminal Court of Subordinate Jurisdiction.

Revenue Offices

All Revenue Courts and Offices subordinate of the Court and Office of the Financial Commissioner.

Given under my hand and the seal of the Court, this day of19.....

Registrar

Note : This license is liable to be revoked at any time during the said period on the ground specified in Sections 12 and 13 of the said Act, and *inter alia* participation on the part of the holder in any seditious or disloyal movements will be considered reasonable cause for such revocation.

Part E POWERS AND DUTIES OF PLEADERS

1. Courts in which a pleader can Practise—A Pleader holding a certificate written upon stamped paper of the value of twenty-five rupees shall be competent to appear, plead, and act in all Courts, Civil and Criminal, subordinate to the High Court and in all Revenue Courts and Offices subordinate to the Financial Commissioner subject to rules regards enrolment in Part F.

2. Notice to be given on taking up employment or engaging in trade or business—When Pleader accepts any appointment under Government or in a limited liability, or other Company, or engaged in any regular trade or business, he shall forthwith give notice thereof to the High Court and the Chief Justice and Judges may suspend his certificate or pass such orders as they may think fit.

*Explanation—*Ministers of the Government, the Speaker and Deputy Speaker of the Legislative Assembly, Parliamentary Secretaries and Parliamentary Private Secretaries are excluded from the operation of this rule.

3. Not to buy property in cases in which engaged—Except with the special leave of the Court concerned, no Pleader shall in his own name, or in the names of any other person or persons, purchase any property or any share or interest in any property sold in execution of a decree or order in any suit, appeal or other proceeding in which he was in any way professionally engaged.

4. Shall furnish account to his client of money received—Where any Pleader receives any money from his client, he must furnish him with a statement, of accounts, with receipts, where these can be obtained for all sums of money above Rs. 5 disbursed on his behalf.

A Pleader shall be responsible for seeing that receipts are furnished to a client for all sums of money received by himself or by his clerk on his behalf.

5. Procedure to be followed when a Pleader has been expelled by his Bar Association—On receipt of intimation that a pleader has been expelled by his Bar Association from membership, his case should be referred to a single Judge who will decide whether there is a cause for taking action against the lawyer for professional misconduct. If the Judge is of opinion that action for professional misconduct should be taken the case will be dealt with in the same way as other cases of professional misconduct. If he decides that there is so reason to take action for professional misconduct, the lawyer will be allowed to practise although he is not a member of a Bar Association.

6. No pleader shall employ direct means of advertisement, such as describing himself on signboard, telephone directories, books, letters, paper heads or case covers, etc., as an expert or practitioner or consultant in any particular branch of law or putting more than one name plate at his residence and office :

Provided that on account of the peculiar situation of Simla houses, a Pleader may put up name plates not exceeding three if his residence is separate from the office and not exceeding two if his office and residence are at one and the same place, Subject to the condition that name plates are not indicative of advertisement or canvassing.

CERTIFICATES BY PLEADERS

(a) Enrolment

1. Can practice on enrolment only within the District—A Pleader is authorised to practice only after enrolment in accordance with the rules in this part, and then only in Court or Office held within the territorial limits of the jurisdiction of the Court of the District Judge in which he is enrolled.

2. Mode of applying for enrolment. Entry in register and on certificate—(i) Every application, to be enrolled as a Pleader under the provisions of Sections 8 and 9 of the Legal Practitioners' Act, shall be made by petition to the Court in which the application desires to be enrolled. The application shall be accompanied by the certificate referred to in Section 7 of the Act, and shall be presented by the applicant in person or by an Advocate or Pleader practising in the Court.

(ii) If it appears from the certificate that the applicant is entitled to be enrolled the Court shall enter his name in a register of Pleaders to be maintained in Form I, and endorse on his certificate memorandum in Form II, annexed to these rules.

Note—Such applications must be stamped with the proper Court-fee stamp under Article (I)(b)(iii) of Schedule II of the Court-fee Act amended by Punjab Act No. XXVI of 1949.

3. Register of enrolment to be kept by District Judge—A register of Pleaders in Form I annexed to these rules shall be maintained in the Court of the District and Sessions Judge.

(b) Renewal of certificates

1. Application for renewal of certificate—Procedure—(i) Every application for the renewal of a certificate shall be made by petition to the District Judge of the district in which the applicant ordinarily practises, at least two weeks before the expiry of the certificate, and shall be accompanied by the expiring certificate and by a declaration in writing stating the applicant's ordinary place of business, and the Civil or Criminal Courts and the Revenue Offices which he desires to be specified therein. In the case of a pleader who is not actually practising at the time of applying for renewal of his license, the application shall be accompanied by:

(i) a statement to show whether he complied with the provisions of Rule 2 of this part;

(ii) a declaration to the effect that since he last renewed his license:

(a) he has not been dismissed from Government service,

(b) he has not been declared an insolvent,

(c) he has not been convicted by any Criminal Court,

(iii) another declaration to the effect that he is not engaged in any trade, business or other profession at the time of submitting his application, and

(iv) in case the applicant has been in the service of Government, or a local body, a certificate from the Head of Department to the effect that his character and conduct while in service were good.

(ii) *Mode of presenting application*—Every such application shall be presented by the applicant in person, or in the event of the applicant being unable to attend in person, by an Advocate or Pleader practising in the Court.

Note—Such application do not require to be stamped.

I. FORM OF REGISTER—Vide Rule 3 of Part F (a)

Register of Pleaders and Mukhtars enrolled under the Legal Practitioner’s Act 1897, in the Court of

Name of the Pleader	Father’s Name	Date of enrolment	Date of application for renewal of Pleader’s licence	Period for which the licence is renewed	Date on which licence was renewed	Signature and designation of the authority authenticating renewal	Remarks
1	2	3	4	5	6	7	8

II. FORM OF MEMORANDUM OF ENROLMENT REFERRED TO—In Rule 2, Clause (ii) of Part F(a)

Certified that
 has this day been enrolled in the Court of the
 of
 as a

(Signed A.B.)
 Title as Judge of the Court

(iii) If at the date of the application the applicant is not resident within the jurisdiction of the High Court the fact shall be stated in the application, and unless the applicant or other person applying on his behalf certifies that the applicant intends to return and to resume practice within the jurisdiction of the High Court during the ensuing year, the certificate shall not be renewed without an order of the High Court.

(iv) *Endorsement on renewal certificates which shall be notified to High Court*—On the requisite stamp-paper being supplied, a renewed certificate will be prepared and issued by the District Judge to the applicant, if he attends personally or to the Advocate or Pleader Presenting the application. On the renewed certificate will be endorsed the memoranda of enrolment recorded on the expiring certificate, and the endorsement will be authenticated by the renewing officer. When a certificate is renewed by a District

Judge, he shall forthwith notify such renewal to the High Court, and cancel and place the superseded certificate on record, in his office.

(v) *Procedure where applicant changes his place of business*—If a Pleader applying for the renewal of his certificate in any District in which he has not been practising, declares that he has changed his place of business and intends to practice in that district, the District Judge to whom the application is made shall renew the certificate and report at once to the High Court the fact of his having done so; information being given at the same time to the District Judge in whose district the Pleader has hitherto been practising with a view to his removing the name of the Pleader from his register.

2. District Judge to be informed in case renewal not desired—Every pleader who desires not to renew his certificate shall, before it expires, inform the District Judge of the district in which he ordinarily practises of his intention and the reasons for the same. If no such information is furnished, he shall not be entitled to have it renewed without a further order of the High Court, which may if it thinks fit, require payment of the renewal fees for the entire period during which the certificate has not been renewed.

Consequence of information in time—If the information is furnished at the proper time, the certificate may be renewed on application under the foregoing rules, and on payment of the usual fee.

Consequence of non-renewal within three years—If application for renewal of a lapsed certificate is not made within three years, the name of the person shall at the expiration of that period, be struck off all the registers in which he is enrolled, and the fact intimated to the High Court.

3. Cancellation of certificate—(a) If the practice of a Pleader has been suspended and during the period of suspension the Pleader is dismissed from Government service or is convicted of any criminal offence, implying a defect of character which unfits him to be a Pleader the certificate shall be deemed automatically cancelled, unless the High Court, for special reasons sees fit to renew it.

(b) The High Court may, for any other reasonable cause occurring during such suspension, cancel the certificate of the Pleader or direct that the suspension shall continue for such period as may be determined.

(c) The procedure for the decision of cases falling under this rule shall follow, as nearly as may be the procedure prescribed in Part G of this Chapter for the suspension and dismissal of Pleaders.

Part G THE SUSPENSION AND DISMISSAL OF PLEADERS

Rules made by the Punjab High Court under the powers conferred by clause (d) of Section 6 of the Legal Practitioners Act, 1870 (XVIII of 1979) as to the suspension and dismissal of Pleaders.

1. (i) Insolvency of a Pleader—A pleader adjudged insolvent shall be liable to suspension

until such time as he is discharged whether conditionally or not, or until the order of adjudication is annulled.

(ii) *Notice*—Any Court subordinate to the High Court adjudging a pleader to be insolvent shall forthwith send a copy of its order to the Registrar, who shall cause it to be laid with the least possible delay before the Honourable the Chief Justice or an Honourable Judge nominated in this behalf. The Honourable Judge shall fix a date for which notice shall issue to the pleader to appear and show cause why he should not be suspended until such time as he is discharged or the order of adjudication is annulled.

(iii) *Suspension until discharge*—On the date fixed the Honourable Judge shall after hearing the pleader in person or his counsel, or if he does not appear, although served and is not represented by counsel, in his absence, pass orders suspending the pleader until such time as he is discharged whether conditionally or not, or until the order of adjudication is annulled, unless for good and sufficient reasons to be recorded in writing he considers it necessary not to suspend him.

Note—The pleader must satisfy the Honourable Judge that his insolvency is not due to any cause which affects his suitability to practise as a legal practitioner.

2. (i) *Conviction for an offence*—When any criminal subordinate to the High Court convicts a Pleader of any offence, it shall forthwith report the fact and transmit a copy of its judgment to the High Court.

(ii) *Complaint in writing*—Any person making allegations of professional misconduct under Section 13 of the Legal Practitioners' Act against a Pleader shall be required to submit them in the form of a written complaint and, unless the complainant is a public servant acting in his official capacity, shall be required to support them by an affidavit.

3. Enquiry under Section 13 of the Legal Practitioners' Act how ordered—(i) An enquiry under Section 13 of the Legal Practitioners' Act, 1879, may be ordered by the High Court of its own motion or upon an application for that purpose.

(ii) Such an enquiry into the conduct of a Pleader may be held before the High Court or before any subordinate Court appointed by the High Court to hold it and to report to the High Court.

(iii) *Show cause notice*—A notice about a complaint under Section 13 of the Legal Practitioners' Act shall be issued to the Pleader and shall be served upon him at least fifteen days before the day appointed for the consideration of the charge. The pleader may, at this stage, show cause against an enquiry being directed against him, on the ground that the allegations, even, if true, would not constitute a reasonable ground for suspension or dismissal.

4. Preliminary inquiry—When a report and a copy of the judgment under Rule 2(i) or a complaint under Rule 2(ii) or a report from a subordinate Court under Rule 3 (ii) or a report under Section 14 of the Legal Practitioners' Act received, the Registrar shall cause the papers to be laid, with the least possible delay, before the honourable the Chief Justice or an Honourable Judge nominated in this behalf. The Honourable Judge may make such preliminary inquiry as he considers necessary, and if he is of the opinion that there is no ground for proceeding further, he may order accordingly.

5. (i) *Statements of charges*—If the Honourable Judge finds that a *prima facie* case is made out for proceeding further against the Pleader he shall pass an order directing that

the case be heard by a Bench of two Honourable Judges and shall call upon the Advocate-General to draw up a statement of charge against the Pleader.

(ii) *Suspension*—When such an order has been passed the Honourable Judge may suspend the Pleader from practice pending the decision of the disciplinary proceedings against him.

(iii) *Notice to Pleader* —When the Pleader is suspended, the Registrar shall forthwith cause notice of his suspension to be served upon him.

6. (i) Constitution of Bench Notice—When the statement of charges referred to in Rule 5 has been framed by the Advocate-General and approved by the Honourable Judge ordering the inquiry, the Honourable the Chief Justice shall nominate Bench of two Honourable Judges to hear the case.

(ii) The Registrar shall thereupon cause a copy of the statement of charges together with a notice of the date of hearing, to be delivered to the Pleader at least 15 days before the date of hearing and shall call upon him to submit on the first date of hearing a written statement in answer to the charges. The person charged shall also be entitled to make an oral statement in answer to the charges.

7. Procedure for hearing before the Bench—If the Bench is of the opinion that there is no ground for taking disciplinary action against the Pleader it may pass orders accordingly and its decision will be final.

8. Points of Procedure—(i) The Bench shall have powers to decide what, if any, witnesses shall be examined in support of the charges or on behalf of the Pleader and to nominate one of its members to record any evidence when may be adduced.

(ii) The Bench shall also have powers to decide all points of procedure which may arise during the hearing and may direct that all or any of the evidence to be recorded shall be given by affidavit.

(iii) Pleader may appear as a witness—In all enquiries under Section 13 or Section 14 of the Legal Practitioners' Act the person charged may offer himself as a witness on his own behalf, and may thereupon be sworn or affirmed and examined in the same manner as any other witness; but he shall not be called as a witness or examined upon oath or affirmation except at his own request or with his express consent.

9. Decision of Bench—The Bench shall after hearing such arguments both for and against the Pleader as may be offered, come to a decision on the merits of the case and direct what action shall be taken. This decision shall be final.

In the case of disagreement the case may be referred to the Honourable the Chief Justice or an Honourable Judge nominated in this behalf whose decision shall be final.

10. Reinstatement—If the Bench decides that the charges are not proved it shall pass orders accordingly and the Pleader shall, if he is under suspension, be reinstated.

11. Review—The High Court may, either of its own motion or on the application of any person aggrieved call for the records of any case under Section 15 of the Legal Practitioners Act and revise the proceeding of a subordinate Court or Revenue officers:

Provided that no order of acquittal, passed by a subordinate Court or officer under Section 14 of the Act, shall be set aside without giving the Pleader an opportunity of being heard.

12. Orders to be communicated to Pleader—The orders of the Bench shall be

communicated by the Registrar to the Pleader.

13. Reconsideration of orders—Any order of suspension or dismissal made or confirmed by the High Court may, if sufficient cause appears, be re-considered and cancelled or modified by the Bench which made the order:

Provided that if, for any reason, any member of the Bench is unable to sit on the Bench for the reconsideration of its order, the Honourable the Chief may nominate another Honourable Judge in his place.

14. Orders to be published in the Gazette—Every order of High Court by which a Pleader is suspended or dismissed or reinstated shall be notified by the Registrar in the Punjab Government Gazette.

(High Court Notification No. 230-Gen/XIII-D-3, dated the 13th September, 1956).

Part H

FILING OF POWERS OF ATTORNEY BY ADVOCATES AND PLEADERS

Filing of powers of Attorney by Legal Practitioners in the High Court and the Courts

(a) In Subordinate Court:

(i) For Civil cases—see Chapter 16-A, Rules and Orders of the High Court, Volume I.

(ii) For Criminal cases—see Chapter 25-A, Rules and Orders of the High Court, Volume III.

(b) In the High Court:

The rules are the same as given at (i) and (ii) of part (a) above except that no person can appear, plead or act on behalf of a suitor in the High Court unless his name is borne on the rolls of the High Court as an Advocate. A private Pleader under Section 4(r)(2) of the Code of Criminal Procedure is also debarred from appearing in the High Court under clauses 7 and 8 of the Letters Patent constituting that Court.

Part I

FEES OF COUNSEL

¹**[1. Suits for debt damages and recovery of specific property**—In suits for the recovery of specific property, or a share of specific property, whether movable or immovable, or for the breach of any contract or for damages:

If the amount or value of the property, debt or damages decreed shall not exceed rupees five lacs (Rs. 5,00,000/-) according to the valuation for purposes of appeal to the Court, the fee shall be calculated at Rs. 14,500/- (Rupees fourteen thousand five hundred) and on the remainder at 1 per cent subject, however, that in no case the amount of fee shall exceed Rs. 50,000/- (Rupees fifty thousand) or the actual, whichever is less, subject to the condition that a certificate of fee must be filed.]

2. Suits for injuries to person or property or character. Suits for partition and pre-

¹ . Rule 1 substituted vide Notification No. 45/Rules/DHC dated 1-4-2002.

emption and other rights—In suits for injuries to the person or character of the plaintiff, such as suits for assault or defamation or for injuries to property or to enforce rights where the pecuniary value of such injury or rights cannot be exactly defined,—as in suits for interference with a right to light or water, or to enforce a right of pre-emption, or suits for the partition of joint property where partition is improperly resisted, if the plaintiff succeeds, the Court may order the fee allowed to the plaintiff to be calculated with reference either to the amount decreed or according to the valuation of the suit or according to such sum not exceeding the valuation, as the Court shall think reasonable and shall fix with reference to the importance of the subject matter in dispute. In any such case, the amount of the fee shall be calculated according to Rule 1.

3. When suit dismissed on merits or default—If the suit be dismissed for default or upon the merits, the fee allowed to the defendant shall be calculated according to Rule 1 on the whole value of the suit.

4. When suit partly dismissed—If the suit shall be decreed for the plaintiff as to part only of the claim, and as to the remainder shall be dismissed; the fee allowed to each party should be fixed with reference to the value of that part of the claim in respect of which he shall succeed and shall be calculated according to Rule 1.

5. Suits for damages when full amount claimed not decreed—If in any suit for damages, the plaintiff succeeds as to the whole of his cause of action, but fails to recover the full amount of damages claimed, the defendant shall not be entitled to any allowance for counsel in respect of the difference between the amount of damages claimed and the amount recovered, unless the Court shall be of opinion that the amount claimed for damages was un-reasonable or excessive and shall for that or any other cause, direct that a fee be allowed to the defendant.

If specially allowed, the amount of such fee shall be fixed with reference to the amount of damages disallowed to the plaintiff and shall be calculated according to Rule 1.

6. If case of several defendants having common interest—If several defendants who have a joint or common interest succeed upon a joint defence, or upon separate defences substantially the same, not more than one fee shall be allowed, unless the Court shall otherwise order. If only one fee be allowed, the Court shall direct to which of the defendants it shall be paid or shall apportion it among the several defendants in such manner as the Court shall think fit.

7. Several defendants having separate interest—If several defendants, who have separate interests, set up separate and distinct defence and succeed thereon, a fee for each of the defendants who shall appear by separate counsel may be allowed in respect of his separate interest. Such fee, if allowed, shall be calculated, with reference to the value of the separate interest of such defendants, according to Rule 1.

²[**8. Miscellaneous proceedings**—In any miscellaneous proceedings or for any matter other than that of appearing, acting or pleading in a suit prior to decree, the fee shall be fixed by the Court with reference to the nature and importance of the proceedings or matter;

Provided that in no case shall the amount allowed in respect of such fee exceed Rs. 2,000/- (Rupees two thousand) or below Rs. 500/- (Rupees five hundred)].

2 . Rule 8 substituted vide Notification No. 45/Rules/DHC dated 1-4-2002.

9. Half fees in undefended suits—If a suit in the High Court, as a Court of original jurisdiction, be undefended, the fee shall be calculated at one-half the sum fixed for a defended suit of the same nature and value.

10. When review is rejected—If a review be rejected after summoning the opposite party or if, after the admission of a review, the former judgment be upheld, the fee, if allowed to the successful party in the review, shall be fixed by the Court at an amount which shall not in any case exceed one-half of the amount allowed by these rules in case of an original decree.

11. When review is accepted—If, after the admission of a review, the former judgment be revised, the fee in respect of the review, if allowed to the party who succeeds in the review, shall not exceed one-half the amount allowed by these rules in case of an original decree. The fee allowed in respect of the review will be irrespective of any fee which may be included in any costs in respect of the original suit which may be adjudged to the successful party by the judgment in review, unless the Court shall otherwise order.

12. Appeals—In appeals, the fee shall be calculated on the same scale as in original suits; and the principles of the above rules as to original suits shall be applied, as nearly as may be, in appeals.

13. Where several appellants have joint interest—When the interest of several appellants is joint, no more than one fee shall be allowed, unless the Court shall otherwise order. If one fee only be allowed, the Court shall direct to which of the appellants it shall be paid or shall apportion it amongst the several appellants in such proportion as it shall think fit.

14. Several respondents—If several respondents in one appeal appear by separate counsel, in determining whether separate fees shall be allowed, the Court shall be guided by the principles laid down in Rules 6 and 7.

15. Discretion of Court to deviate from the scale laid in the rules—If, in any instance, the payment of fees according to the preceding rules shall not appear to the Court to be just and equitable the Court may exercise its discretion in allowing such fee as may appear just and equitable.

Fees in case of counsel dealing with dalals and touts—Provided that in the case of a party represented by any Advocate, Vakil or Attorney (a) who is known or reputed to have any dealing, communication or correspondence, directly or indirectly, with a *dalal* or with any person who frequents any Railway Station, *sarai* or other place as a tout or (b) who is known or reputed to employ in any capacity whatsoever any such person or any person who frequents any Railway Station, *Sarai* or other place as a tout, the Court may order that no fee be allowed to such party for such Advocate, Vakil or Attorney or may, in its discretion, allow a fee for the same not exceeding the following sums, that is to say:

(i) In first appeals from original decrees and in suits before the Court in the exercise of its ordinary or extraordinary original jurisdiction

[Rs. 750/-].

(ii) In all other cases, the fee allowable under the above rules up to a maximum of ⁴[Rs.

3. Substituted for Rs. 75/- vide Notification No. 45/Rules/DHC dated 1-4-2002.

4. Substituted for Rs. 15/- vide Notification No. 45/Rules/DHC dated 1-4-2002.

250/-].

Appeals from decrees passed on remand—Provided also that, if an appeal be preferred against a decree passed on remand, the fee, if any allowed by the Court to the party succeeding in that appeal, shall not, unless the Court shall otherwise order, be less than one quarter, nor more than one half of the amount which would be allowed under the rules upon an original hearing, if, by the decree remanding the case, the same party shall have been allowed fees in respect of the former appeal in the suit either absolutely or conditionally upon his succeeding upon the remand.

Fees for trial of issues referred to the lower Court—Provided also, that if an issue be framed and referred by the Court for trial by a lower Court, the Court may, if it thinks proper, allow to the party who shall succeed in the appeal, such sum as the Court shall consider reasonable not exceeding half the amount which would be allowed under these rules in an original case, for his fee in respect of the trial of the issue in the lower Court, in addition to a fee in respect of the appeal.

16. Certificate of payment of fees to counsel to be put in before fees are allowed by Court—Notwithstanding anything contained in the rules of the Court and notwithstanding any order of a Judge or Judges, no fee for the appearance of any Advocate, Vakil or Attorney shall, except as in these rules hereinafter provided be allowed on taxation between party and party, or shall be included in any decree or order unless the Taxing Officer is satisfied that the fee was paid to the Advocate, Vakil or Attorney before the hearing and unless the party claiming to have such fee allowed shall, before the hearing, file in the office of the Taxing Officer a certificate signed by the Advocate, Vakil or Attorney as the case may be, certifying the amount of the fee or fees actually paid by or on behalf of his client to him or to any other Advocate, Vakil or Attorney in whose place he may have appeared.

Provided that in regular first appeals from decrees and cases arising under the Company Law and Indian Succession Act heard before a Division Bench the taxing officer will allow fees on taxation to a party when at least two counsels have filed certificates of payment of fees on its behalf.

17. Contents of certificate—Such certificate shall state:

- (a) the case matter or proceeding in respect of which such fee or fees was or were paid;
- (b) the date or dates when such fee or fees was or were actually paid to the Advocate, Vakil or Attorney engaged in the case, matter or proceeding either as the exclusive fee or fees of such Advocate, Vakils or Attorney or as the fee or fees of the Advocates, Vakil or Attorneys associated and to the associated in the case, matter or proceeding in the High Court;
- (c) the precise amount or amounts which was or were so paid;
- (d) that no portion of such fee or fees has been returned, and that no agreement for return or remission of the same has been made, by the Advocate, Vakil or Attorney or by any one on his behalf; and
- (e) the name and address of the person who made such payment.

Certificate of payment where higher fees above the scale allowed

Provided that when a higher fee than is allowed by the scale is allowed by special order of the Court, a certificate of the payment of the additional fee at any time may be accepted if filed before taxation in lieu of the certificate required by these rules.

18. Form of certificate of payment of fees—The certificate mentioned in Rules 16 shall, so far as possible, be in the following form:

IN THE DELHI HIGH COURT

Between..... and.....

For the purpose of presentation to the Taxing Officer and having my fee allowed on taxation as against the party or parties, who may be liable for costs under the judgment or order of the Court, I,..... in accordance with Rule 17 of the rules regulating the fees of counsel in the Court, hereby certify that in the above.....
the following fees were paid to me as my exclusive fee (or as my fee as well as that of who..... with me in the case) on the dates and by the person or persons specified below, and that no portion of such fees has been returned and that no agreement for such return or remission has been made by me or by any one on my behalf or on behalf of..... who associated with me in the case:

Matter	Fee	Date of payment	By whom paid	Address of person who actually made such payment

Signature.....

Date of Signature.....

Address of Advocate, Vakil or Attorney.....

Filed on the.....day of.....by.....

Note—In the certificates of fees filed by the legal practitioners engaged by Government in cases in which the Union of India or a State Government is a party, or in which the actual party is not Government but Government Servants or some other persons whose defence Government decides to undertake at public expense, or in which a Municipal Committee or a Local Body or an Improvement Trust is a party, it is sufficient to certify that a fee has been fixed (not paid) by the legal Remembrancer to Government, Punjab, or other appropriate authority as the case may be. The same procedure may, by a resolution of the Judges in meeting be extended to counsel appearing on behalf of an Official Liquidator appointed by the High Court.

19. Matrimonial cases—Counsel engaged in matrimonial cases in the High Court should when filing a certificate required by Rule 16, submit a detail of the work done or to be done by them for which they have charged their clients. Only those charges which are necessary to enable the parties to conduct the litigation will be allowed by the Taxing Officer who will bear in mind that the object in giving costs is to indemnify the successful party against expenses to which he has been but by the unsuccessful party. The maximum fee in a defended matrimonial cause shall be Rs. 1,500; and half that amount in undefended causes, provided that the Judge, who tries the case, may allow the full fee in an undefended cause, should the nature of the work done by counsel warrant it.

Part J
CLERK OF LEGAL PRACTITIONERS

1. Disqualification—No person shall be employed by a legal practitioner as his clerk unless such person has been a legal practitioner’s clerk for three years, or is a qualified petition-writer or has passed the Matriculation Examination of a recognized University:

Provided that no such person shall be employed as a Clerk:

- (a) if he has been declared a tout; or
- (b) if he is an undischarged insolvent; or
- (c) if he has been convicted for an offence involving moral turpitude ; or
- (d) if he has been dismissed from the service of Government, unless he can show that his dismissal was not due to conduct showing him unfit to be legal practitioner’s clerks, viz., corruption or some other reason involving dishonesty;
- (e) if he is an ex-petition-writer, whose licence has been cancelled for corruption or for some other reasons involving dishonesty ;
- (f) if he is unfit to be a legal practitioner’s clerk for any other sufficient reason.

Dismissed Municipal and District Board employees shall be regarded as dismissed “Government Servants” for the purposes of these rules.

(i) *Date when and persons to whom rule will apply*—The rule shall apply to all persons engaged after the 20th November, 1936, but not a person who was a legal practitioner’s clerk on or before the 20th November, 1936 and who may be engaged by a legal practitioner after the 20th November, 1936 provided:

- (a) that his service subsequent to that date is continuous; and
- (b) that his work is satisfactory as certified by his last employer.

(ii) *Clerks to whom proviso shall apply*—The proviso shall apply to clerks already in the service of legal practitioners, who have been declared touts at any time, or who were convicted within five years before the 20th November, 1936, for an offence involving moral turpitude.

(iii) *Clerk to whom proviso shall not apply*—The proviso shall not apply to clerks already in the service of legal practitioners who have been dismissed from Government service.

(iv) The proviso shall not apply to clerks already in the service of legal practitioners who have been convicted but whose conviction took place more than five years before the 20th November, 1936.

(v) *Employment of undischarged insolvent clerks*—The proviso that no person shall be employed as a clerk if he is an undischarged insolvent shall apply to clerks already in the service of legal practitioners.

1-A. No deed-writer shall be employed at all as a Legal Practitioner’s clerk. A clerk to a Legal Practitioner shall not engage himself in any trade or business without the previous permission of the High Court.

2. Illiterate persons not to be employed—No illiterate person shall be employed at all as a legal practitioner’s clerk.

Definition of literate person

Note—A literate person for purposes of this rule will be one who has some knowledge of

English or preferably Urdu as being the Court language in the Punjab.

3. Not more than two clerks to be engaged—Not more than two clerks shall be appointed or retained by any legal practitioner.

4. Names of clerks to be notified to Secretary Bar Association—The names of such clerks shall be communicated by each legal practitioner, who is a member of Bar Association, to the Secretary of that Association. A legal practitioner who is not a member of any Bar Association and cannot under the rules framed by the High Court be compelled to join the Bar Association, shall communicate the names of his clerks direct to the District Judge.

5. List of clerks to be sent to District Judge—The Secretary shall prepare a list of the clerks employed by the legal practitioners and sent it to:

(a) The District Judge, or

(b) The President Officer, of the Superior Civil Court sitting at the place where the Association is.

6. Date of submission of list—Such list shall be submitted in the first week of January each year, any changes during the course of the year being intimated separately.

7. No clerk shall be recognized by the Courts unless his name is borne on this list.

8. Power of clerks to deal with the staff of the Court—Clerk mentioned in the list shall be entitled to act on behalf of their masters, but on their responsibility, in all transactions which have to be done before or with the ministerial staff of the Court.

9. List of clerks to be circulated to local Courts—A copy of the list when received and the changes notified shall be supplied to all Courts situated at the station for information.

10. Contents of list—The list shall be in the following form:

(a) name and parentage of the clerk,

(b) name of the legal practitioner by whom engaged,

(c) qualification, i.e., whether (i) Matriculate, (ii) Petition-writer, (iii) has three years service with a legal practitioner, with a certificate that the clerk has never been—

(i) dismissed from Government service,

(ii) convicted of in offence involving moral turpitude,

(iii) declared a tout, and

(iv) declared an insolvent, if so, whether discharged or undischarged.

11. Only District Judge competent to remove name from list—District Judge (and not a Bar Association) shall have power to declare a person to be unfit for employment as a legal practitioners' clerk and to remove his name from the list of approved clerks to legal practitioners.

12 Appeal—A clerk whose name has been removed by a District Judge may appeal to the High Court, which may, if it thinks fit, alter or revise the orders passed by the District Judge.

Part K
CONSTITUTION AND PROCEDURE OF BAR COUNCIL

Note: These rules have been omitted in Punjab & Haryana in 1970 but not omitted in Delhi so far. Please see after Part 6K 'Rules of the Bar Council of Delhi' under the Advocates Act.

Punjab High Court, Notification No. 246-Genl./XIII-E-4, dated the 28th December, 1955—In partial modification of High Court Notification No. 13-Genl/XIII-F-4, dated the 13th January, 1949, it is hereby notified that under Section 6(2) of the Indian Bar Councils Act, 1926, the Bar Council of the Punjab High Court, with the previous sanction of the High Court, have added to, amended or rescinded the first rules by the High Court under the aforesaid and the revised rules so added, amended or rescinded are as under:

Rules under Section 6

1. In these rules unless there is anything repugnant in the subject or context:

- (i) "Act" means the Indian Bar Councils Act, XXVIII of 1926.
- (ii) "Advocate-General" means the Advocate-General of the State of Punjab.
- (iii) "Bar Council" means the Bar Council constituted for the High Court.
- (iv) "Chairman" means the Chairman of the Bar Council or in his absence the Vice-Chairman as provided by Section 4(4) of the Act.
- (v) The "High Court" means the High Court of Judicature for the State of Punjab.
- (vi) "Secretary" means the Secretary or other person to be appointed by the Council to perform the duties of a Secretary howsoever designated.
- (vii) "Treasurer" means the Treasurer or other person to be appointed by the Bar Council to perform the duties of a Treasurer howsoever designated.
- (viii) "Voter" means any person whose name is entered on the Roll of Advocates maintained by the High Court under Section 8(2) of the Act and who is entitled to practise.
- (ix) "The day of election" means the day on which the scrutiny and counting of votes shall begin.
- (x) "A candidate of ten years standing" means a candidate who on the day of election has for not less than ten years been entitled as of right to practise in the High Court.
- (xi) "A candidate of less than ten years standing" means a candidate who on the day of election has not been entitled as of right to practise in the High Court for ten years.

2. Bar Council shall consists of:

- (i) the Advocate-General for the time being.
- (ii) ten person elected from among the Advocates, who are on the date of the election entitled as of right to practise in the High Court, and
- (iii) four person nominated by the High Court in accordance with Section 4, clause (1)(b) of the Act.

3. The day of election for every election shall be fixed by the Chairman so as to be within thirty days before the expiry of the term for which the last preceding election was held.

4. (i) Notice of the day of election shall be given by publication in the official gazettes of the States of Punjab and Delhi, over the signatures of the Secretary not less than sixty days before the day of the election.

(ii) Copies of such notices shall also be sent by the Secretary, of the Advocate-General, the Presidents of the High Court Bar Associations and the District Bar Associations and the District Judges in States of Punjab and Delhi.

5. Every candidate for election as a member of the Bar Council shall be proposed by two voters by a writing signed by them addressed to the Secretary and delivered personally or by registered post (A.D.) to the Secretary not less than thirty days and not more than sixty days before the date of election. Each proposal must be accompanied by a deposit of Rs. 100/- and a statement signed by the candidate showing his willingness to serve on the Bar Council, if elected. The proposal shall be in the form attached hereto.

Provided that if more proposals than one are received in respect of a candidate, a single deposit of Rs. 100/- only would be sufficient.

6. The Secretary shall submit to the Chairman any proposal of a name for election as the validity of which he may any doubt and the decision of the Chairman shall be final.

7. In the event of the Chairman deciding that a proposal is invalid, the fact shall be notified forthwith to the candidate by the Secretary and the candidate may there upon submit another proposal within the time prescribed by Rule 5. In the event shall the candidate be entitled to submit a proposal after the time prescribed by Rule 5.

8. Any person proposed may withdraw his name by a communication in writing so as to reach the secretary not later than twenty-five days before the day of election and his name shall be omitted from the list of candidates. The deposit made under Rule 5 shall be refunded to the candidate withdrawing.

9. Not less than twenty days before the day of election the Secretary shall cause a list of the names of all candidates duly proposed to be posted on a notice board in the High Court shall send copies of such list to the District Court Bar Associations in the States of Punjab and Delhi under a certificate of posting.

10. Elections and all matters, relating thereto provided for by these rules shall be conducted by the Secretary or such person as the Bar Council may appoint to discharge the duties of the Secretary under these rules and the Secretary or such person may with the approval of the Chairman appoint any person or persons to assist him in the conduct thereof.

11. (i) If among the candidates duly proposed there are not more than five candidates of less than ten years standing and the total number of candidates duly proposed is not more than ten, all the candidates shall be deemed to be elected and the Bar Council shall fill up the deficiency of candidates in the manner provided for filling up casual vacancies so as to conform to the provisions of Section 4(2) of the Act.

(ii) If among the candidates duly proposed there are more than five candidates of less than ten years standing and not more than five candidates of ten years standing, all the candidates of ten years standing proposed shall be deemed to be elected and there shall be

an election for five candidates of less than ten years standing by voting papers as provided in the succeeding rules and the Bar Council shall fill up any deficiency of candidates of ten years standing in the manner provided for filling up casual vacancies.

(iii) If among the candidates duly proposed there are more than five candidates of the ten years standing and more than five candidates of less than ten years standing, there shall be an election for ten candidates by voting paper as provided in the succeeding rules.

12. The copy of the Roll of Advocates to be sent by the High Court to the Bar Council, under Section 8(4) of the Act shall contain the address of each member. Any person who desires to change his address shall notify his intended change of address to the Secretary of the Bar Council.

13. Not less than fifteen days before the day of the election the Secretary shall send by express delivery under postal certificate to every voter to his address as shown in the Roll of Advocates referred to in Rule 12:

(i) a voting paper on which the names of the candidates shall be arranged in alphabetical order and which shall bear on it the Secretary's initials and which shall be accompanied by a covering letter.

(ii) a voting paper cover.

(iii) an envelope addressed to the Secretary ; and

(iv) a memorandum of instructions as regards the number of vacancies, the mode of voting and the latest hour when the voting should be received by the Secretary.

14. No voter whose address is not entered in the said Roll shall be supplied with a voting paper except on a written application to the Secretary.

15. (i) A voter shall vote by placing a cross mark against the name of any candidate for whom he desires to vote. He shall not place a cross mark against more names than the number of members to be elected. He shall not give more than one vote to one candidate. A voting paper which contains erasures or alterations of any name, word, mark or sign by which the voter can be identified or bears on it a number of votes greater than the number of candidates to be elected shall be deemed to have been defaced and no votes purporting to have been given thereby shall be counted.

(ii) The signatures to each covering letter accompanying the voting paper must be attested by the District Judge or any Sub-Judge or Magistrate 1st Class of the place and sealed with the Court seal, or attested by the Registrar of the High Court.

(iii) The decision of the Chairman whether a voting paper has or has not been defaced shall be final.

16. Each voting paper when filled in shall be sent by registered post or delivered personally by the voter to the Secretary or any other person appointed by the Secretary for the purpose or to the Senior Sub-Judge of the place in an envelope addressed to the Secretary referred to in Rule 13 so as to reach the Secretary or the person appointed or the Senior Sub-Judge at or before 3 p.m. of the day of election. Any voting paper received or delivered thereafter or in contravention of this rule shall be rejected. The Senior Sub-Judge shall forward the voting papers so received along with a list thereof under his signatures and seal of the Court under registered cover to the Secretary Bar Council, Punjab High Court, Chandigarh.

Provided that at all places where there is no Senior Sub-Judge's Court the voting paper may be delivered to the Sub-Judge of the highest grade at that place.

17. The scrutiny and counting of votes shall begin at 3.30 p.m. on the day of election, and on the conclusion of counting, the voting papers, shall be placed in a box and sealed. The number of votes obtained by each candidate shall be set out in a list.

18. (i) In the case covered by Rule 11(ii), the five candidates who obtained the highest number of votes shall be declared to have been elected, provided that if, in the case of an equality of votes between two or more candidates, it is necessary to determine which of the candidates, shall be held to have been duly elected the Secretary shall draw lots in the presence of the Chairman for the purpose of deciding priority between the candidates having the same number of votes.

(ii) (a) In the case covered by Rule 11(ii), the ten candidates who obtained the highest number of votes shall be declared to have been elected, provided that, if there are more than five candidates of less than ten years standing amongst them, only the first five shall be declared to have been elected and in the place of the candidates of less than ten years standing so eliminated the candidates of over ten years standing who have obtained the next highest number of votes, shall be deemed to have been elected.

(b) In the event of an equality of votes between two or more candidates in any of the cases covered by Rule 18(ii), priority for the purpose of election has to be determined in the manner prescribed in sub-rule (i) above.

19. A list of candidates declared elected to the Bar Council shall be prepared and signed by the Secretary and submitted by him to the Chairman who shall certify it by his signatures and the same shall be filed as of record by the Secretary. Copies thereof shall be published in the Official Gazettes of the States of Punjab and Delhi and sent to the Registrar of the High Court and the District Bar Associations in the States of Punjab and Delhi, and to, all the District Judges in the States of Punjab and Delhi.

20. On the publication aforesaid to the said list the election shall be final and the voting papers shall be destroyed.

21. Elected members going out of office shall be eligible for re-election. No elected member who by reason of his retirement under Rule 24 has caused a vacancy shall be eligible for re-election at the next election.

22. The term of office of nominated and elected members shall be three years from the date of the first meeting of the Bar Council after an election:

Provided that in case of emergency on a unanimous resolution of the Bar Council, the term of the Bar Council may be extended by period of 3 months, with the sanction of the High Court.

Provided further that the Chairman and the Secretary shall continue to function as such for the purposes of operating accounts, receiving moneys, issuing receipts and incurring recurring expenditure of the Bar Council.

23. Casual vacancies which may occur among the elected members may be filled up by the Bar Council and casual vacancies which may occur among nominated members may be filled up by the High Court, and the person filling up a vacancy shall go out of office at the date when the term of office of the member whose place he takes would expire. In

the event of two or more candidates for a vacancy to be filled up under this rule by the Bar Council having received the same number of votes, the Chairman shall have a casting vote.

24. Any elected or nominated member of the Bar Council who fails to attend four consecutive meetings of the Bar Council, shall be deemed to have vacated his seat and to have caused a casual vacancy and he shall not be eligible for appointment under Rule 23.

25. The Bar Council shall be deemed duly constituted notwithstanding any vacancy in elected or nominated members.

26. Meetings of the Bar Council shall be convened by the Secretary under the direction of the Chairman, or, in his absence from the seat of the High Court, of the Vice-Chairman, who shall determine time and place thereof.

27. Notice of meetings of the Bar Council shall be issued by post or delivered at least 15 days before the date fixed for the meetings. In case of emergent meetings, however a notice of seven days shall be enough.

28. Five members shall constitute a quorum for a meeting of the Bar Council. Each member of the Bar Council shall have one vote and the Chairman shall have a casting vote.

29. If at a meeting less than five members are present, it shall be adjourned for not less than seven days; and at the adjourned meeting no quorum shall be necessary.

30. The election of the office holders shall be held annually and shall be by ballot in the event of there being more than one proposal for the respective offices. The names for the officers shall be proposed and seconded and the election of the other office holders shall follow the election of the Chairman. The meeting shall be presided over by one of the members elected for the purpose but as soon as the Chairman is elected he shall preside over the meeting. The out-going office holders shall be eligible for re-election.

FORM (RULE 5)

To
The Secretary,
Bar Council,
Punjab High Court at

We, the undersigned Advocates, Punjab High Court hereby propose the name of Shri . . .
. son of Advocate, Punjab High Court, practising at
. as a candidate for election to the Bar Council, Punjab High Court to be held on . . .
.

Consent of candidate Proposer

I,	Shri
....
son of	son of
..	..
Advocate, Punjab High Court practising at	Advocate, Punjab High Court, Practising at
. . agree to serve on the Bar Council, if elected.	Sd
	Place
	Dated
Sd	Shri
....
Place	son of
....
Dated	Advocate, Punjab High Court, Practising at
....	Sd
	Place
	Dated

EXTRACTS FROM
Rules of the Bar Council of Delhi
[Rules framed under Section 15 of the Advocates Act, 1961]

Chapter I

A. These rules may be called the Bar Council of Delhi Rules, 1963 and shall come into force immediately.

B. In these Rules, unless there is anything repugnant in the context:

- (i) "Act" means the Advocates Act, 1961 (XXV of 1961);
- (ii) "Council" means the Bar Council of Delhi;
- (iii) "Chairman" means the Chairman of the Bar Council of Delhi duly elected or authorised to act in that behalf;
- (iv) "Rules" mean the Bar Council of Delhi Rules, 1963;
- (v) "Member" means the member of the Bar Council of Delhi;
- (vi) "Secretary" means the Secretary of the Bar Council of Delhi;
- (vii) "Quota" means the lowest value of votes sufficient to secure the right of a candidate;
- (viii) "Tribunal" means the Tribunal appointed under the rules to decide election disputes;
- (ix) "Voter" means an advocate whose name is entered on the roll of advocates prepared

and maintained by the Delhi Bar Council under Section 17 of the Advocates Act XXV of 1961.

Chapter II ELECTION TO THE BAR COUNCIL

1. Short Title and Commencement—These Rules shall be called the “Bar Council of the Delhi Election Rules, 1968” and they shall come into force from the date of their approval.

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

3. Interpretation—In these Rules, unless the context otherwise requires :

- (a) “Act” means the Advocates Act, 1961;
- (b) “Additional Solicitor General” means the 1st Additional Solicitor General of India;
- (c) “Bar Association” means a Bar Association included in the list kept by the Bar Council for the purpose of these rules;
- (d) “Bar Council” means the Bar Council for the State of Delhi;
- (e) “Casual Vacancy” means a vacancy that has been caused otherwise than by the expiry of the term of office of a member;
- (f) “Chairman” means the Chairman of the Bar Council of the State;
- (g) “Clear day” means that time is to be reckoned exclusive of both the first and the last days.

Illustration: The election of members to a State Bar Council is fixed for the 15th January, 1965. Under the rules of the Bar Council, ballot papers have to be despatched 10 clear days before the date of election. Consequently the last date for the despatch of ballot papers will be 4th January, 1965.

(h) “Continuing Candidate” means any candidate not elected and not excluded from the poll at any given time;

(i) “Court” means—

- (a) all the operations involved in the counting of the first preferences recorded for candidates, or
- (b) all the operations involved in the transfer of the surplus of an elected candidate, or
- (c) all the operations involved in the transfer of the total value of votes of an excluded candidate, or
- (d) all other operations involved in, incidental to, or necessary of the entire process of ascertainment of votes.

(j) “Electoral Roll” means and includes the roll containing the names of the Advocates prepared in accordance with the rules of the Bar Council of India in Part III, Chapter I.

(k) “Exhausted Paper” means a voting paper on which no further preference is recorded

for a continuing candidate and includes a voting paper on which,

- (a) the names of two or more candidates, whether continuing or not, are marked with the same figure and are next in order of preference, or
- (b) the name of the candidate next in order of preference whether continuing or not, is marked by a figure not following consecutively after some other figure on the voting paper or by two or more figures; or
- (c) there is such erasure, obliteration, erasure, or mutilation as to make any preferences other than the first preference ambiguous.

(k) “First Preference” means the figure ‘1’ set opposite the name of a candidate; “second preference” means the figure ‘2’ set opposite the name of a candidate; and “third preference” means the figure ‘3’ set opposite the name of a candidate, and so on;

(m) “Form” means a form prescribed under these rules;

(n) “Original Vote” in relation to any candidate, means a vote derive from a voting paper on which a first preference is recorded for such candidate;

(o) “Polling Officer” means a person appointed as such by the Returning Officer and includes the person appointed by the Returning Officer to assist the Polling Officer;

(p) “Returning Officer” means the person appointed by the Bar Council as such to conduct an election;

(q) “Surplus” means the number by which the value of the votes, original and transferred, of any candidate exceeds the quota;

(r) “Transferred vote” in relation to any candidate means a vote the value or part of the value of which is credited to such candidate and which is derived from a voting paper on which a second or a subsequent preference is recorded for such candidate;

(s) “Unexhausted Paper” means a voting paper on which a further preference is recorded for a continuing candidate;

(t) “Voter” means a person whose name is included in the Electoral Roll.

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

5. Method of Election—(i) Election to the Bar Council shall be by the single transferable vote by and amongst the voters in the electoral roll in accordance with these rules.

(ii) The voting shall be by personal ballot (except by voters who do not ordinarily practice at the seat of the High Court or the seat of any of the District Courts in the State who may vote by post).

Explanation: An advocate shall be deemed ordinarily to practise at the place which is given in his address in the electoral roll.

6. Notice of Election—(a) Notice of the time and place of election shall be given by publication over the signature of the Secretary, in one issue of a daily newspaper in the State not less than 45 clear days before the date of election. The notification shall specify *inter alia*:

- (i) the date for nominations;
- (ii) the date for scrutiny;
- (iii) the date for withdrawal of the candidature;
- (iv) the date or dates of polling;
- (v) (the last date on which the voting papers despatched by post should reach the Secretary) (not applicable),
- (vi) the date and place and time for counting of votes; and
- (vii) the minimum number of seats that should be filled from amongst advocates who on the relevant date will have been on the State roll for at least 10 years.

Provided that the last date for the filing of the nominations shall not be less than 25 clear days before the date of the election and that there shall be at least 5 clear days after the last date of the scrutiny for withdrawal of the candidature. Copies of the notices shall be affixed on the Notice Board of the Bar Council, and sent to the Additional Solicitor General and to the Bar Associations.

(b) Copies of the above notice shall be put up on the Notice Board of the Bar Council and sent to, (i) Bar Associations, (ii) the Addl. Solicitor General, and (iii) may also be sent to the Official Gazette of the State.

7. Candidates—No person shall be entitled to seek election unless his name is in the electoral roll.

7-A. No advocate shall be entered on the Electoral Roll if an information obtained by the Bar Council,

- (a) he has at any time been removed or suspended from practice; provided that this disqualification shall operate only for a period of five years from the date of removal or the expiry of the period of suspension;
- (b) he has been suspended from practice, provided that this disqualification shall operate only for a period of five years from the date of the expiry of the period of suspension;
- (c) he is an undischarged insolvent;
- (d) he has been found guilty of an election offence in regard to an election to the State Council by an Election Tribunal, provided, however, that such disqualification shall not operate beyond the election next following after such finding has been made;
- (e) he is convicted by a competent Court for an offence involving moral turpitude, provided that this disqualification shall cease to have effect after a period of two years has elapsed since his release;
- (f) he is in full-time service or is in such part-time business or other vocation not permitted in the case of practising advocates by the rules either of the State Council concerned or of the Council;
- (g) he has intimated voluntary suspension of practice and has not given intimation of resumption of practice.

8. Candidates how to be Proposed—(i) Every candidate for election as a member of the Bar Council shall be proposed by one voter, and seconded by another voter. The

nomination paper shall be delivered to the Secretary either personally or through an agent or sent by registered post so as to reach the Secretary on or before the date specified in the notification under Rule 6.

(ii) Every nomination paper shall be accompanied by a fee of Rs. 500.

9. Doubts to validity of proposals—The Secretary shall scrutinise the nomination papers received at the place and time notified under Rule 6, and if in his opinion any nomination paper is invalid he shall report the same to the Additional Solicitor General who shall decide the validity or otherwise of such nomination paper, and his decision shall be final. The candidates or their agents shall be entitled to be present both at the time of the scrutiny before the Secretary as well as before the Additional Solicitor General and make their submissions. No nomination paper shall be rejected except for a defect of a substantial character and the Additional Solicitor General may allow any defect to be rectified.

10. Withdrawal from Election—Any person whose name has been proposed as a candidate may withdraw his candidature by a communication in writing so as to reach the Secretary not later than the date specified for the purpose in the notification under Rule 6.

11. Declaration when number of candidates is equal to the number of seats—If the number of duly nominated candidates who have been on the State rolls for more than 10 years is less than or equal to the number required by the proviso to Section 3(2) (b) of the Act, they shall be declared elected.

The number thus elected shall be deemed to be the number required by the said proviso. If the number of such candidates is in excess of the required number but the number of all the nominated candidates does not exceed the total number to be elected, all the candidates shall be declared elected. In every other case there shall be a poll as prescribed by these rules.

12. Publication of list of candidates—(a) Not less than 20 clear days before the date fixed for elections, the Secretary shall publish the names of all the candidates validly nominated except the names of those who have withdrawn under Rule 10 as nearly as possible in Form 'B' on the Notice Board of the Bar Council.

(b) Copies thereof shall also be sent to the Addl. Solicitor General and to the Bar Associations.

13. Preparation of List of Voters—The Electoral Rolls containing the list of voters shall be prepared in accordance with the rules of the Bar Council of India.

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

15. Despatch of voting papers to persons permitted to sent their voting paper by post—(Not applicable).

16. Marking of voting papers received by post and despatch thereof—(Not applicable).

17. Voting in person—Vote required to vote in person under these rules shall cast their votes at the respective polling booth on the dates notified in this behalf.

18. Polling booths for voters voting in person—There may be one or more polling booths at each place, different dates may be fixed for polling at the different booths. Polling shall ordinarily be from 10 A.M. to 5 P.M. The Returning Officer shall appoint a sufficient number of polling officer for the booths, and may himself act as such at one or more of the booths. The Bar Council may give such general directions as it may consider necessary with regard to places where polling booths ought to be established and the persons to be appointed as Polling Officer.

19. Second voting paper not to be issued—When a voting paper has once been handed over to a voter or sent by registered post a voter under these rules, a second voting paper shall not be issued to him unless he satisfies the Secretary that the voting paper has been spoilt or mutilated or lost or destroyed or has not been received by him in which case a duplicate voting paper may be issued to him. (By post not applicable)

20. Despatch of voting papers to Polling Officers for voting in person—The Secretary shall send to the Polling Officers of the booths requisite number of voting papers and some additional voting papers bearing his facsimile with a covering letter stating the number of the papers sent and enclosing an extract from the electoral roll relating to the polling booths, and other papers, if any with necessary instructions.

21. Supply of voting papers to voters voting in person—The Polling Officer shall, on the date and at the time or hour fixed in this behalf, supply a voting paper to each voter in his polling booths, who applies in person therefor, and take his signature in the list of voters against the voter's name to signify the issue of the voting paper.

22. Procedure for person voting in person—(1) A voter who has received a voting paper under Rule 21 shall retire to a place screened from outside view and mark his preference in the manner prescribed. The voter shall then put it in a sealed box kept for the purpose.

(2) As soon as practicable after the closing of the poll the Polling Officer shall close the slit of the ballot box and where the box does not contain any mechanical device for closing the slit he shall seal up the slit and also allow any candidate or his agent present to affix his seal. The ballot box shall thereafter be sealed and secured.

(3) When it is necessary to use a second ballot box the first box shall be closed, sealed and secured as provided in sub-rule 2 before the second ballot box is put into use, the Polling Officer shall, at the close of the poll prepare an account of ballot papers in Form 'D' and enclose it in a separate cover with the words "Voting paper account" superscribed thereon.

(4) *Sealing of other packets*—The Polling Officer shall then make into separate packets:

- (a) The marked copy of the electoral roll;
- (b) The unused ballot papers;
- (c) The cancelled ballot papers;

(d) Any other paper directed by the Secretary to be kept in a sealed packet. Each packet shall be sealed with the seal of the Polling Officer and of the candidate or his agents present who may desire to affix their seal thereof.

(5) *Transmission of ballot boxes*—The Polling Officer shall then deliver to the Secretary at such place as he may direct or send by post or otherwise in any way as directed:

- (a) The ballot boxes containing the ballot papers,
- (b) Account of the ballot papers,
- (c) The sealed packets referred to in sub-rule (4) above, and
- (d) All other papers used at the poll.

23. Method of Voting—(1) A voter is giving his vote:

(a) shall place on his voting paper the figure ‘1’ in the space opposite the name of the candidate whom he chooses for his first preference, and

(b) may in addition place on his voting paper the figure ‘2’ or the figures ‘2’ and ‘3’ or the figures ‘2’, ‘3’ and ‘4’ and so on, in the space opposite the names of the other candidates in the order of his preference.

(2) A voting paper shall not be signed by a voter, and in the event of any erasures, obliterations or alterations in the voting paper or of the voting paper purporting to have been signed by the voter, the voting paper shall be deemed to have been defaced and no votes purporting to have been given thereby shall be taken into account for the purposes of the election.

(3) The decision of the Additional Solicitor General whether a voting paper has or has not been defaced shall be final.

24. Voting papers when invalid—A voting paper shall be invalid which:

- (a) the figure ‘1’ is not marked; or
- (b) the figure, ‘1’ is set opposite the name of more than one candidate or is so placed as to render it doubtful to which candidate it is intended to apply; or
- (c) the figure ‘1’ and some other figures are set opposite the name of the same candidate; or
- (d) there is any mark in writing by which the voter can be identified;
- (e) the preferences are indicated in words as ‘ONE’ ‘TWO’ etc.
- (f) the marking on the voting paper is not in the international form of Indian numerals.

25. Presence of candidate or his agent during counting—At the time of counting, the candidate or his agent shall be entitled to be present.

26. Arrangement of valid voting papers in parcels (Not applicable)

(a) On the day fixed for counting, the packets containing postal voting papers shall be handed over to the Returning Officer. The Returning Officer shall open all the ballot boxes and the packets containing postal voting papers. After rejecting the voting papers which are invalid or which cannot be taken into account for the purpose of election under these rules, the Returning Officer shall;

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

27. Ascertainment of Quota—Every voting paper shall be deemed to be of the value of one hundred, and quota sufficient to secure the return of a candidate at the election shall be determined as follows:

- (a) Add the value credited for a candidate under clause (d) of Rule 26;
- (b) Divide the total by a number which exceeds by one of the number of seats to be filled; and
- (c) Add one to the quotient, ignoring the remainder if any; the resulting number is the quota.

28. Candidates with Quota to be Elected—If at the end of any count, or at the end of the transfer of any parcel or sub-parcel of an excluded candidate, the value of voting papers credited to a candidate is equal to or greater than the quota that candidate shall be declared elected.

Provided that:

“(I) No candidate whose name has not been on the State Roll for at least 10 years shall be elected if:

- (i) 7 candidates of less than 10 years’ standing in the case of a State Council where 15 members are to be elected, or
- (ii) 10 candidates of less than 10 years’ standing in the case of a State council where 20 members are to be elected, or
- (iii) 12 candidates of less than 10 years’ standing in the case of a State Council where 25 members are to be elected, have already been declared elected.”

(II) If at the end of any count, there are two or more candidates, who have not been on the State Rolls for at least 10 years getting more than the quota as aforesaid but the number of candidates that can yet be elected from such category under the proviso to Section 3(2)(b) is less than that number, the candidate who has obtained the greater value of votes shall be declared elected in preference to the candidate whose value of votes is less.

(III) In the case of two or more persons of the category referred to in proviso (ii) above, getting the same value of votes at the end of any Court, the Returning Officer conducting the election shall decide by lot which of such persons shall be declared elected.

(IV) The other candidate or candidates not declared as aforesaid by reason of the proviso to Section 3(2)(b) of the Act and these rules shall be excluded from the poll.

29. Transfer of surplus—(i) If after exclusion of any candidate under Rule 30 at the end of any count, the value of the voting paper credited to a candidate is greater than the quota, the surplus shall transferred in accordance with the provisions of this rule to the continuing candidates indicated on the voting papers of that candidate as being next in order of the voter’s preference.

(ii) If more than one candidate have a surplus, the surplus shall be dealt with first and the

others in order of magnitude;

Provided that

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

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

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

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

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

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

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

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

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

30. Exclusion of candidates—The Returning Officer conducting the elections shall exclude from the poll candidates as provided in rules.

31.(A) Filling of last vacancies—(i) In case of the verdict of the Tribunal being that a candidate was not validly elected, the vacancy thus caused shall be filled in by the candidate who secured the maximum First Preference Votes amongst the unsuccessful candidates.

(ii) Any vacancy caused in the Council because of the resignation, death or retirement, in any manner, of a member before his term of office has come to an end, shall be treated as

casual vacancy and shall be filled in by co-option.

(iii) A member co-opted to fill a casual vacancy shall serve for the remainder of his predecessor's term of office.

(B) Any member of the Bar Council who fails to attend three consecutive meetings or any of its Committees, without previous leave of absence obtained in writing from the Chairman, shall be deemed to have vacated and to have caused a casual vacancy.

32. Fractions etc. to be Disregarded—In carrying out of the provisions of Rules 28 to 31, the Returning Officer shall disregard all fractions and ignore all preference, recorded for candidates already elected or excluded from the poll.

33. Determination of result and publication thereof—(1) Upon completion of the count, a list of the candidates elected to the Bar Council shall be prepared and signed by the Returning Officer and submitted by him to the Additional Solicitor General or the Chairman of the Bar Council who shall verify the same by his signature.

(2) After such certificate, a copy of the list shall be published in the Official Gazette and shall also be sent to the Additional Solicitor General and to the Bar Association to be affixed as they may direct, and may also be sent to other similar associations. A copy of the same shall also be put up on the Notice Board of the Bar Council.

(3) On the publication of the list in the Official Gazette the persons whose names appear in the list shall be deemed to have been declared as elected. The members of the Bar Council shall be deemed to have been elected on the date of publications of their names in the Official Gazette.

34. Disputes as to the validity of elections—(1) Any voter may contest the validity of the election of a candidate declared to have been elected to the Bar Council by a petition signed by him and supported by an affidavit and delivered to the Secretary personally or sent by registered post so as to reach him within 15 days from the date of publications of the results of the election.

(2) The petition shall be accompanied by a fee of Rs. 250/- which shall be paid in cash or sent by Money Order. In case it is sent by M.O. The M.O. receipt shall also be attached to the petition. The fee shall not refundable.

(3) Such petition shall include as respondents all the contesting candidates, and the petition shall be accompanied by as many copies as there are respondents.

(4) All disputes arising under the above sub-rule shall be decided by a tribunal to be known as an Election Tribunal comprising 3 advocates whose names are on the State Roll and who are not less than of 10 years' standing.

(5) The Election Tribunal shall be appointed by the Bar Council on or before the date on which time of the election is fixed under Rule 4.

(6) The Election Tribunal shall have all or any of the following powers:

(i) To dismiss a petition;

(ii) To order recount;

(iii) To declare any candidate to have been duly elected on a recount;

(iv) To set aside the election of the candidate who either by himself or through any other

person acting with his consent is guilty of corrupt practices.

The following shall be deemed to be corrupt practices for the purposes of this Act:

(1) 'Bribery' that is to say—

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

For the purpose of this clause the terms 'Gratification' is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward.

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

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

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

Attempt to secure from any voter his ballot paper with intent to prevent him from transmitting it directly or with intent to ensure that the vote has been cast or is to be cast for a particular candidate shall be deemed to interfere with the free exercise of the electoral right of the said voter.

(3) The hiring or procuring, whether on payment or otherwise of any vehicle or vessel or the use of such vehicle or vessel for the free conveyance of any elector to or from any Polling Station.

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

vacancy.

(v) In other cases to declare a vacancy to be filled up as a casual vacancy.

(vi) To make an order as to costs.

(7) The trial of an election petition shall as far as possible be governed by the Civil Procedure Code.

(8) No petition shall lie on the ground that any nomination paper was wrongly rejected or the name of any voter was wrongly included in or omitted from the electoral roll or any error or irregularity which is not of a substantial character.

(9) The voting papers and other records relating to the elections shall not be destroyed until the expiry of the time fixed or filing of any petition under Clause 1 of this rule.

(10) In case where a petition or petitions have been filed under sub-rule (1) no such voting papers or records shall be destroyed till all the election petitions are finally disposed off.

35. Conduct of elections—Except as otherwise provided in these rules the Secretary shall be incharge of the conduct of the election.

Explanation—For the purposes of these rules, the ‘Secretary’ shall mean a person appointed as Secretary under Section 7 of the Act, or any other person appointed by the Bar Council to perform the duties of the Secretary under these rules.

THE BAR COUNCIL OF DELHI
FORM A
(Under Rule 8)
Nomination Paper, for election to the Bar Council of DELHI

To

The Secretary, Bar Council of DELHI

Sir,

We nominate an advocate on the roll of the Bar Council of DELHI enrolled on practicing at as a candidate for election to the Bar Council of DELHI to be held on

(1) Name

Address

Number in the Electoral Roll Date

Signature

and

(2) Name

Address

Number in the Electoral Roll Date

Signature

I am willing to serve on the Bar Council, if elected.

Name and Address of Signature of the Candidate
the Candidate : Number in the

Electoral Roll

Date Enrolled on

Chapter III
ELECTION OF THE CHAIRMAN AND VICE-CHAIRMAN

36. Immediately after the election is notified in the Official Gazette the Election Committee shall convene a meeting of the Council for the purpose of electing a Chairman and a Vice-Chairman from amongst its members. Nominations for a candidate for election to the office of Chairman or Vice-Chairman shall be made in writing by two members and consented to by the candidate and sent to the Secretary as to reach him not less than seven days before the date of such election.

36-A. “The Chairman, Vice-Chairman and a member of any of the Committee of the Bar Council can be removed from office or membership of the Committee, in pursuance of a resolution of no-confidence passed against him by two-third of the members taking part in the voting; subject to the condition that at least 8 members must support the no-confidence motion.

Provided that a resolution of no-confidence shall be moved and passed by the Bar Council only in an extra-ordinary meeting requisitioned for the purpose by not less than 9 members.

36-B. In case a candidate nominated for election to the office of Chairman or Vice-Chairman wishes to withdraw his candidature, a letter duly signed in that behalf must reach the office of the Council not less than four days from the date of such election.

36-C. The Election Committee shall publish a list of candidates three days prior to the date of such election continuing the names of candidates who have been validly nominated.

36-D. If there be only one candidate each for the office of Chairman and Vice-Chairman, such a candidate shall be declared to have been duly elected.

37. The election shall be by secret ballot. The ballot papers in the prescribed form for the election shall be handed over to each member at the time of election who will then vote by putting a mark against the name of the candidate of his choice in the ballot paper. The candidate polling the largest number shall be declared to have been elected. In case of tie, it shall be decided by lot and the successful candidate shall be declared to have been duly elected.

37-A. Term of the office of Chairman and the Vice-Chairman—The Chairman and the Vice-Chairman shall hold the office for two years from the date of election. Provided however the outgoing Chairman or the Vice-Chairman as the case may be, shall continue to function until the election of his successor takes place.

38. The validity of election of the Chairman and Vice-Chairman may be questioned by a member by a letter addressed to the Tribunal setting out grounds therefor so as to reach it

not later than five days of such election. In case the election of the Chairman or the Vice-Chairman is declared invalid, the Election Committee shall hold fresh election in the manner prescribed hereinbefore.

Chapter IV
POWERS AND DUTIES OF CHAIRMAN AND VICE-CHAIRMAN

- 39.** The Chairman shall preside over the meeting of the Council.
- 40.** The Chairman shall have the power to sanction expenditure in case of emergency up to Rs. 500.
- 41.** The Chairman and Vice-Chairman shall have the right to attend meetings of any of the committees of the Council and when so attending such a meeting, they shall be considered as ex-officio members of that committee. The Chairman shall have the power to convene a meeting of any of the committees of the Council and place for the consideration of such a committee an agenda that he may deem expedient to be considered.
- 42.** Whenever immediate action is necessary to safeguard the rights, privileges and interests of the advocates, the Chairman shall take immediate action in the matter.
- 43.** The Vice-Chairman shall perform all the duties of the Chairman in his absence and shall have the same powers as those of the Chairman when acting in that behalf.

Chapter V
COMMITTEES

- 44.** The Council shall constitute the following committees to transact its business:
- (i) Executive Committee;
 - (ii) Disciplinary Committee or Committees;
 - (iii) Enrolment Committee;
 - (iv) Election Committee;
 - (v) Education and Examination Committee;
 - (vi) Rules Committee;
 - (vii) Tribunal for deciding Election Disputes; and
 - (viii) Any other *ad hoc* committee that may be constituted from time to time for any particular purpose not assigned to any other committee hereinbefore.
- 45.** The committees referred to in Rule 44 shall be constituted as soon as possible.
- 46.** The elections to the committees shall be held by ballot in the manner provided for the election of Chairman, and every member of the Council shall have as many votes as there are members to be elected to each committee and no member shall cast more than one vote in favour of one candidate for a committee.
- 47.** In case of tie between two or more candidates for election to a committee, lots shall be drawn and the result declared accordingly.

47-A. The term of the Committees constituted shall be for a period of two years from the date of election.

48. A committee, other than an *ad hoc* committee, shall continue to be in existence until a new committee has been constituted in its place.

49. Each committee shall elect a Chairman from amongst its members who will preside over its meetings and direct the transaction of its business, except when the Chairman or the Vice-Chairman is a member or attends the meeting as an ex-officio member, the Chairman or the Vice-Chairman, as the case may be, shall preside over the meeting or meetings of the Committee.

50. Upon a member ceasing to be a member of a Committee by death, resignation, retirement or for any reason, the vacancy thus caused shall be filled in by the Council in the manner provided hereinbefore. The term of office of a member elected to fill a casual vacancy thus caused shall not extend to a period beyond the term of office of his predecessor.

Chapter VI

51. The Council shall meet at least once every two months.

52. At least seven days notice in writing, along with the agenda proposed to be considered at a meeting of the Council, shall be given to the members for holding an ordinary meeting.

53. The agenda for an ordinary meeting of the Council shall be settled by the Secretary in consultation with the Chairman.

54. An extraordinary meeting of the Council shall be convened if a requisition in writing by not less than seven members of the Council is lodged with the Secretary. The Secretary shall circulate the requisition among the members along with the agenda proposed in the requisition and shall call the meeting on three days notice.

55. Seven members shall constitute the quorum for the meeting of the Council.

56. The Council shall decide all matters by show of hands. Each member shall have one vote and in the event the votes cast are equal, the Chairman shall have a casting vote.

⁵[Part L

RULES FRAMED BY THE HIGH COURT OF DELHI UNDER SECTION 16(2) OF THE ADVOCATES ACT, 1961 FOR DESIGNATING AN ADVOCATE AS SENIOR ADVOCATE

(1) Short title, extent and commencement: -

(i) These rules shall be called 'The High Court of Delhi Designation of

5. New Part L inserted vide Notification No. 201/Rules/DHC dated 28.10.1993, further complete Part L substituted vide Notification No. 116/Rules/DHC dated 01.11.1999, further complete Part L substituted vide Notification No.153/Rules/DHC dated 29.3.2004 and amended vide Notifications No.153/Rules/DHC dated 20.7.2005, No.167/Rules/DHC dated 13.5.2009, further complete Part L substituted vide Notification No.529/Rules/DHC dated 14.12.2012 and further complete Part L substituted vide Notification No.295/Rules/DHC dated 13.03.2019.

Senior Advocate Rules, 2018’.

(ii) These Rules shall extend to the entire jurisdiction of the High Court of Delhi at New Delhi.

(iii) These Rules shall come into force from the date of their publication in the Delhi Gazette.

(2) **Definitions:-** In these Rules, unless the context otherwise requires:

(i) “Advocate” means an Advocate who is duly registered with the Bar Council of Delhi constituted under the Advocates Act, 1961.

(ii) “Committee” means the “Committee for Designation of Senior Advocates” as constituted under Rule 3 of these Rules;

(iii) “High Court” means the High Court of Delhi

(iv) “Full Court” means all the Judges of the High Court present

(v) “Registrar General” means the Registrar General of the High Court

(vi) “Secretariat” means the Secretariat established by the Chief Justice of the High Court under Rule 4 of these Rules.

(3) **Committee:-** All matters relating to designation of Senior Advocates by the High Court of Delhi shall be dealt with by a Committee – “Committee for Designation of Senior Advocates” comprising of the following members:-

(i) Hon’ble the Chief Justice – Chairperson of the Committee

(ii) Two Senior most Judges of the High Court

(iii) Additional Solicitor General of India for the High Court

(iv) To be nominated by the Administrative Committee of the High Court out of the names of three Senior Advocates given by the Government of NCT of Delhi

(v) Member of the Bar nominated by the above

(4) **Secretariat:-**

(i) There shall be a Secretariat of the Committee, composition of which will be as directed by Hon’ble the Chief Justice in consultation with the other members of the Committee.

(ii) The Committee may issue such directions from time to time as deemed necessary regarding functioning of the Secretariat, including the manner in which, and the source/s from which, the necessary data and information with regard to designation of Senior Advocates are to be collected, compiled and presented.

(5) **Eligibility Conditions:** No person shall be eligible for being designated as Senior Advocate unless he / she -

(i) has practiced as an Advocate at the Bar for not less than 10 years;

(ii) is enrolled with a Bar Council constituted under the Advocates Act, 1961;

(iii) has been mainly practising in the High Court of Delhi and the Courts Subordinate to it; and

(iv) has appeared and argued cases or provided legal services pro-bono.

Explanation: The eligibility condition with regard to minimum standing as a practising Advocate shall not apply to retired Judicial Officers of Delhi or those who have resigned having service and / or practice of 10 years at their credit and retired High Court Judges.

(6) **Canvassing:** Canvassing by a nominee for designation as a Senior Advocate shall disqualify him for being so designated.

(7) ⁶**Procedure for designation of an Advocate as Senior Advocate.** An advocate may be considered by the High Court for being designated as Senior Advocate either (A) Suo Motu by the High Court or (B) on an application by an Advocate.

(A) Procedure Suo Motu:

(i) An Advocate who fulfils the eligibility conditions prescribed hereinbefore, may be considered suo moto by the High Court for being designated as a Senior Advocate either on the written proposal of a Judge of the High Court or of Hon'ble the Chief Justice of the High Court.

(ii) Such written proposal of a Judge or of Hon'ble the Chief Justice shall be sent to the Registrar General who shall forward it to the Secretariat after obtaining a consent-cum-personal information sheet (**Annexure-A to these Rules**) duly filled in and signed by the Advocate concerned.

(B) Procedure on application by an Advocate:

Any Advocate who fulfils the eligibility conditions prescribed hereinbefore may submit a written application for being designated as Senior Advocate to the Registrar General who shall forward it to the Secretariat after obtaining a consent-cum-personal information sheet (**Annexure-A to these Rules**) duly filled in and signed by the Advocate concerned.]

(8) **Compilation of Data by the Secretariat:** On receipt of all proposals including written proposals by the Judges for designation of an Advocate as Senior Advocate, the Secretariat shall:-

(i) Publish on the official website of the High Court the proposal for designation of the particular Advocate as Senior Advocate for inviting suggestions / views of other stakeholders in his / her proposed designation within four weeks of such publication on the website of the High Court or such other period as may be prescribed by the Committee;

(ii) Collect data and information of the Advocate(s) concerned regarding his / her:-

- (a) Reputation, conduct and integrity;
- (b) Participation in pro-bono work;
- (c) Number of reported judgments in which the Advocate(s) concerned appeared for the last five years preceding the proposal for designation; and

⁶ Substituted vide Notification No. 679/Rules/DHC dated 20.08.2019

(d) Such other information about the Advocate(s) concerned as may be specifically directed by the Committee; and

(iii) On receipt of suggestions / views under sub-rule (i) and collection of data and information under sub-rule (ii), the Secretariat shall compile a database of the Advocate(s) concerned and put up the same before the Committee

(9) Assessment by the Committee:- The Committee shall examine each proposal for designation of an Advocate as Senior Advocate in the light of the data compiled by the Secretariat and shall also interview the concerned Advocate. The Committee shall then make its overall assessment of the concerned Advocate on the basis of the following point based format:-

S. No.	Matter	Points
1.	Number of years of practice of the Applicant Advocate from the date of enrolment. [10 points for 10-20 years of practice; 20 points for practice beyond 20 years]	20 points
2.	Judgments (Reported and unreported) which indicate the legal formulations advanced by the concerned Advocate in the course of the proceedings of the case; pro bono work done by the concerned Advocate; Domain Expertise in Specialized Areas of law	40 points
3.	Publications by the Applicant Advocate	15 points
4.	Test of Personality & Suitability on the basis of interview/interaction	25 Points

(10) Full Court:

(i) After the overall assessment by the Committee, all the names listed before it will be submitted to the Full Court along with its Assessment Report. Ordinarily, the Full Court may not resort to voting by secret ballot, except when unavoidable.

(ii) In the event of resort to secret ballot, decisions of the Full Court will be carried by a majority of the Judges who have chosen to exercise their preference / choice, where at least two-thirds of the total strength of the sitting Judges have cast their ballot, irrespective of the Judge casting ballot being present or not in the Full Court meeting.

(iii) The Full Court shall not be required to record reasons for its decision(s).

(11) Designation of Advocates as Senior Advocates by the Chief Justice:-

(i) On the approval of the name of the Advocate(s) by the Full Court, the Chief Justice shall designate such an Advocate as a Senior Advocate under Section 16 (2) of the Advocates' Act, 1961.

(ii) The Registrar General shall notify the designation to the Secretary General of the Supreme Court of India, the Bar Council of Delhi, Bar Council of India and also to all the District and Sessions Judges subordinate to the High Court.

(iii) A record of the proceedings of the Committee and the record received from the Full Court in this regard shall be maintained by the Secretariat for reference.

(12) Review / Reconsideration:

(i) If a proposal for designation as Senior Advocate is not favourably considered by the Full Court, the Advocate(s) concerned would be ineligible for being recommended for designation as a Senior Advocate for a period of two years from the date of such decision and intimation thereof being sent to the proposers and the Advocate(s) concerned.

(ii) The decision of the Full Court in respect of the Advocate(s) concerned may thereafter be reviewed / reconsidered by following the procedure prescribed above, as if the proposal is being considered afresh.

(13) Recall of Designation:

(i) In the event a Senior Advocate is guilty of conduct which according to the Full Court disentitles the Senior Advocate concerned to continue to be worthy of the designation the Full Court may review its decision to designate the concerned person and recall the same.

(ii) The procedure for recall shall be the same as provided under sub-rule (ii) of Rule 10.

(iii) The Registrar General shall notify the decision of recall in the same manner as provided for in Rule 11.

(14) Repeal and Saving: The Rules framed by the High Court vide notification no. 529/Rules/DHC dated 14.12.2012 for designating an Advocate as Senior Advocate are hereby repealed. However, this repeal shall not, by itself, invalidate the actions taken under the repealed rules / guidelines.

ANNEXURE – 'A'

PROFORMA OF BIO- DATA, CONSENT AND UNDERTAKING

SL NO.	PARTICULARS	
1.	Name:	
2.	Father's/Husband's Name:	
3.	Address with Contact Number and E-Mail address:	
4.	Date of birth:	
5.	Qualification:	
6.	No. and date of enrolment as an Advocate and where enrolled:	
7.	Date from which continuously practising and place where practising :	
8.	If a former member of the State Judicial Service, length of such service and the experience at the Bar:	
9.	Fields of specialty in branches of law:	
10.	Particulars of important matters involving questions of law in which appeared in the last five years, and particulars of citations of reported cases during this period	
11.	Particulars of cases in which appeared as arguing Counsel on behalf of other Advocates (not being from own chamber / office) during the preceding three years and the names and particulars of the Advocates on whose behalf appeared	
12.	Particulars of articles, if any published in any journal or publication or books if any authored	

13.	Whether associated with any Faculty of Law of any University / College, if yes provide particulars	
14.	Particulars of cases in which appeared pro-bono and / or free legal aid given (where available, enclose orders)	
15.	Whether involved in any disciplinary proceedings before Bar Council of India, Bar Council of Delhi or Bar Council of any other state. If so the particulars / result / stage of the proceedings	
16.	Whether personally involved in any contempt proceedings	
17.	Whether any remark has ever been passed against him / her in any order / judgment by any Court of Law	
18.	Any other information which the learned Advocate may like to furnish.	
19.	Whether considered for designation as Senior Advocate by the Delhi High Court or any other High Court or Supreme Court at any time and also within one year prior to the date of proposal/consent (Also state if proposal pending with any Court):	

Note : Separate sheet can be used for providing answers to the aforesaid questions, if the space in this proforma is considered insufficient.

CONSENT

I _____, Advocate, do hereby consent to be designated as a Senior Advocate in terms of Section 16(2) of the Advocates Act, 1961 and agree and undertake to abide by all laws, rules, regulations, norms and guidelines as are in force for the time being, or which may be prescribed hereafter for this purpose.

UNDERTAKING

I undertake that upon designation as Senior Advocate, I shall appear and argue pro-bono cases as assigned to me by any Authority under the Legal Services Authorities Act, 1987.

PLACE:

DATE:

SIGNATURE