

Bar Council of Uttar Pradesh (Constitution and Conduct of Business) Rules, 1963

In exercise of the powers conferred by sub-section (1) and clauses (a), (c), (d), (f), (g) and (h) of sub-section (2), Section 15 of the Advocates Act, 1961 (Act No. XXV of 1961), the Bar Council of Uttar Pradesh after obtaining the approval of the Bar Council of India as required by Section 15 (3) of the said Act, makes the following rules:

Part I

CHAPTER I

1. Short title. - (i) These rules may be called "The Bar Council of Uttar Pradesh (Constitution and Conduct of Business) Rules, 1963.

(ii) These rules shall come into force after approval by the Bar Council of India on the date of their publication in the *Uttar Pradesh Gazette*.

2. Definitions. - In this part unless the context otherwise requires,-

(i) "**Act**" means the Advocates Act, 1961;

(ii) "**Advocate-General**" means the Advocate-General for the State of Uttar Pradesh;

(iii) "**Association**" means any association of legal practitioners entitled to practise in the High Court or in any civil, criminal or revenue court, registered as such association with the Bar Council on an application made to it in that behalf containing the names of its advocate members;

(iv) "**Bar Council**" means the Bar Council for the State of Uttar Pradesh constituted under the Act;

(v) "**Candidate**" means a person qualified to seek election to the Bar Council, who has been duly nominated in accordance with these rules;

(vi) "**Chairman**" means the Chairman of the Bar Council;

(vii) "**Vice-Chairman**" means the Vice-Chairman of the Bar Council;

(viii) "**Committee**" means a committee constituted under the Act or the Rules;

(ix) "*Continuing candidate*" means a person not elected and not excluded at any given time during the counting;

(x) "*Count*" means-

(a) all the operations involved in the counting of the first preference recorded for a candidate, 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;

(xi) "*Enrolment number*" means the number at which the name of an Advocate is entered in the roll of Advocates maintained by the Bar Council;

(xii) "*Exhausted Paper*" means a voting paper on which no further preference is recorded for a continuing candidate, and includes a young paper on which-

(a) the names of two or more candidates whether continuing or not, are written with the same number in words 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 the number in words not following consecutively after some other number in words on the voting paper or by two or more numbers in words

(xiii) "*First Preference*", "*Second Preference*," "*Third Preference*" and so on shall mean and be indicated respectively by the words "first" or "one", "second" or "two", "third" or "three," *etc.* written opposite the name of a candidate on the voting paper;

(xiv) "*High Court*" means the High Court of Judicature at Allahabad;

(xv) "*Member*" means a member of the Bar Council of Uttar Pradesh;

(xvi) "*Original vote*" in relation to any candidate, means a vote derived from a voting paper on which a first preference is recorded for such candidate;

(xvii) "*President*" means the President of an Association;

(xvii-a) "*Polling Officer*" means a person appointed as such by the Returning Officer,

(xviii) "*Quota*" means the lowest value of votes sufficient to secure the return of a candidate;

(xix) "*Returning Officer*" means a person appointed by the Bar Council for conducting an election;

(xx) "*Surplus*" means the number by which the value of the votes of any candidate, original or transferred exceeds the quota;

(xxi) "*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;

(xxii) "*Unexhausted Paper*" means a voting paper on which a further preference is recorded for a continuing candidate;

(xxiii) "*Voter*" means an Advocate whose name is entered on the roll of Advocates prepared under Section 17 of the Act;

(xxiv) "*Secretary*" means the Secretary of the Bar Council or any other person appointed by the Bar Council to perform the duties of the Secretary howsoever designated and shall include any person so appointed under the rules.

CHAPTER II

1. Time and place of election. - Election of the members of the Bar Council shall be held at such place and on such day or days and during such hours as fixed for polling by the Bar Council.

2. Notice of election. - (1) Notice of the time and place of nomination, scrutiny, withdrawal and declaration of result shall be given by publication in the *Uttar Pradesh Gazette*, and in such other manner as may be considered proper by the Bar Council over the signature of the Secretary on or before a date fixed by the Bar Council.

(2) Copies of such notice shall also be sent to the Advocate-General, the President of the High Court Bar Association, Allahabad, Avadh Bar Association, Lucknow and the Presidents of the other Associations of the State for being affixed on such notice board or at such other places as they may direct.

3. Nomination. - (i) Every candidate for election as a member of the Bar Council shall be proposed under the signature of a voter on Form No. 1, prescribed by the Bar Council, which shall be delivered to the Secretary by the proposer or the candidate, personally or sent per post or by messenger so as to reach the Secretary on or before the date fixed for nomination. Such proposal shall further contain the acceptance of the

candidates to serve on the council. A voter shall not be entitled to propose more candidates than the number of seats to be filled in.

(ii) Such nomination shall be accompanied by a deposit of Rs. 100 (Rupees one hundred) only, and this deposit shall be made to the Secretary in cash or Bank-Draft or by M.O.:

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

(iii) The amount of deposit shall be non-refundable and shall be credited to the fund created under Section 15(2) (b) of the Act, except in cases of-

- (a) withdrawal of candidates within the prescribed time; or
- (b) if the nomination of a candidate is rejected; or
- (c) if a candidate dies before the commencement of the poll.

4. (i) The Bar Council shall appoint a Returning Officer for conducting an election who gives a declaration that he shall not be a candidate on such remuneration as the Bar Council may deem fit.

(ii) On receipt of a nomination paper, the Secretary shall examine and if he finds any defect therein he shall notify the same to the candidate who may thereupon submit another proposal within the time prescribed by Rule 2.

(iii) The Secretary shall place all the nomination papers before the Returning Officer on the date and at the time and place fixed by the Bar Council for final scrutiny.

(iv) All objections regarding the validity of a nomination raised before the Returning Officer on the date of the final scrutiny shall be decided by him and his decision shall be final subject to any decision by the tribunal if the election of a member is questioned under Chapter IV.

5. Withdrawal from election. - Any person whose name has been proposed as a candidate may withdraw his name by communication in writing in the prescribed form to the Secretary on or before the date fixed for withdrawal. The name of the candidate so withdrawing shall be omitted from the list of voting paper.

6. Declaration when No. 1 of candidates equal to No. of seats. - When the number of candidates duly nominated is equal to the number of seats to be filled, the Returning Officer shall declare the candidates as having been duly elected.

7. Publication of list of candidates. - A week after the date of withdrawal fixed by the Bar Council, the Secretary shall cause a list of the name of all the candidates duly nominated to be pasted on the notice board of the Bar Council and shall send at least five copies thereof to the Presidents of each Association in the State to be affixed at such places as they may direct and shall also cause it to be published in the Uttar Pradesh Gazette and newspapers.

8. Preparation of list of voters. - The Secretary shall-

(i) prepare and maintain a list of voters separately for each district consisting of the names and enrolment numbers of all the practising Advocates, whose names are entered and maintained under Section 17 of the Act along with their respective addresses;

(ii) upon the application of any such voter received before the despatch of Ballot Papers his address may be altered in the manner specified in the application.

9. Despatch of voting papers to Mofussil voters. - (a) The Returning Officer shall appoint a Polling Officer for each district in the State.

(b) The Returning Officer shall send to the Polling Officer of each district sufficient number of voting papers for the voters residing within that district so as to reach him at least one week before the date of election.

(c) The Returning Officer shall fix a place or places in a district as he thinks fit and proper, for the casting of the votes.

(d) The Polling Officer shall deliver to each voter the voting paper contained in an envelope and take his signature on the list of voters against the voter's name signifying receipt of voting paper.

(e) The voter shall then and there retire to a place screened from outside view and mark his preference as directed on the voting papers following the instructions supplied separately and thereafter hand over the voting paper to the Polling Officer after closing the envelope and signing on the envelope at the place indicated. The Polling Officer shall then attest it and seal the envelope with the seal supplied to him by the Bar Council.

(f) The Polling Officer shall keep the voting papers in a big cloth lined envelope to be supplied to him by the Returning Officer, and after the close of the date of voting he shall seal the big envelope consisting of the voting papers and send it by the next post per registered insured parcel.

(g) The Returning Officer, on receipt of such packets shall open them and place the envelopes containing the voting papers in a sealed box.

10. A voter who has his permanent place of residence outside the U.P. State shall be entitled to cast his vote either before the Polling Officer at Allahabad or at Lucknow, or in the district of his choice of which he shall send information to the Secretary at least 10 days before the date of polling.

11. Elections and all matters relating thereto for which provision is made in these rules shall be conducted by the Returning Officer and the Returning Officer, may appoint any person to assist him in the conduct, thereof on such remuneration as may be previously sanctioned by the Bar Council.

12. On the day or days and at the time and place appointed for the election, a voting paper contained in an envelope bearing the names of all the candidates duly proposed and stating the number of members to be elected shall be handed over by the Polling Officer to each voter.

13. When a voting paper has been handed over to a voter under Rule 12 a second voting paper shall not be issued to the voter unless he satisfies the Polling Officer that his voting paper has been spoilt or mutilated or defaced in which case a duplicate voting paper may be issued to him.

14. Method of voting. - (1) Every voter shall have only one vote at the election irrespective of the number of seats to be filled.

(2) A voter in giving his vote-

(a) shall place on his voting paper the word "one" or "first" in the space opposite the name of the candidate whom he chooses for his first preference; and

(b) may place on his voting paper the word "Two" or "second" or the word "Three" or "third" and "Four" or "fourth" and so on, in the space opposite the names of the other candidates in the order of his preference.

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

(4) The decision of the Polling Officer as to whether a voting paper has or has not been defaced shall be final.

15. Return of voting paper. - A voter to show a voting paper has been supplied by the Polling Officer shall after voting personally return to him the voting paper in the enclosed envelope supplied to him and the Polling Officer shall then place it in the big envelope referred to in sub-rule (f) of Rule 9.

16. Voting paper when invalid. - A voting paper shall be invalid on which-

- (a) the word "one" or "first" is not written; or
- (b) the word "one" or "first" is set opposite the name of more than one candidate or is so written as to render it doubtful to which candidate it is intended to apply; or
- (c) the word "one" or "first" and other preferences such as "two" or "second" and "three" or "third" and so on are set opposite the name of the same candidate; or
- (d) there is any other mark in writing by which the voter can be identified.

17. Arrangement of valid voting papers in parcels. - After rejecting the voting papers which are invalid or which cannot be taken into account for the purposes of the election under these rules, the Returning Officer shall place them in a separate sealed cover along with a list thereof signed by him, and thereafter-

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

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

- (a) add the values credited for candidates under clause (c) of Rule 17;
- (b) divide the total by a number which exceeds by one 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.

Total number of valid votes polled	+ 1
Number of seats + 1	

19. Candidate with quota 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 paper

credited to that candidate is equal to or greater than the quota that candidate shall be declared elected.

20. Transfer of surplus. - (1) If at the end of any count, the value of the voting paper credited to a candidate is greater than the quota, the surplus shall be 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 voter's preference.

(2) If more than one candidate have a surplus the largest 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.

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

(4) (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 preferences 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 candidate 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.

(5) If the surplus of any candidate to be transferred arises from transferred as well as original votes, 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 preference recorded thereon, and then deal with the sub-paragraph in the same manner as is provided in the case of sub-parcels referred to in sub-rule (4).

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

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

21. Exclusion of candidates lowest on the poll. - (1) If, after all surpluses have been transferred as hereinbefore provided, the number of candidates elected is less than the required number, the Returning Officer shall exclude from the poll the candidate lowest on the poll and shall distribute his unexhausted papers among the continuing candidates according to the next preferences recorded thereon and all exhausted papers shall be set apart as finally dealt with.

(2) The papers containing original votes of an excluded candidate shall first be transferred, the transfer value of each paper being one hundred.

(3) The papers containing transferred votes of an excluded candidate shall then be transferred in the order of the transfers in which, and at the value at which, he obtained them.

(4) Each of such transfers shall be deemed to be a separate transfer, but not a separate count.

(5) If, as a result of the transfer of papers, the value of votes obtained by a candidate is equal to or greater than the quota, the count then proceeding shall be completed, but no further papers shall be transferred to him.

(6) The process directed by this rule shall be repeated on the successive exclusions one after another of the candidates lowest on the poll until such seat is filled either by the election of a candidate with the quota of as hereinafter provided.

(7) If at any time it becomes necessary to exclude a candidate and two or more candidates have the same value or votes and are the lowest on the poll, regard shall be had to the original votes of each candidate and the candidate for whom fewest original votes are recorded; and if the values of their original votes are equal, the candidate with the smallest value at the earliest count at which these candidates had unequal values shall be excluded.

(8) If two or more candidates are lowest on the poll and each has the same value of votes at all counts, the Returning Officer shall decide by lot which candidate shall be excluded.

22. Filling last vacancies. - (1) When at the end of any count the number of continuing candidate is reduced to the number of seats remaining unfilled, the continuing candidates shall be declared elected.

(2) When at the end of any count only one seat remains unfilled and the value of the papers of some one candidate exceeds the total value of the papers of all the other

continuing candidates together with any surplus not transferred that candidate shall be declared elected.

(3) When at the end of any count only one seat remains unfilled, and there are only two continuing candidates and each of them has the same value of votes and no surplus papers can be transferred, the Returning Officer shall decide by lot which of them shall be excluded, and after excluding him in the manner aforesaid declared the other candidate to be elected.

23. Fraction to be disregarded. -In carrying out the provisions of Rules 19 to 21 the Returning Officer shall disregard all fractions and ignore all preferences recorded for candidates already elected or excluded from the poll.

24. Determination of result and publication thereof. - (i) Immediately upon the completion of count, a list of the candidates elected to the Bar Council shall be prepared, signed and certified by the R.O. and sent by him to the Secretary.

(ii) The Returning Office shall place all the valid voting papers in a sealed parcel or parcels.

(iii) After such certificate the Secretary shall cause the name of successful candidates to be published in the Gazette and in such newspapers as the Bar Council may select.

The Secretary shall also send a list of successful candidates to the Advocate-General, to the Presidents of all the associations in the State referred to hereinbefore, and to the successful candidates.

(iv) On the publication of the list in the Uttar Pradesh Gazette, the persons whose names appear in the list shall be deemed to have been declared as elected.

25. At the expiry of twenty-one days from the date of publication aforesaid of the list, the election shall be final and the voting papers shall be destroyed:

Provided that where the validity of an election has been challenged as provided in Chapter IV the voting papers shall be preserved and dealt with as the authority specified in Rule 1 (iii) of Chapter IV may direct.

CHAPTER III

Rules Framed Under Section 15(2)(c)

1. The Bar Council shall at its first meeting, or as soon as may be after it is permanently constituted, and thereafter, every two years on the completion of election of the one-third

members retired under Section 8 of the Act, elect a Chairman and a Vice-Chairman from amongst its elected members.

2. A nomination of a member for election as Chairman or Vice-Chairman shall be made by another member of the Bar Council and the nomination shall reach the Secretary at least five days before the date of the meeting called for the purpose of such election.

3. The Secretary shall open the proposals at the meeting of the Bar Council and if there be only one candidate for any of the offices he shall declare him elected.

4. In cases of more than one persons being nominated for one and the same office, the Secretary shall prepare the voting papers for the election of the Chairman and the Vice Chairman as the case may be, and have the votes cast on the date of meeting and during the time fixed therefor in the ballot box kept for the purpose.

5. After the expiry of the time allotted for voting, the Secretary shall open the ballot box and count the votes and declare the candidate having the highest number of votes elected.

6. In case of a tie the Secretary shall draw a lot then and there and the candidate whose name comes out first shall be declared elected.

7. The names of the candidates duly elected as a Chairman and a Vice Chairman shall be published in the Uttar Pradesh Gazette and sent to the High Court, various Bar Councils, Presidents of the Bar Associations, Judicial Secretaries to the Government of India and the U.P. Government and the Secretary of the Bar Council of India.

8. The election of a Chairman or a Vice-Chairman may be questioned by a letter addressed to the Secretary within three days of the election.

9. The Secretary shall refer the same to a Tribunal of three members to be appointed at a meeting of the Bar Council. The decision of the Tribunal shall be final.

10. In case the election is declared invalid by the Tribunal a fresh election shall be held in the manner indicated above.

CHAPTER IV

Rules Framed Under Section 15(2)(d)

1. (i) A candidate may question the validity of the election of any other candidate by a petition duly signed and verified by him and addressed to the Secretary and it shall be accompanied by a security deposit of Rs. 500 which shall be paid to the secretary in cash or by Bank Draft or by M.O.

(ii) The petition shall state the ground on which the validity of the election is questioned and shall be delivered to the Secretary within seven days of the date of publication in the Uttar Pradesh Gazette of the list under Rule 24 (iii) Chapter II.

(iii) The Secretary shall on receipt of any such petition refer the dispute arising therefrom to a Tribunal of three members appointed at a meeting of the Bar Council held for the purpose.

(iv) No election to the Bar Council shall be called in question except in accordance with the provisions contained in this chapter.

2. (1) Any dispute arising under Rule 1(2) shall be decided by the Tribunal foresaid and for the purpose of deciding the dispute the Tribunal shall have the same powers as Court. The Tribunal may pass such orders in regard to the aforesaid security as it may deem fit.

(2) The decision of the Tribunal shall be final.

(3) If the Tribunal decides that a candidate has not been validly elected, the vacant seat on the Bar Council shall be filled as hereinafter provided in the case of casual vacancy.

CHAPTER V

1. "Seven out of the elected members shall retire at the expiration of two years from the first meeting of the Bar Council. The names of such members shall be determined by lot and shall be picked out, by the Advocate-General or in his absence, by any person nominated for that purpose by the Bar Council at a meeting held at least three months before the expiry of the term aforesaid. Seven out of the remaining members shall retire in a similar manner at the expiration of four years from the date of the first meeting of the Bar Council and the remaining members shall retire, automatically, at the expiration of six years from the date of the first meeting. Thereafter at the end of a period of every two years, the members elected at the then earliest rotation shall continue to retire."

CHAPTER VI

1. Casual Vacancies. - A casual vacancy shall occur in the Bar Council if a member dies, resigns his post, is adjudged an insolvent or a lunatic, is suspended from practice as an Advocate.

2. Filling up of Casual Vacancies. -To fill a casual vacancy among the elected members of the Bar Council, the remaining members of the Bar Council shall elect an Advocate from amongst Advocates on the roll of the Bar Council of Uttar Pradesh in the manner following:

The Secretary, shall on the direction of the Chairman, invite nomination within seven days of the vacancy having occurred, of a vacancy occurring during the vacation of the High Court, within seven days of the re-opening of the High Court after the vacation or soon thereafter. Every candidate shall be duly proposed and seconded by a member. In case there is only one candidate, such candidate shall be declared duly elected by the Chairman on the expiry of the time fixed for such nomination. In case of there being more than one candidate the election shall take place at the next meeting of the Bar Council. The election shall be by ballot and the Chairman shall, in case of equality of votes, draw the lots then and there and shall declare the result accordingly:

Provided that such elected member shall continue to be the member of the Bar Council only till the expiry of the term of the outgoing member in whose vacancy he is elected.

Form No. 1

Bar Council of Uttar Pradesh Nomination Paper

(Chapter II, Rule 3)

Election, 19.....

I, the undersigned, nominate the Advocate named below as candidate for election to the Bar Council of Uttar Pradesh. I declare that the name of the candidate as well as my name are entered in the Electoral List and that me said candidate has put his signature in my presence.

Serial number on Electoral List	Enrollment number	Name of nominated candidate (in Block Letters)

Signature of the proposer

Enrolment no.

Acceptance of the nominee.

I,.....do, hereby, agree to be a candidate for election to the Bar Council of Uttar Pradesh and shall serve on the Council if elected. I have deposited a security of Rs. 100 as required by the rules by Cash/Bank Draft/M.O..

Signature.

The nomination paper shall be placed in a closed envelope bearing on its face the words "Bar Council Nomination Paper" and shall be delivered to the Secretary of the Bar Council either by hand or through registered post so as to reach him by 4 p.m. on 20-11.....

More than one Nomination Paper shall not be placed in the same envelope.

Form No. 2

Bar Council of Uttar Pradesh Election, 19.....

Withdrawal Form

(Chapter II, Rule 5)

I,.....duly nominated as a candidate for election to the Bar Council of Uttar Pradesh do, hereby, withdraw my candidature.

Date:

Signature

Enrolment no.....

Attested.....

N.B. - The attestation can be done by a Gazetted Officer or by the President of any Association as defined in the Rules.

Form No. 3

Bar Council of Uttar Pradesh Voting Paper

Instruction to Voters

1. The number of members to be elected is Twenty.
2. Vote by placing the word "one or first" in the space opposite the name of the candidate for whom you give the first choice. Place the word "one or first" opposite the name of the candidate to be elected.

3. You may indicate your relative preference for the other candidates by placing in the spaces opposite their names the words "two or second" "three or third" "four or fourth" and so on, in order of each preference.

4. Do not place more than one preference to opposite the name of any candidate.

5. Do not place the same words opposite the names of more candidates than one.

6. Do not sign the voting paper, nor erase, obliterate or alter any words.

CHAPTER VII

Rules Framed Under Section 15(2)(g)

1. Powers and duties of Chairman and Vice-Chairman. - The Chairman shall preside over the meetings of the Bar Council.

2. The Chairman shall have the right to attend the meeting of any of the Committees of the Bar Council constituted under Section 10(1) of the Act, of which he is not a member and when so attending such a meeting he shall be considered as *ex-officio* Chairman of that Committee.

3. The Chairman shall have the power to order that an emergent or extraordinary meeting of the Bar Council or that of any committees of the Council be convened for consideration of an agenda that he may deemed expedient to be considered.

4. The Chairman or the Vice-Chairman shall sign the cheques along with the Secretary.

5. The Chairman shall have the power to make temporary appointments for any of the Ministerial Officers as and when deemed necessary and his action shall be reported to the Council at its next meeting for approval.

6. The Chairman shall have power to sanction expenditure up to Rs. 500 outside the budget in case of emergency, which may be reported to the Bar Council for approval.

7. The Chairman shall continue to be the Chairman until a fresh election of the Chairman is made after every biennial election.

8. The Vice-Chairman shall perform all the duties of the Chairman in his absence.

CHAPTER VIII

Rules Framed Under Section 15(2)(h)(i)(j)

1. Committees constituted under Sections 9 and 10 of the Act. - There shall be the following committees elected by the Bar Council of Uttar Pradesh to transact such business of the Council as is assigned to them under the Act and the Rules or under any of them:

1. Disciplinary Committees constituted under Section 9(1) of the Act.
2. Executive Committee constituted under Section 10(a) of the Act.
3. Enrolment Committee constituted under Section 10(b) of the Act.
4. Training and Examination Committee constituted under Section 10 (3) of the Act.
5. Rules Committee constituted under Section 10(3) of the Act.
6. Any other Committee that may be constituted from time to time under Section 10(3) of the Act

Rules Common to all Committees and Bar Council

2. Election of members to the statutory committees. - The Bar Council shall elect the members of the Committees as specified in the Act as soon as possible after elections to the Council under Section 8 of the Act.

3. Election by ballot. - The elections to the Committees by the Council shall be held by ballot 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 member for one Committee.

4. Procedure of election. - The elections to the Committees shall be conducted by the Chairman or any other member elected to preside over the meeting and to conduct the elections and declare the result.

5. In case of a tie of votes between two or more candidates for elections to any Committee, the Chairman presiding at the meeting shall draw lot then and there and then declare the result of the elections.

6. Terms of committees. - The term of office of the Committees mentioned in Rule 3 shall be two years provided that a member who ceased to be a member of the Bar Council shall cease to be a member of that Committee as well.

7. Convener. - For each Committee a convener shall be elected who shall act as the Chairman of the Committee.

8. Casual vacancy secretary to report. -In case of a casual vacancy amongst the members of the Committees, the Secretary shall put up the matter before the meeting of the Bar Council for election of a member to fill the vacancy.

9. A casual vacancy when deemed to occur. - A casual vacancy shall be deemed to occur if a member ceases to be a member of the Council.

10. Secretary to call meeting. - The Secretary of the Council shall act as the Secretary of each Committee also and shall call a meeting thereof under directions of the Chairman, Vice-Chairman or the Conveners of the Committee.

11. Period of notice. - The Secretary shall give at least fifteen days' notice for a meeting of the Bar Council and three days' notice for a meeting of the Committees and indicate to the members the date, time and place of such meetings and circulate the agenda for the meetings.

12. Notice how served. - The Secretary shall cause the notice of a meeting to be served on the members either by hand delivery or by posting them under certificates of posting or in such other manner as he thinks fit.

13. Extraordinary and emergent meeting. - In case of an extraordinary or an emergent or an adjourned meeting, the period of notice of 15 days or three days as provided in Rule 11 shall not apply.

14. Any five members of the Bar Council or any two of the Committees may by requisition call upon the Secretary to convene a meeting of the Bar Council or of any Committee as the case may be.

15. Quorum. - At any meeting of the Bar Council, seven members present shall form a quorum. For meetings adjourned for want of quorum, no quorum shall be required.

16. Opinion by circulation. - Such matters as are likely to be disposed off on a perusal of papers and which the Chairman considers to be of an urgent nature may be circulated amongst the members of a Committee and such action may be taken thereon as the members of the Committee unanimously agree to.

Executive Committee

17. Functions of the executive committee. - The Executive Committee shall exercise all the powers and duties in connection with administrative work of the Bar Council.

18. Taking over of the functions of certain other Committees. - In case of any other Committee appointed by the Bar Council except the disciplinary and enrolment Committees ceasing to function on account of any reason whatsoever, the Executive Committee shall perform all its functions and exercise all its powers till a new Committee is appointed by the Bar Council as prescribed under Act and the Rules.

19. Control over the staff. - The Executive Committee shall exercise full control over all the employees of the State Bar Council and shall determine all questions relating to be eligible for promotion, leave, gratuity, provident fund, and all other questions relating to be their employment as prescribed under the rules made by the Bar Council in that behalf.

20. Meetings. - The Executive Committee shall meet as often as necessary.

21. Quorum. - At all meetings of the Executive Committee, three members present shall form a quorum.

22. Separation budget. - The Executive Committee shall prepare in February every year a budget estimate of receipts and expenditures of the Council for the next financial year and submit it to the Council for sanction with its recommendations.

23. Supplementary grants. - The Executive Committee may present to the Bar Council supplementary demands for grant at any time during the course of the financial year.

24. Requisition meeting. - The Chairman of the Executive Committee shall call an extraordinary meeting of the Committee within forty-eight hours of the receipt of the written requisition for such meeting by any two members of the Committee. Such written requisition shall contain the business proposed to be transacted at such a meeting and shall state the grounds of urgency for such meeting.

25. Investment of Funds. - The Executive Committee shall make recommendations to the Council for the investment and managements of the funds.

26. Reports. - The Executive Committee shall report all its decisions at the next meeting of the Bar Council.

Enrolment Committee

The procedure in the Enrolment Committee shall be as follows:

27. Application for Enrolment. - (1) The Secretary shall circulate the application for enrolment among the members of the Committee and when the members of the Committee agree to the enrolment of any candidate he shall be enrolled in accordance with the provisions of the Act.

(2) In case there is a dissentient note of any member the application shall be placed before a meeting of the Enrolment Committee.

28. Meetings. - The Convener shall direct the Secretary to convene such meetings of Enrolment Committee as he thinks fit for disposal of the business.

29. Quorum. - At all the meetings of the Enrolment Committee two members present shall form a quorum.

Training and Examination Committee

30. Strength. - The Training and Examination Committee shall consist of five members elected by the Bar Council.

31. Training. - The Training and Examination Committee shall make all necessary arrangements for imparting legal education and training to the candidates appearing at the Advocates Examination conducted by the Bar Council with the approval of the Bar Council.

32. Budget proposals by the Committee. - Before the budget prepared for the financial year, the Committee shall send to the Executive Committee its proposals for expenses in connection with the imparting of training together with an estimate of expenses which are likely to be incurred in holding the examinations during the next financial year for being included in the budget.

33. Appointment of Lecturer. -For the said purpose of imparting training, subject to the approval of the Bar Council, the Committee may appoint lecturers to deliver lectures in accordance with the prescribed curriculum at such centres in the territory of the State of Uttar Pradesh as it thinks fit.

34. Conducts of Examination. - The Committee shall hold and conduct an examination for the enrolment of an Advocate after the prescribed period of training and shall appoint examiners, moderators, supervisors and such other staff as it may think necessary and expedient with the approval of the Bar Council.

35. Courses or Examination. - The Committee shall hold the examination referred to in Rule 32 of the rules in the courses prescribed for study by the Bar Council in that behalf. It may forward proposals to the Bar Council for such modifications of the said courses of study as it may from time to time think fit and proper.

36. Result of Examination. - The Secretary shall tabulate and prepare the result of the Examination and he shall announce them after they have been approved by the Committee which shall have the power to make such modifications therein as it considers necessary.

37. Ancillary powers. - The committee shall have all powers incidental to the holding of the examination such as fixing the dates of examination and declaration of results etc.

38. Punishment of Examiners. - The Committee shall report to the Bar Council the conduct of a candidate appearing at the Advocates examination for the breach of rules of examination or for any improper conduct. The Bar Council shall inflict such punishment as it thinks fit and proper.

39. Quorum. - At all meetings of the Training and Examination Committee three members present shall form a quorum.

Rules Committee

The functions of the Rules Committee shall be as follows:

40. Strength. - The rules Committee shall consist of five members elected by the Bar Council.

41. Draft of rules. - The rules Committee shall prepare and submit to the State Bar Council the draft of the rules required to be framed under the Act.

42. Modifications in rules. - The Rules Committee may suggest to the Bar Council from time to time any modifications, alterations or additions to or omissions from the Rules framed under the Act.

43. Forms. - The Rules Committee shall submit to the Bar Council the draft of forms prescribed by the Act and may recommend to it from time to time such modifications therein as it may deem fit.

44. Meetings. - The Convenor of the Rules Committee may cause such meetings of the Committee to be convened by the Secretary as he may think fit for the disposal of its business.

45. Quorum. - At the meeting of the Rules Committee three members present shall form a quorum.

Notifications of Bar Councils

(i) Vide Notification No. 77, dated January 25, 1960, published in U.P. Gazette, Part I-A, page 323, dated January 30, 1960.

Election

As provided in rule 5, framed under Section 6 of the Indian Bar Councils' Act, XXXVIII of 1926, as amended by Act IV of 1956, it is hereby notified that the following dates have been fixed for filing and scrutiny of nomination paper of a candidates seeking election to the Bar Council, from the High Courts Constituency, to full up a casual vacancy that has occurred

1. Last date for delivery of nomination paper to the Secretary of the Bar Council, High Court, Allahabad, either by hand or through post by 4 p.m. on 3rd March, 1960.
2. Scrutiny of nomination papers at 11 a.m. on 4th March, 1960.

It is further notified that in accordance with the provisions contained in Rule 14 of the rules framed under Section 6 of the aforesaid Act, the following dates have been fixed for delivery of Ballot Papers to the Secretary aforesaid and scrutiny and counting of votes.

1. Last date for the delivery of the Ballot Papers to the aforesaid Secretary in the aforesaid manner by 4 p.m. on 20th April, 1960.
2. Scrutiny and counting of votes on 22nd April, 1960.

(ii) Notification No. 89, dated February 4, 1960, published in U.P. Gazette, Part 1-A, dated February 13, 1960, page 400.

The following rules made by the Bar Council, High Court, Allahabad, under section 15 (c) of the **Indian Bar Councils Act, 1926** (Act XXXVIII of 1926), with the previous sanction of the High Court, dated April 2, 1959, are promulgated for general information. The High Court has further accepted the Bar Council's proposal to enforce the rules with effect from April 15, 1960:

Rules

1. An applicant, other than a pleader, for admission as an Advocate shall undergo training for a period of one year in the Chambers of an Advocate of at least twelve years' standing and shall pass the examination prescribed in rule 6.
2. When an Advocate takes an applicant to read in his Chambers, that fact shall be notified to the Bar Council in the prescribed form signed by the Advocate and the Applicant.

The period of training prescribed in rule 1 shall commence on the date on which the fact is notified to the Bar Council.

3. Every applicant undergoing training shall maintain a diary containing regular record of the work done by him from day to day during the period of training.

4. No applicant shall, without the previous permission of the Bar Council, be engaged in any profession, trade or calling during the period of his training.

The period during which an applicant is engaged in any profession, trade or calling without the previous permission of the Bar Council shall be excluded in computing the period of the year prescribed in rule 1.

5. Every applicant undergoing training shall pay a fee of Rs. 200 to the Bar Council, one-half to be paid at the commencement of the training and the other half within six months thereof. The money shall be paid to the Advocate as soon as it may be convenient after each deposit.

6. (i) The Bar Council shall hold an examination of the applicants, which shall consist of a written examination and a *viva voce*. The written examination shall be in two parts, Part I to be held in the months of January and Part II in the months of July. The examination shall be held at such place and time as may be appointed and duly notified; the date of the examination shall be fixed and notified at least one month prior to the examination.

(ii) The examiners shall be appointed by the Bar Council.

(iii) No applicant shall be permitted to appear at the examination unless he has undergone training for not less than three months.

7. (a) Part I examination shall comprise the following;

(i) A paper on Pleadings, Civil, Revenue and Criminal, including Memorandum of Appeal and Affidavits and Conveyancing.

(ii) A paper on such Central Acts and Uttar Pradesh Acts as may from time to time be prescribed by the Legal Education Committee of the Bar Council; and

(iii) A paper on Rules of Court, 1952 (High Court Rules), General Rules (Civil) and General Rules (Criminal).

(b) Part II examination shall comprise the following:

(i) A paper on Fundamental Rights and Constitutional Remedies, and

(ii) A paper on Court-fees Act, Suits Valuation Act, Arbitration Act, Industrial Disputes Acts (Central and State), Factories Act and Workmen's Compensation Act.

(c) The *viva voce* will include scrutiny of the diary up to date. The Bar Council shall arrange for the *viva voce* in January and July every year, but no applicant, who has not undergone at least nine months' training, shall be eligible to appear to the *viva voce*.

8. The papers and the *viva voce* shall carry 100 marks each. An applicant who obtains 40 per cent of the marks in each paper and the *viva voce* and 50 per cent of the aggregate to the marks shall be declared to have passed.

9. (i) An applicant may appear in Part II examination without passing Part I examination.

(ii) An applicant failing to obtain at least 50 per cent of the aggregate of the marks at any examinations shall have to appear in the examination again.

(iii) An applicant failing to obtain 40 per cent of the marks in any paper or papers or the *viva voce* but obtaining at least 50 per cent of the aggregate of the marks the examination shall be entitled to take another examination only in the paper or papers in which he had failed to obtain at least 40 per cent of the marks or the *viva voce*.

10. Every applicant for either part of the examination, without the *viva voce*, shall apply in the prescribed form and pay free of Rs. 30 on or before a date to be fixed by the Bar Council. An applicant, who takes the examination as permitted under rule 9(iii) shall pay a fee for Rs. 30 or a fee at the rate of Rs. 10 per paper including the *viva voce*, whichever is less. If an applicant who has paid the fee does not appear at the examination, the fee shall not be refunded to him but shall be held over for the next examination in the same part or papers including the *viva voce*, as the case may be.

11. The names of the successful applicants shall be published within two months so far as practicable, in such manner as may be prescribed by the Bar Council.

12. All cases of use or attempted use of unfair means at or in connection with the examination by an applicant shall be dealt with by the Bar Council whose decision shall be final and shall not be questioned in any court.

13. A certificate shall be granted by the Bar Council to every applicant declared to have passed. It shall be attached by the applicant to his application for enrolment.

14. A pleader, who has practised for not less than three years, shall be entitled to be enrolled as an Advocate on his passing only Part II examination and the *viva voce* but shall not be required to submit any record of the work at the *viva voce*.

(iii) Notification No. 379, dated June 22, 1960, published in U.P. Gazette, Part 1-A, dated July 2, 1960, page 1388.

The following rules made by the Bar Council, High Court, Allahabad, under Sections 9 and 15 of the Indian Bar Councils Act, 1926 (Act XXXVIII of 1926), with the previous sanction of the High Court, dated May 5, 1960, are promulgated for general information:

Rules framed under Section 9 of the Act

Any barrister of England or Ireland, any member of the Faculty of Advocate in Scotland and any graduate in Law of any University, established by Law in India, who is graduate in Arts, Science or Commerce of any such University and who in each case has further undergone a course of training for one year as prescribed by the Bar Council under the rules made under Section 15 of the Act, may present an application for his admission to the Roll of Advocates of the Court:

Provided, firstly, that a person who is a graduate in Law as referred to in Rule 1 or who has passed the Vakil's Examination of the Allahabad High Court, and has been or was eligible to be enrolled as a Vakil or a pleader prior to December 14, 1929, may be admitted to the Roll of Advocates on furnishing a certificate that-

- (a) he has *bona fide* practised in one or more courts subordinate to the Allahabad High Court, for a period of not less than one year, or
- (b) he has undergone training for a period of not less than one year in the chambers of an advocate of twelve years' standing; and proof that he is good moral and professional character and is in all respects a fit and proper person to be enrolled as an advocate; or
- (c) he has held judicial offices for more than ten years in British India, Dominion of India or India, as the case may be, or in an Indian State as defined in Clause 2 (a) of Article 363 of the Constitution of India or the total period of his practice at the Bar and his service as judicial officer exceeds ten years; or being a citizen of India, has held judicial office or practised at the Bar for more than ten years outside India; or
- (d) who has been a whole-time teacher in a University or Law College, for more than ten years or has put in practice as a pleader for that period:

Provided, secondly, that an advocate of any other High Court of not less than two years standing who is a graduate [* * *] [a wholetime teacher] as referred to in Rule 1 and who is otherwise eligible under the rules may be admitted as an advocate upon his undertaking in his application to have his name removed from the Roll of Advocate of that Court within three months from the date of his admission to the Allahabad High Court. In the event of such undertaking not being carried out, the Court may direct that the advocates name be removed from the roll:

Provided, thirdly, that a person who was entitled as of right on June 1, 1928 to be enrolled as an advocate may be admitted to the Roll of Advocates on presenting an application and upon payment of Rs. 10 on account of enrolment fee:

Provided, fourthly, that a Barrister of England or Ireland or any member of the Faculty of Advocates in Scotland who was called to the Bar prior to January 31, 1932 and who was otherwise entitled to be enrolled as an advocate and the rules of the Allahabad High Court in force prior to June 1, 1928, may be enrolled as an advocate of the Court on payment of the prescribed fee under these rules:

Provided, fifthly, that the graduate in law of a University situate in a State, the High Court or the Bar Council whereof do not admit to their rolls graduates of any Universities situate in Uttar Pradesh, will not be eligible for enrolment as an advocate of the Allahabad High Court;

Provided, sixthly, that a pleader, who is not otherwise qualified to be enrolled as an advocate, may be so enrolled if he has practised as a pleader, for a period of not less than 15 years with ability and repute and his application for enrolment is recommended by the District Judge:

Provided, seventhly, that a graduate in law of any University established by law in India may be enrolled as an advocate on presenting a certificate that he has practised in one or more of the courts subordinate to the High Court, for a period of not less than three years and has also passed Part II examination of the Bar Council:

Provided, eighthly, that as an exceptional case, a person may be recommended by the Council for enrolment by a two-thirds majority of the members of the Bar Council that the application of any of the Rules may be relaxed or suspended:

Provided, ninthly, that it shall not be necessary to pass the examination prescribed by the Bar Council in case the applicant for enrolment as an advocate commenced his course of training on or before April 14, 1960.

Rule 2

An application for enrolment as an advocate shall be in writing and shall be addressed to the Chief Justice and Judges of the Court and shall be delivered to the Registrar in duplicate.

The application shall state-

- (a) the date of his birth as entered in the certificate of passing the High School Examination or an examination equivalent thereto, or where the date is not so entered in such certificate the date of birth as proved by any other satisfactory evidence produced by the applicant;

- (b) the date of the call to the Bar or admission to the Faculty of Advocates in Scotland or to the degree or Law;
- (c) whether he intends to practise ordinarily and regularly within the jurisdiction of the Court and in no other court;
- (d) whether he holds any appointment under Government, and, if so, the nature of such appointment; and
- (e) whether he is engaged in any business in India, and, if so, the nature of such business and the place where the same is carried on; and shall be dated and signed by the applicant,

The application must be accompanied by a certificate of the applicant's call to the English or to the Irish Bar, or of his admission to the Faculty of Advocate in Scotland or to the degree of Law in the University and by his certificate of training as prescribed by the Bar Council as well as by satisfactory proof of the good conduct and character of the applicant:

Provided that no person whose application for admission as an advocate has been refused by a High Court in India shall ordinarily be admitted as an advocate of this Court.

3. The application shall further contain a declaration in writing by the applicant that he will truly and honestly and to the best of his knowledge and ability act and demean himself as an Advocate and faithfully observe and obey all orders in force or which shall thereafter be made by the Court, and all the Rules made by the Bar Council for regulating the conduct of Advocates on the Roll of Advocates of the Court.

4. On receipt of the application the Registrar shall cause a notice of the said application to be served on the Secretary, Bar Council, together with a copy of the application intimating that the application will be taken into consideration after fifteen days from the date of the service of the notice and whether the Bar Council has any objection to the granting of the application.

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

6. At such hearing the applicant and Bar Council will be entitled to be heard and represented by Counsel if they so chooses.

7. If no objection is preferred or the objection is over-ruled by the High Court, the Registrar shall place before the Judge nominated for the purpose by the Chief Justice, the application in Rule 2, mentioned together with certificates in that rule required for

orders. If the Judge orders the enrolment of the applicant, he shall be admitted to the Roll of Advocates of the Allahabad High Court, provided that within three months of the date of the order he complies with both the following conditions:

(a) he supplies to the High Court a general stamp of the value prescribed by the Indian Stamp Act, 1899 (Act II of 1899) as amended in this application to the State of Uttar Pradesh,

(b) he pays to the Bar Council in cash the fee payable under Rule 9 below.

On failure of either or both the conditions the order of enrolment shall automatically stand cancelled. There shall be no forfeiture of any deposit. But if the applicant petitions to condone the delay in complying with either condition, the delay may be condoned on payment of Additional fee of Rs. 10 to the Bar Council.

Notes. - (1) The Secretary of the Bar Council shall, on receipt of the fee, immediately inform the Allahabad High Court.

(2) There is no objection to the candidate complying with both conditions when applying for enrolment.

8. If the objection preferred by the Bar Council to the application is upheld, the application shall be deemed to have been refused.

9. The fee payable to the Bar Council for enrolment as an Advocate shall be rupees one hundred, which shall be deposited in cash with the Secretary of the Council.

Rules under Section 15 (a) of the Act.

1 - Briefs

1. Advocate is bound to accept any brief in the Court in which he professes 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 that the client has already retained another lawyer, a belief that in the special circumstances the case is one which ought not to be advocated in Court, to justify his refusal.

2. An Advocate ought not to recommend another Advocate as his pleader or junior, unless requested by his client so to do.

3. An Advocate should 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 party 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 instructions.

II - Restriction upon practice

1. An Advocate who is a Magistrate shall not practise in any of the Magisterial Courts of the District in which he exercises such power.
2. An advocate shall not appear before a local authority of which he is a member.
3. No Advocate should appear in a case against the local authority of which he is a member.
4. An Advocate shall not appear in a Court in which his father or other near relative is the sole Judge.
5. An Advocate who is suffering from leprosy or any other dangerous malady of a contagious nature should discontinue practice as long as the malady lasts.
6. No Advocate while practising shall engage in trade or business or accept an appointment carrying a salary without previously obtaining the permission of the Council and the High Court. The letter asking for permission shall be addressed to the Registrar of the High Court through the Secretary of the Council.

III - Conduct of cases

1. According to the best traditions of the profession an Advocate should (whilst acting with all due courtesy to the Tribunal before which he is appearing) fearlessly uphold the interests of his client without regard to any unpleasant consequences either to himself or to any other person.
2. Facts which require proof must not be mentioned to the Judge or the jury unless it is intended to prove them.
3. Advocates should avoid taking frivolous objections in their pleadings or in the course of a trial to the admissibility of evidence.

IV - Unprofessional conduct

1. An advocate should not do anything by way of advertisement or touring for business.
2. An Advocate should not tender, give or consent to the retention, out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other Advocate, or directly or indirectly procure or attempt to procure the employment of himself through or by

intervention of any person to whom any remuneration for obtaining such employment has been given by him or agreed or promised to be so given.

3. An Advocate should not accept employment in any legal business through a person who has been proclaimed as a tout under Section 36 of the Legal Practitioners' Act, 1979 or is believed to be a tout.
4. It is highly unprofessional for an Advocate to traffic in litigation in any way whatsoever directly or indirectly.
5. It is not professional misconduct where in the absence of any instructions from the first client, an Advocate appears for the opposite-party in a subsequent proceeding which is not directly connected with or in continuance of the first proceeding. Briefs may not be accepted in execution proceedings or in appeals following engagement in original trial or commitment proceedings.
6. An Advocate should not wilfully neglect to appear and conduct a case after he has received full fees. An Advocate is justified in not appearing if his full fees for such appearance has not been paid.
7. Taking fees as an Advocate in a case where the Advocate is in fact a party is grossly improper conduct.
8. Filing a false certificate of fees is grossly unprofessional. It is illegal to obtain a bond or promissory note for fees and file a certificate of fees on its basis.
9. Writing intimidating letters to any court or libellous articles against a court is unprofessional.
10. Purchasing property in a court auction in execution of his client's decree is professional misconduct, notwithstanding that the Advocate purchase it for other person.
11. To enter into an agreement with a client for a present, over and above his fees in case of success is unprofessional for an Advocate. His conduct amounts to gross misconduct if he attempts to extract a supplemental fee at the last moment and absents himself on failure to pay.
12. Misappropriation of the client's money entrusted to any Advocate is gross professional misconduct.

V - Advocate's fees

1. Each Bar Association should lay down a minimum fee for giving professional advice, for drafting and for other miscellaneous work, suitable to the particular locality and no

Advocate should work for less than the fixed minimum fee. Other fees are fixed by the rules made by the High Court:

Provided that an Advocate may for special reasons work without charging any fee at all.

2. Any fee in excess of the minimum or those fixed by the High Court should be fixed by agreement between the Advocate and the client, but once fixed no Advocate should attempt to demand an increase on agreed fees.

3. Each Bar Association may lay down the proportion of fees payable to a junior member of that Association when appearing in a case with a senior member of the same Association; the proportion of not less than one third of the senior's fees is suggested as usually accepted.

4. Where a senior and junior are engaged in a case for the same purpose, it is the duty of both to see that both are paid and in case either is not paid, the other would be justified in refusing to work.

5. Each Bar Association may fix the nature of cases in which a senior and junior shall appear.

6. Every Advocate must keep a fee book in which he will enter all the fees received by him with sufficient details.

VI - Retainers

1. 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 or by engagement of another counsel shown that he does not wish to engage the counsel originally retained.

2. An Advocate who has drawn up pleadings. advised or accepted a brief during the progress of an action on behalf of any party, shall not accept a retainer or brief from any other party, without giving the party, for whom he has drawn up pleadings or advised or on whose behalf he has accepted the brief, an opportunity of retaining or delivering a brief to him.

3. No Advocate can be required to accept a retainer or brief or to advise or draw pleadings in any case where he had previously advised another party on or in connection with the same 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 or brief or to advise or to draw pleadings, and in case such retainer or brief has been inadvertently accepted, to return the same.

4. If an Advocate knows, or has reason to believe, that he will be an important witness of fact in a case about to be tried, he ought not to accept a retainer in the case.

5. If an Advocate accepts the retainer, but at the opening or any subsequent stage of the case before the evidence is concluded, it becomes apparent that he is a witness on a material question of fact which is in issue he ought not to continue to appear as counsel unless in his opinion he cannot retire from the case at that stage without jeopardizing the interest of his own client

6. If an Advocate knows, or has reason to believe that his own professional conduct in matters out of which the action arises is likely to be impugned in the case, he ought not to accept a retainer in such action.

7. If an Advocate neither know nor has reason to believe when he accepts the retainer that his professional conduct is to be impugned as aforesaid but finds in the course of the case that it is so impugned he ought to adopt the same course as in Rule 5.

8. In either of the cases (5) and (7) there is no rule of professional ethics which debar an Advocate, if he continues to act as counsel in the case, from going into the witness-box and being cross-examined.

9. It is not justifiable 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.

Rules under Section 15 of the Act

1 - Rules under Clause (b)

An Advocate on the Roll of any other High Court in India may, by special permission of the Chief Justice or the Bench hearing the case appear and plead in. the court on such case, provided there also be with him an Advocate on the roll of the court engaged in the case.

Rules under Section 15 (e) of the Act

1. All monies to be paid to the Bar Council by way of enrolment fee shall be paid to the Secretary in cash or Bank Draft.

2. All monies received in cash or by Bank Draft by the Secretary shall be sent to the State Bank of India, Allahabad to be deposited in the current account
3. All expenses except petty items shall be paid by cheque on the said Bank.
4. Every cheque on the Bank shall be signed by the Chairman or the Vice-Chairman and the Secretary.
5. The Secretary shall have in his hands a sum of Rs. 11000 only for contingent expenses and shall recoup the same from time time to time.
6. The Secretary shall maintain a true account of all incomes and expenses together with their vouchers.
7. The Council shall invest its funds in Government Securities from time to time as it deems fit.
8. The account of the Council shall be audited every year by an auditor to be appointed by the Council.

(iv) Notification No. 1498, dated May 15, 1963, published in U.P. Gazette, Part I-A, dated May 25, 1963, page 1464.

The following rules framed by the Bar Council of Uttar Pradesh and approved by the Bar Council of India are published as under:

[Rules framed under Section 28 (2) of the Advocates Act, 1961]

CHAPTER XI

Declaration of Intention to Practise

1. Every person desiring to be enrolled shall, in his application, made in Form IV, Appendix 2, declare his intention to practise within the jurisdiction of the Bar Council.
2. Every person whose name is entered as Advocate on the rolls of any High Court under the Indian Bar Councils Act, 1926, immediately before the first of December, 1961, shall, if he desires to practise within the jurisdiction of the Bar Council, express an intention through a declaration made in Form No. 1, Appendix 2 and shall intimate the [Secretary of the Bar Council by the 31st March, 1963 or such other extended period] as at the Bar Council may fix that he wants to practise within the jurisdiction of the Bar Council.

3. The name of an Advocate who does not file the declaration mentioned in rule 2 will not be entered on the rolls of the Advocates, prepared under Section 17 of the Act.

CHAPTER XII

Rules under Section 28(2)(b)

Training and Examination Rules

1. In the rules in this Chapter-

(i) "applicant" means a person who is an applicant to the Bar Council for enrolment as an Advocate and shall include a person who proposes to apply.

(ii) Senior for the purposes of this chapter means an Advocate who is qualified, under these rules, to impart training to applicants and shall include an attorney or a pleader enrolled as an Advocate.

(iii) Receiving training shall include reading in Chambers of a Senior Advocate as hereafter provided.

[2. An applicant shall be a graduate in law from any University in India or have obtained any degree in law, recognised for the purpose of the Advocates Act, 1961, by the Bar Council of India.]

3. No person who is otherwise eligible to be admitted as an Advocate under Section 24 of the Advocates Act, 1961, but who has not been exempted from the application of sub-clause (d) of Section 24(1) of that Act, shall be admitted as an advocate on the roll of the Bar Council of Uttar Pradesh unless he has after his graduation in law or call to the Bar, as the case may be, undergone a course of training in law, attended a course of lectures and passed an examination after the training and the lectures in the manner prescribed.

Training

4. (i) The course of training in law shall consist of receiving training for a period of one year which shall, except as permitted under these rules be continuous, from a Senior ordinarily practising in the High Court, or in the District Court.

(ii) Such Senior shall be one who is of not less than 10 years' standing, and-(i) whose name appears on a list, maintained by the Bar Council for this purposes, or (ii) whose name is approved by the Bar Council in writing before the applicant commences such training.

(iii) For the purpose of computing ten years' standing of a Senior, his standing as a Pleader, Vakil, or an attorney shall be taken into account.

5. No applicant shall receive training with a Senior who has, at the time of the commencement of receiving training, more than two other applicants, except with the previous permission in writing of the Bar Council.

6. Every applicant receiving training with a senior shall send to the Bar Council an intimation in writing of the name of the Senior from whom he desires to receive training, together with the consent in writing of the Senior concerned in the form prescribed.

7. An applicant shall, before commencing training send in Form II, Appendix 2 an intimation to the Secretary, Bar Council that he is about to commence his training. The form shall be signed, both by the Senior and the applicant. The period of training shall commence on the date on which the intimation aforesaid is received by the Secretary of the Bar Council, and in case the training commences later, from the date of such commencement.

8. Every applicant shall be bound to receive training under the same Seminar except where the Senior has before the expiry of the period of one year ceased to practise in which case the applicant shall receive training with another Senior for the residue of the period, qualified under rule 4 (ii) to give training, provided that he shall have given to the Bar Council-(a) an intimation in writing thereof previously to his receiving training with such other Senior, and (6) the consent in writing of the Senior concerned in the form prescribed.

9. During the period of training, the applicant shall regularly attend in Chambers of Office of the Senior, study case papers, correspondence, draft pleadings, attend court and in particular study cases with a view to getting acquainted with the practice and procedure in Civil and/or Criminal and/or Original and/or Appellate work.

10. Every applicant undergoing training under these rules shall maintain a diary containing a regular record to the work done by him from day to day during the period of training. The diary shall bear the signature, both of the applicant and of the Senior. It shall be sent to the Bar Council in two instalments, one at the end of six months from commencement of his training and the other along with his application for enrolment.

11. No applicant shall engage himself in any employment, profession, business, trade or calling during the course of training; but the Bar Council may, in appropriate cases, permit an applicant to be a fellow or a lecturer in law in an institution where law is taught to students or to take such part-time employment as does not conflict with his training.

12. An applicant shall not engage himself in any service, profession, trade or calling, without the previous permission of the Bar Council, during the period prescribed in rule 4 (i).

13. During the period of training the applicant shall not absent himself for a total period exceeding 20 days (excluding vacations), except on the ground of illness, or for other reasons considered sufficient by the Senior with whom he is receiving training. In all cases of such absence, the permission granted for the absence, with the reasons therefor, shall be obtained by the applicant and submitted to the Council, at the time of submitting the diary.

14. A Senior with whom the applicant is receiving training shall intimate to the Bar Council, in writing the non-attendance of the applicant for more than a continuous period of 20 days without his permission.

15. The Secretary of the Bar Council shall maintain a separate register in which shall be entered the names of the applicants undergoing a course of training in law, the name and address of the Senior concerned, the date of the intimation and the date of the actual commencement of training.

16. The Bar Council, may, where it is of the opinion that the applicant has not undergone full and proper training in compliance with the rules extend the period of training as it may deem fit.

Examination

17. No applicant shall be entitled to appear at an examination held by the Bar Council unless he has undergone a course of training and attended a course of lectures as hereinbefore prescribed.

18. The Bar Council shall arrange for delivery of lectures on the subjects prescribed for the examination at such centres as it may fix, from time to time. If applicants, not less than 50 in number are getting their training at a particular centre, the Bar Council shall, as far as possible, arrange for the lectures to be delivered at that centre.

19. The Bar Council shall hold an examination of the applicants on the dates fixed and notified by it. The examination shall be held at the Allahabad Centre or at such other Centre or Centres as may be fixed by the Bar Council from time to time. The examination shall consist of written papers and *viva voce* test. The dates of the examination shall be notified at least six weeks before the examination.

20. The examination shall ordinarily be held in the months of July and January in every year on date or dates to be announced, or in such other months and on date or dates and at such hour or hours as the Council may appoint and notify; provided that the hour or the date previously appointed for holding the said examination may be altered, varied or restricted from time to time by the Council after reasonable notice in such manner as the the Bar Council may deem proper.

21. Examiners shall be appointed by the Bar Council after considering the recommendation of the Training and Examination Committee.

22. The examination shall be conducted by the Examination Committee to be appointed by the Bar Council.

23. The applicants shall be examined in the following papers each consisting of two sections together carrying 100 marks and requiring three hours duration:

Paper I - (a) The Civil Procedure Code.

(b) The Indian Limitation Act.

Paper II - (a) The Criminal Procedure Code.

(b) The Indian Evidence Act.

Paper III - (a) Drafting of pleadings petitions, applications, etc.

(b) Law relating to Advocates, their remuneration and fees.

(c) Professional conduct and Ethics.

(d) Where the applicant has not passed the Land Revenue of Uttar Pradesh in his LL. B. Examination-Tenancy and Land Laws pertaining to Uttar Pradesh.

Paper IV - (a) Civil and Criminal Practice.

(b) The rules of the High Court and the subordinate courts along with Articles 226, 227 and 228 of the Constitution of India.

Paper V - (a) A subject chosen, for special study from among the following:

(1) Labour,

(2) Taxation,

(3) Tenancy and Land Laws,

(4) Company law and Insolvency,

(5) Conveyancing, and

(6) Court-fees, Stamp and Registration Acts.

24. The applicant shall be exempted from Paper I and/or Paper II if he is shown to have passed an examination either for the purpose of obtaining his degree in law or for being called to the Bar in the subjects comprising the said papers.

25. The Examination Committee may from time to time prescribe Act, text books and leading cases on the subjects prescribed by the Council for the examination.

26. In addition to the written papers, each applicant shall have to undergo a *viva voce* examination. The *viva voce* examiners shall scrutinise the diary of the candidate and record their opinions about the diary in writing.

27. Any applicant whose diary is found to be unsatisfactory by the *viva voce* examiners may be required by the Council on the recommendation of the examiners to undergo a further period of training under the Senior concerned, for a specified period not exceeding three months. The applicant shall then have to submit an additional diary for the extended period of his training. The additional diary shall then be placed again before the *viva voce* examiners, if the examiners aforesaid are not available, before any other examiner appointed by the Bar Council for the purpose.

28. Every applicant for examination shall apply in the Form II in Appendix 2 and shall pay a fee of Rs. 50 on or before the date fixed by the Bar Council. The application shall reach the Secretary not less than 30 days and not earlier than 60 days before the date notified for that examination. An applicant who is permitted to appear at the Supplementary examination or the Additional examination shall pay a fee of Rs. 20 for each paper subject to the maximum of Rs. 50. If the applicant, who has paid the fees as aforesaid, does not appear at the examination, the fee shall not be refunded to him, but shall be held over to be utilised by him at the next ensuing examination.

29. Printed copies of the application form shall be furnished to applicants by the Bar Council on payment, of such charges as the Bar Council may, from time to time fix in that behalf.

30. Every applicant shall annex to his application for permission to appear at the examination a certificate to the following effect:

(i) that the applicant has obtained a degree in law within the meaning of Section 24 of the Act or that the applicant has been called to the Bar;

(ii) that the applicant has undergone the course of training as prescribed, such certificate to be in the prescribed form from the Senior under whom the applicant has been receiving training.

31. Every applicant shall, on being required by the Secretary, furnish such information as may be required by the Secretary for the due consideration of the candidate's application and in cases in which the question of the eligibility of the applicant for the examination appears to the Secretary to be doubtful, the Secretary may make such further or other enquiries as may appear necessary to him. The Secretary shall report to the Examination Committee the result of such enquiries. The Examination Committee may, before finally deciding on the eligibility of the applicant, give the applicant an opportunity to be heard, if the result of such further enquiries made by the Secretary is adverse to the applicant

32. Failure to pass an examination will not disqualify the applicant from appearing at a subsequent examination, provided a new application is made and a fresh fee paid.

33. The names of successful applicants shall be published within two months of the close of the examination in such manner as may be decided by the Bar Council.

34. (i) No applicant shall be declared to have passed the examination unless he obtains - (a) not less than 45 per cent of the marks assigned to each paper and in the *viva voce*; and (b) not less than 50 per cent of the total marks obtainable in all papers and the *viva voca*.

(ii) An applicant who has obtained 60 per cent of full marks in an individual paper may be exempted, at his option from appearing in that paper in any subsequent examination held within three years from the date of the examination in which he has obtained the exemption and will be declared to have passed the examination on this passing in the remaining papers only and only the remaining papers would be taken into account for the purpose of computing 50 per cent of the total marks required to be obtained.

35. All cases relating to the use or the attempted use of unfair means at or in connection with any examination shall be disposed of by the Bar Council whose decision shall be final.

36. A certificate shall be granted by the Bar Council to every applicant who is declared to have passed the examination under these rules.

CHAPTER XIII

Rules framed under Sections 28(2)(c), 15(2)(1) and Section 26 of the Act

37. Every applicant for admission as an Advocate, including those who have undergone the course of training and passed the prescribed examination, shall make an application in Form IV of Appendix 2 and shall attach to the application the certificates mentioned in Chapter XIV, rule 45 and a receipt indicating the payment by him of a sum of Rs. 250 as enrolment fee. The form shall be dated and signed by the applicant. Attested copies of all certificates required shall be attached to the application. The original of the

certificates so attached shall be returned to the applicant after the disposal of the application.

38. The enrolment fee may be paid in instalments but the entire fee of Rs. 250 must have been paid before the applicant is enrolled as an Advocate.

39. The application for admission shall be registered and scrutinised by the Secretary who shall call upon the applicant to rectify the defects, if any, in the application.

40. The Bar Council shall refer every application for admission as an Advocate to the Enrolment Committee.

41. [The application for enrolment shall then be circulated among all the members of the Enrolment Committee and if two members of the Enrolment Committee are satisfied that the application is entitled to be enrolled, he shall be enrolled.]

42. In the event of the Enrolment Committee feeling any doubt or difficulty as to the legibility of the person seeking admission or as to the interpretation of any of the provisions of the Act or the rules or any resolutions or directions of the Bar Council it shall refer the application to the Bar Council for clarification of such doubt, and shall finally dispose of the application in the light of the ruling and/or directions given by the Bar Council in that behalf.

43. If the Enrolment Committee should be of the opinion that any application for admission made to the Bar Council and referred to it for disposal ought to be rejected, it shall record its reasons in a statement and shall refer the application under Section 26 (2) of the Act for the opinion to the Bar Council of India through the Bar Council and dispose of it in conformity with the opinion of the Bar Council of India.

CHAPTER XIV

Rules framed under Section 28 (1) and (2) (d) of the Act

44. The Form IV of Appendix 2 prescribed for the application for enrolment shall contain all the particulars necessary under Section 24 of the Act, and the following further particulars-

(a) The date of birth of the applicant, as entered in the certificate of passing the High School Examination or any other equivalent examination.

(b) Where the date of birth is not entered in the certificate mentioned in sub-rule (a) of rule 1 of Chapter XIV, the applicant shall state the correct date of his birth. The Enrolment Committee on being satisfied of the correctness of the date given by the applicant shall accept the same.

- (c) The certificate of the applicant's call to the Bar or of his having passed the necessary examination in law.
- (d) The date of the applicant's enrolment as a pleader, vakil, attorney or advocate, accompanied by a certificate of such enrolment.
- (e) A declaration that the candidate intends to practise ordinarily and regularly within the jurisdiction of the Bar Council.
- (f) A declaration as to whether the applicant has previously applied for admission as an Advocate to the Supreme Court of India or to any High Court or to any State Bar Council and whether any such application has been refused.

45. The application for enrolment must be accompanied by a certificate of his having been called to the Bar or by a certificate of his having passed the required examination in law and by a certificate of training and of his having passed the examination provided for in these rules, or a certificate of enrolment as pleader, vakil, attorney or advocate, as the case may be. A certificate as to the conduct and the character of the applicant any other certificate required by the rules must also be attached to the application for enrolment.

46. No Advocate shall accept any employment which, in the opinion of the Bar Council, is derogatory to the status of an Advocate, and if he docs so, he shall be liable to be proceeded against for the professional misconduct.

47. A person who is otherwise qualified to be admitted as an Advocate but is either in full or part-time service or employment or is engaged in any trade, business or profession shall not be admitted as an Advocate:

Provided, however, that this rule shall not apply to-

- (i) Any person who is a Law Officer of the Central Government or the Government of a State.
- (ii) Any person who is an Articled Clerk of an Attorney;
- (iii) Any person who is an assistant to an Advocate or to an Attorney who is (sic). Advocate;
- (iv) Any persons who is in part time service as a Professor, Lecturer or Teacher in Law;

(v) Any person who by virtue of being a member of Hindu joint family has an interest in a joint Hindu family business, provided he does not take part in the management thereof; and

(vi) Any other person or class of persons as the Bar Council may from time to time exempt

48. * * * *

49. Candidates who are or may be doing honorary service may be enrolled as Advocates on furnishing an affidavit to that effect.

50. The application for enrolment shall contain a declaration in writing, signed by the applicant that he will truly and honestly and to the best of his knowledge and ability, act and demean as an Advocate and faithfully observe and obey all rules or orders in force which have been made or which shall thereafter be made by the High Court and the Bar Council.

51. No person whose application for admission as an Advocate has been refused by the Supreme Court of India, or by any High Courts in India or by any other State Bar Council shall ordinarily be admitted as an Advocate by the Bar Council. Before admitting any such Advocate it shall be necessary to refer the matter to the authority which refused the earlier application and to obtain its opinion.

Appendix II

Form No. 1

Bar Council of Uttar Pradesh, Allahabad

Declaration as required under Section 17 (1) (a) of the Advocates Act, 1961

I.....hereby declare and express my intention to practise within the jurisdiction of the Bar Council of Uttar Pradesh.

Date.....

Signature.....

Enrolment no.....

Place of Practice.....

Appendix II

Form No. 2

Bar Council of Uttar Pradesh

(Statement to be filed before starting training)

1. Name of trainee in full as entered in the University records.....

2. Father's name

3. Address

4. Date of birth.....

5. Year of passing the LL.B. Examination.....

6. Name of University.....

7. Name of the advocate of 10 years' standing under whom the training is sought to be taken

8. Place where the advocate proposed to give training in practising.....

9. Date when the advocate was permitted to practise

10. Was the trainee ever employed or engaged in any business, trade or calling ? If so, the nature of business and the certificate of the employer

11. Certificate of character from two persons who are not relations

Dated.....

Signature of trainee.

Declaration

I declare that the particulars furnished above are true.

Dated.....

Signature.

This is to certify that I am entitled to and am agreeable to give the training to
Sri.....of.....

Date.....

Signature of the advocate.....

Enrolment no.....

Date of enrolment.....

Form No. 3

Bar Council of Uttar Pradesh

To

The Secretary,

Bar Council of Uttar Pradesh,

Allahabad.

Sir,

I beg to apply for permission to appear at the examination of the Bar Council of Uttar Pradesh, Allahabad to be held in.....The particulars are as follows:

Name of the applicant

.....

Father's name

.....

Training taken under Sri

.....

Date of notice to the Bar Council under Rule 3

.....

Period of training

.....

Certificate of the Advocate giving
training.....

.....
.....

Fee deposited on

.....

Date:.....

Signature of the Applicant

Form No. 4

Bar Council of Uttar Pradesh

Application no.....of 19.....

[Under Section 25 read with Section 24 of the Advocates Act, 1961]

In the matter of enrolment of Sri.....son/daughter/wife of

.....

To

The Chairman,

Bar Council of Uttar Pradesh,

Allahabad

The humble petition of Sri.....
son/daughter/wife of Sri..... resident of
.....

Most respectfully showeth:

1. That your petitioner is a citizen of India, is above 21 years of age and prays for his admission as an Advocate of the Bar Council of Uttar Pradesh.

2. That the necessary particulars are as follows:

(All entries to be in Block Letters)

(i) Name

(ii) Father's name

(iii) Date of birth.....

(As shown in the High School Certificate).

(iv) Date of having obtained a degree in Law or called to the Bar

(v) Name of the University or the institution.....

(iv) Certificate of having undergone a course of training in Law and passed an examination after such training as prescribed by the Bar Council of Uttar Pradesh

(vii) Exception to the provision of training and examination claimed on the ground of

(viii) Date of payment of Rs. 250 as Enrolment Fee.....

Or

3. That your petitioner is a vakil, pleader or an attorney practising within the jurisdiction of the High Court of Judicature at Allahabad, and was enrolled as such onand continues to practise.

Or

4. That your petitioner is not a Law Graduate but was entitled to be enrolled as an advocate of the High Court immediately before the appointed date by reason of his practising as a pleader for a period of not less than 15 years with ability and repute as provided under proviso sixthly to Rule 1, framed under Section 9 of the Indian Bar Councils Act, XXXVIII of 1926 and is filing a certificate of the District Judge of.....

Date:

Signature of the petitioner

Full address.....

Enclosure:

1. High School or equivalent examination's certificate showing date of birth or age with an attested copy.
2. L. L. B. Degree with an attested copy.
3. Certificate of enrolment if a pleader, vakil, attorney, an advocate or having been called to the Bar.
4. Nationality certificate or declaration.
5. Certificate as to character.
6. Enrolment fee of Rs. 250 per Bank Draft or Money Order in the name of the Secretary, Bar Council of Uttar Pradesh, Allahabad.

Declaration

I.....son/daughter/wife of
Sri.....resident of.....
.....an applicant to be enrolled as an Advocate of the Bar
Council of Uttar Pradesh do hereby solemnly affirm and declare as follows:

(1) That I intend to practise ordinarily and regularly within the jurisdiction of the Bar Council of Uttar Pradesh from the date of enrolment.

(2) That I hold no appointment under Government of any other Department.

(3) That I am not engaged in any trade or business.

(4) That my application for enrolment as an Advocate has not been refused by any State Bar Council or a High Court in India or the Supreme Court.

(5) That I am a citizen of India.

(6) That I further declare in writing that I will truly and honestly and to the best of my knowledge and ability act and demean myself as an advocate and faithfully observe and obey all orders enforced or which shall hereafter be made by the High Court and all the rules made by the Bar Council for regulating the conduct of Advocates on the roll of Advocates of the Bar Council.

Place.....

Date.....

Signature of the applicant.

N.B. - Score out the paragraphs which do not apply in the particular case.

(v) Notification No. 1829, dated 6th August, 1965, published in U.P. Gazette, Part 1-ka, dated Nth August, 1965, page 1966.

The following rules framed by the Bar Council of Uttar Pradesh have been approved by the Bar Council of India:

CHAPTER XI

Rules Under Section 28(2)(a)

Declaration of Intention to practise

1. Every person desiring to be enrolled shall, in his application, made in Form 4, Appendix 2, declare his intention to practise within the jurisdiction of the Bar Council.

2. Every person whose name is entered as Advocate on the rolls of any High Court under the Indian Bar Councils Act, 1926, immediately before the first of December, 1961, shall, if he desires to practise within the jurisdiction of the Bar Council, express an intention through a declaration made in Form No. 1, Appendix 2 and shall intimate the Secretary of the Bar Council by the 31st March, 1963, or such other extended period as the Bar Council may fix that he wants to practise within the jurisdiction of the Bar Council.

3. The name of an Advocate who does not file the declaration mentioned in Rule 2 will not be entered on the rolls of the Advocates, prepared under Section 17 of the Act.

CHAPTER XII

[Rules Under Section 28(2)(b) read with Section 24(d) of the Act]

Training and Examination Rules

4. Definitions. - (i) "Trainee" means a person who is an applicant for training and examination for enrolment as required under the provisions of Section 24(d) of the Advocates Act, 1961.

(ii) "Senior" for the purpose of this Chapter means an advocate who is of not less than 10 year's standing.

(iii) "Receiving training" shall include reading in Chambers of a Senior Advocate as hereinafter provided.

5. Qualification of a trainee. - A trainee shall be a graduate-in-law from any University in India recognised for the purpose of the Advocates Act, 1961, by the Bar Council of India.

6. Training compulsory for whom. - No person who is otherwise eligible for being admitted as an Advocate under Section 24 of the Advocates Act, 1961, but who has not been exempted from the application of sub-clause (d) of Section 24(1) of that Act, shall be admitted as an Advocate on the roll of the Bar Council of Uttar Pradesh unless he has after his graduation in law or call to the Bar, as the case may be, undergone a course of training in law, attended a course of lectures and passed an examination as provided under the Rules.

7. Courses of Training. - Course of training in law shall consist of four terms as provided under the rules.

8. Periods of Training and courses for periods. - The period of training shall be for four terms as follows:

1st term - 15 July to 14th October.

2nd term - 15 October to 14th January.

3rd term - 15th January to 14th April.

4th term - 15th April to 14th July.

Courses of training for each term shall be as given below:

1st term - (a) Criminal Practice.

(b) Rules of the High Court and subordinate courts relating to criminal matters.

2nd term - (a) Civil Practice.

(b) Rules of the High Court and subordinate courts along with Articles 226, 227, 228 and 311 of the Constitution of India.

3rd term - (a) Drafting of pleadings, petitions, applications, etc.

(b) Preparing notes of cases and finding out case-law on the points involved.

(c) Professional conduct and Ethics.

4th term - A subject chosen for special study from amongst-

(a) the following subjects along with the leading cases, excluding those subjects in which a trainee has passed his law examination.

(b) A trainee who has not passed in the subjects of Civil and Criminal Procedure Codes, shall have to qualify in both of them or that in which he has not passed in addition to a subject mentioned in clause (a).

Subjects prescribed:

(a) Indian Evidence Act

(b) The Indian Limitation Act, Court Fees Act, Stamp Act and Registration Act

- (c) Tenancy laws of Uttar Pradesh.
- (d) Labour laws.
- (e) Taxation laws.
- (f) Company laws.
- (g) Conveyancing.
- (h) Matrimonial laws and laws relating to domestic relations.
- (i) International Laws.
- (j) Commercial laws.

Note. - The scope of the subjects and the names of leading cases shall be as specified in the syllabus.

9. Study for period and diary. - During each term the trainee shall have to study the subjects prescribed for that term and he shall maintain a diary containing a regular day to day record of the work done by him. The diary shall bear the signatures both of the trainee and of the senior under whom he has been taking training.

10. Examinations. - There shall be an examination at the end of each term in the subjects prescribed for that term. There shall be only one paper for each term. A candidate shall also be required to undergo a *viva voce* examination after the fourth term examination in all the subjects offered by him and the diary maintained by him and it shall be obligatory for a candidate to pass in the *viva voce* examination.

11. Supplementary Examination. - There shall be held a supplementary examination along with the first term examination of the succeeding year and a candidate may appear in the subject or subjects and the *viva voce* examination in which he failed to qualify or could not appear.

12. Application for training. - A trainee desirous of undergoing training and taking examinations for being enrolled as an advocate shall make an application on the prescribed form to the Secretary, Bar Council along with the following certificates:

- (a) A certificate of having passed an examination as provided under Section 24 of the Advocate Act
- (b) A certificate from a senior under whom he wants to take training signifying his consent to that effect.

(c) A certificate of good conduct from the Head of the Institution in which he last studied or from any responsible person not his relation.

13. * * *

14. Examination Fee. - A trainee shall pay an examination fee of Rs. 20 for each of the term written examinations on or before a date to be notified. The same fee shall be payable for each paper in the supplementary examination.

15. Senior and change of Senior. - A trainee may take training under one senior in a term and if he so chooses he may take training under another senior in another term or terms provided he submits a certificate from the proposed senior before starting training as to the senior's consent to give training:

Provided that a trainee for sufficient reasons may change his senior within one and the same term after intimation to the Bar Council. Such intimation shall be accompanied by the written consent of the new senior.

16. Trainee not to engage in service, trade, etc. - A trainee shall not engage himself in any service, profession, trade or calling during the period of his training but the Bar Council may in appropriate cases permit a trainee to be a fellow or a lecturer in law in an institution where law is taught to students or to sign articles with an attorney or to take part-time employment which does not conflict with his training.

17. File for each trainee. - The Secretary of the Bar Council shall maintain a separate file for each trainee.

18. * * *

19. Senior's certificate necessary for permission to appear at an Examination. - A trainee shall annex with his application for permission to appear at an examination a certificate of his senior that he has undergone a course of training.

20. Information to be furnished by trainee. - A trainee shall furnish such information for a due consideration of his application as the Secretary may call for and in cases in which the question of the eligibility of the trainee for an examination appears to be doubtful, the Secretary may make such further or other enquiries as may appear necessary to him. The Secretary shall report to the Training and Examination Committee the result of such enquiries, which may, before finally deciding against the eligibility of the applicant, give him an opportunity of being heard.

21. Failure no bar to appear at subsequent Examination. - Failure to pass an examination shall not disqualify an applicant from appearing at a subsequent examination, provided a new application is made and a fresh fee paid.

22. Publication of result. - The names of successful candidates shall be published as soon as possible after the close of the examination by pasting their names on the Notice Board of the Bar Council, by publication in the *Official Gazette* and in such other manner as the Bar Council may decide.

23. Qualifying marks. - No trainee shall be declared to have passed the examination unless he obtains not less than 50 per cent, of the marks assigned in each paper and in the *viva voce*.

24. Use of unfair means. - All cases relating to an attempted use of unfair means at or in connection with an examination shall be disposed of by the Training and Examination Committee subject to the approval of the Bar Council.

25. Grant of certificate. - A certificate shall be granted by the Bar Council to a trainee who is declared to have passed the examination under those rules.

Appendix II

Form No. 1

Bar Council of Uttar Pradesh, Allahabad

Declaration as required under Section 17(1) (a) of the Advocates Act, 1961

I.....hereby declare and express my intention to practise within the jurisdiction of the Bar Council of Uttar Pradesh.

Signature

Enrolment No.....

Place of Practice.....

Date.....

Form No. 2

Bar Council of Uttar Pradesh

(Statement to be filed before starting training)

1. Name of trainee in full as entered in the University records
2. Father's name
3. Address
4. Date of birth.....
5. Year of passing the LL. B. Examination.....
6. Name of University.....
7. Name of the advocate of 10 year's standing under whom the training is sought to be taken.....
8. Place where the advocate proposes to give training is practising.....
.....
9. Date when the advocate was permitted to practise
10. Was the trainee ever employed or engaged in any business, trade or calling ?
If so, the nature of business and the certificate of the employer.....
11. Certificate of character from the persons who are not relations.....
.....

Dated

Signature of trainee

Declaration

I declare that the particulars furnished above are true.

Dated.....

Signature

This is to certify that I am entitled to and am agreeable to give the training to
Sri.....

.....
.....
Dated

Signature of the Advocate,

Enrolment No.....

Date of enrolment.....

Form No. 3

Bar Council of Uttar Pradesh

To

The Secretary,

Bar Council of Uttar Pradesh, Allahabad

Sir,

I beg to apply for permission to appear at the examination of the Bar Council of Uttar Pradesh, Allahabad to be held on.....

The particulars are as follows:

Name of the
applicant.....

Father's
name.....

Training taken under
Sri.....

Period of
training.....

Certificate of the Advocate giving training.....

Fee deposited on.....

Dated

Signature of the Applicant.

(vi) Notification No. 880, dated 24th August, 1967, published in U.P. Gazette, Part I-ka, dated 2nd September, 1967, page 1872.

The following rules framed by the Bar Council of Uttar Pradesh and approved by the Bar Council of India are published as under:

CHAPTER XII

[Rules under Section 28 (2) (b)]

Training and Examination Rules

1. In the rules in this Chapter -

(i) "applicant" means a person who is an applicant to the Bar Council for enrolment as an Advocate and shall include a person who proposes to apply.

(ii) "Senior" for the purposes of this chapter means an Advocate who is qualified, under these rules, to impart training to applicants and shall include an attorney or a pleader enrolled as an Advocate.

(iii) "Receiving training" shall include reading in Chambers of a Senior Advocate as hereafter provided.

(iv) "Lecture" in these Rules shall mean and include oral as well as written lecture.

2. An applicant shall be a graduate in Law from any University in India or have obtained any degree in Law, recognised for the purpose of the Advocates Act, 1961, by the Bar Council of India.

3. No person who is otherwise eligible to be admitted as an Advocate under Section 24 of the Advocates Act, 1961, but who has not been exempted from the application of sub-

clause (d) of Section 24 (1) of that Act, shall be admitted as an Advocate on the roll of the Bar Council of Uttar Pradesh unless he has after his graduation in Law or call to the Bar, as the case may be, undergone a course of training in law, attended a course of lectures and passed an examination after the training and the lectures in the manner prescribed.

4. (i) The course of training in law shall consist of receiving training for a period of six months which shall, except as permitted under these rules, be continuous, from a Senior ordinarily practising in the High Court, or in the District Court.

(ii) Such Senior shall be one who is of not less than ten years' standing, and - (i) whose name appears on a list, maintained by the Bar Council for this purpose, or (ii) whose name is approved by the Bar Council in writing before the applicant commences such training.

(iii) For the purpose of computing ten years' standing of a Senior, his standing as a Pleader, Vakil, or an attorney shall be taken into account.

5. No applicant shall receive training with a Senior who has, at the time of the commencement of receiving training, more than two other applicants, except with the previous permission in writing of the Bar Council.

6. Every applicant receiving training with a Senior shall send to the Bar Council an intimation in writing of the name of the Senior from whom he desires to receive training, together with the consent in writing of the Senior concerned in the form prescribed.

7. An applicant shall, before commencing training, send in prescribed form, an intimation to the Secretary, Bar Council that he is about to commence his training with a fee of Rs. 50. The form shall be signed both by the Senior and the applicant. The period of training shall commence on the date on which the intimation aforesaid is received by the Secretary of the Bar Council, and in case the training commences later, from the date of such commencement.

8. Every applicant shall be bound to receive training under the same Senior except where the Senior has before the expiry of the period of training ceased to practise in which case the applicant shall receive training with another Senior for the residue of the period, qualified under Rule 4 (ii) to give training, provided that he shall have given to the Bar Council-(a) an intimation in writing thereof previously to his receiving training with such other Senior, and (b) the consent in writing of the Senior concerned in the form prescribed.

9. During the period of training, the applicant shall regularly attend in Chambers or office of the Senior, study case papers, correspondence, draft pleadings, attend court and in particular study cases with a view to getting acquainted with the practice and procedure in Civil and/or Criminal and/or Original and/or Appellate work.

10. Every applicant undergoing training under these Rules shall maintain a diary containing a regular record of the work done by him from day to day during the period of training. The diary shall bear the signature, both of the applicant and of the Senior. It shall be sent to the Bar Council at the end of six months from commencement of his training with his application for enrolment.

11. No applicant shall engage himself in any employment, profession, business, trade or calling, during the course of training; but the Bar Council may, in appropriate cases, permit an applicant to be a fellow or a lecturer in law in an institution where law is taught to students or to take such part-time employment as does not conflict with his training.

12. An applicant shall not engage himself in any service, profession, trade or calling, without the previous permission of the Bar Council, during the period prescribed in Rule 4 (i).

13. During the period of training the applicant shall not absent himself for a total period exceeding twenty days (excluding vacations), except on the ground of illness, or for other reasons considered sufficient by the Senior with whom he is receiving training. In all cases of such absence, the permission granted for the absence, with the reasons therefor, shall be obtained by the applicant and submitted to the Council, at the time of submitting the diary.

14. A Senior with whom the applicant is receiving training shall intimate the Bar Council, in writing the non-attendance of the applicant for more than a continuous period of twenty days without his permission.

15. The Secretary of the Bar Council shall maintain a separate register in which shall be entered the names of the applicants undergoing a course of training in law, the name and address of the Senior concerned, the date of the intimation and the date of the actual commencement of training.

16. The Enrolment Committee of the Bar Council, may, where it is of the opinion that the applicant has not undergone full and proper training in compliance with the rules, extend the period of training as it may deem fit.

Examination

17. No applicant shall be entitled to appear at an examination held by the Bar Council unless he has undergone a course of training and attended a course of lectures as prescribed.

18. The Bar Council shall arrange for delivery of lectures on the subjects prescribed for the examination at such centres as it may fix, from time to time.

19. The Training and Examination Committee shall hold an examination of the applicants on the dates and at the time fixed and notified by it. The examination shall be held at such centre or centres as may be fixed by the Training and Examination Committee from time to time:

Provided that the hour or the date or dates appointed by the Training and Examination Committee for holding the said examination may be altered, varied or restricted from time to time by the said Committee after reasonable notice in such manner as the said Committee may deem proper.

20. The Examiners, Paper Setters and Moderators shall be appointed by the Training and Examination Committee of the Bar Council.

21. The Applicants shall be examined in the following papers (each paper carrying 100 marks and of three hours' duration).

1st Paper -

- (i) Drafting of plaints, written statements, complaints, grounds of appeals, applications and affidavits.
- (ii) Precedents, reporting of cases, professional conduct and professional ethics in India.
- (iii) Drafting of deeds including sale deeds, gift deeds, wills, powers of attorney as also necessary notices for getting the same executed compulsorily.
- (iv) Law relating to Advocates including the Advocates Act, 1961.

IIInd Paper -

- (i) The Court Fees Act, with special reference to U.P. Amendments.
- (ii) The Suits Valuation Act with special reference to amendments in U.P.
- (iii) The Stamp Act with special reference to its applicability in U.P.
- (iv) The Provincial Small Cause Courts Act with special reference to amendments in U.P.

IIIrd Paper -

(i) General Rules (Criminal).

(ii) General Rules (Civil).

(iii) The following Chapters of Rules of the High Court.

Chapter IV

Chapter VIII, Sections C to L

Part III, Chapters XIV, XV, XVI, XVII, XVIII.

Part IV, Chapters XXI, XXII.

Part V, Chapter XVIII.

Part VI, Chapter XVI.

Part VII, Chapters XXXI, XXXIII.

Part VIII, Chapter XLI, Section C.

Articles: 226, 227, 228 and 311 of the Constitution of India.

(iv) Supreme Court Rules.

IVth Paper-

Tenancy Laws of Uttar Pradesh.

(Only for those trainees who have not qualified in this subject in their Law Examination).

Vth Paper-

A subject chosen for special study from amongst the subjects given hereunder:

(i) Labour Laws.

(ii) Taxation Laws.

(iii) Administrative Laws.

(iv) International Law Public.

22. The Training and Examination Committee shall from time to time prepare the syllabus and prescribe Acts, text-books and leading cases on the above subjects.

23. Every applicant for examination shall apply for permission to appear in the examination in the prescribed form and shall have to pay an examination fee of Rs. 50 and Rs. 15 per paper for appearing separately in one or more papers in the subsequent examinations.

24. Printed copies of the application form shall be furnished to applicants by the Bar Council on payment of such charges as the Bar Council may, from time to time, fix in that behalf.

25. Every applicant shall annex to his application for permission to appear at the examination a certificate to the following effect:

(i) that the applicant has obtained a degree in law within the meaning of Section 24 of the Act or that the applicant has been called to the Bar;

(ii) that the applicant has undergone the course of training as prescribed, such certificate to be in the prescribed form from the Senior under whom the applicant has been receiving training.

26. Every applicant shall, on being required by the Secretary, furnish such information as may be required by the Secretary for the due consideration of the candidate's application and in cases in which the question of the eligibility of the applicant for the examination appears to the Secretary to be doubtful the Secretary may make such further or other enquiries as may appear necessary to him. The Secretary shall report to the Examination Committee the result of such enquiries. The Examination Committee may, before finally deciding on the eligibility of the applicant give the applicant an opportunity to be heard if the result of such further enquiries made by the Secretary is adverse to the applicant.

27. Failure to pass an examination will not disqualify the applicant from appearing at a subsequent examination, provided a new application is made and a fresh fee paid.

28. The names of successful applicants shall be published in such manner as may be decided by the Training and Examination Committee.

29. No applicant shall be declared to have passed the examination unless he obtains (a) not less than 40 percent, of the marks assigned to each paper and (b) not less than 50 per cent, of the marks in the aggregate.

30. All cases relating to the use or the attempted use of unfair means at or in connection with any examination shall be disposed of by the Training and Examination Committee whose decision shall be final subject to appeal to the Bar Council.

31. An applicant may have his answer-books scrutinized on payment of a fee of Rs. 10 in the manner prescribed by the Training and Examination Committee.

Bar Council of Uttar Pradesh, Allahabad

Syllabus

1st Paper -

- (i) Drafting of plaints, written statements, complaints, grounds of appeals, applications and affidavits.
- (ii) Precedents, reporting of cases, professional conduct and professional ethics in India.
- (iii) Drafting of deeds including sale-deeds, gift deeds, wills, powers of attorney as also necessary notices for getting the same executed compulsorily.
- (iv) Law relating to advocates including the Advocates Act, 1961.

Books recommended:

- (i) Pleadings by Mogha.
- (ii) (a) Chapter on Precedents: Salmond's Jurisprudence.
(b) Rules of the Bar Council of India on Professional Etiquette.
- (iii) (a) Mogha's Conveyancing.
(b) Bindra's Conveyancing.
(c) S.K. Dutta's Conveyancing.
- (iv) Advocates Act, 1961.

(a) Advocacy by S.C. Chandra Consul (Asia Publishing House).

(b) Legal Practitioners Act of 1879.

2nd Paper -

1. The Court Fees Act, with special reference to U.P. Amendments.
2. The Suits Valuation Act with special reference to amendments in U.P.
3. The Stamp Act with special reference to its applicability in U.P.
4. The Provincial Small Cause Courts Act with special reference to amendments in U.P.

Cases recommended under the Court Fees Act

1. *Kalu Ram v. Babu Lal and others*, AIR 1932 All 485 (F.B.)

Gist of the case. - Consequential relief - definition of basis on court fees under Section 7(4) (c).

2. *Zafar Ali Shah v. Collector of Merrut*, 1945 ALJ 244 (DB).

3. *Murli Dhar v. Bansidhar and others*, AIR 1963 All 65.

Gist for cases. - Suit for declaration and injunction. Injunction not dependent on declaration. No consequential relief.

4. *Om Prakash v. Maya Ram and others*, 1963 ALJ 628.

Gist of the case. - Valuation in case of suit for accounts-Section 7 (iv) (b).

Cases prescribed under the Stamp Act

1. *Javer Chand and others v. Pukhraj Surana*, AIR 1961 SC 165

Gist of the case. - Once a document has been marked as an Exhibit in the case and has been used by the parties in examination and cross-examination of their witnesses,

Section 36 comes into operation. The trial court or the appellate court cannot go beyond that order.

2. *Bittan Bibi v. Kuntu Lal*, AIR 1952 All 996 (ILR 1952 All. 984).

Gist of the case. - Difference between-Admitted in evidence and acted upon.

3. *Nanga v. Dhanna Lal*, AIR 1962 Raj 68 (FB).

Gist of the case. - Document when can be said to have been admitted in evidence.

4. *New Central Jute Mills Co. Ltd. and others v. State of West Bengal and others*, AIR 1963 SC 1307.

Gist of the case. - Mortgage executed in duty relating to property in West Bengal. Deed registered in West Bengal - Stamp Duty payable in U.P.

3rd Paper -

(a) General Rules (Criminal).

(b) General rules (Civil).

(c) The following Chapters of Rules of the High Court:

Chapter IV.

Chapter VIII, Sections C to L.

Part III - Chapters XIV, XV, XVI, XVII, XVIII.

Part IV - Chapters XXI, XXII.

Part V - Chapters XVIII.

Part VI - Chapter XVI.

Part VII - Chapters XXXI, XXXIII.

Part VIII - Chapter XLI, Section C.

Articles 226, 227, 228 and 311 of the Constitution of India.

(d) Supreme Court Rules.

Cases Prescribed

1. Constitution -

1. AIR 1958 SC 96 (*Purshotam Lal Dhingra v. Union of India*).
2. AIR 1951 SC 41 (*Chiranjit Lal Chaudhary v. Union of India*).
3. AIR 1955 SC 233 (*Hari Vishnu Kamath v. Ahmad Ishaque and others*).

4th Paper -

Tenancy Laws of Uttar Pradesh.

(Only for those trainees who have not qualified in this subject in their Law Examination).

5th Paper-

A subject chosen for special study from amongst the subject given hereunder:

- (a) Labour Laws.
- (b) Taxation Laws.
- (c) Administrative Laws.
- (d) International Law Public.

Books prescribed

1. Labour Laws :

- (i) Trade Union Act.

- (ii) Factories Act.
- (iii) Workmen's Compensation Act.
- (iv) Industrial Disputes Act.
- (v) U.P. Industrial Disputes Act.
- (vi) Payment of Wages Act.

2. Taxation Laws :

- (i) Income Tax Act.
- (ii) Sales Tax Act.
- (iii) Wealth Tax Act.
- (iv) Gift Tax Act
- (v) Estate Duty Act

3. Administrative Laws:

The theory and Practice of Administrative Law:

- (i) Administrative Law by Fuclkers, 1964, London.
- (ii) Principles of Administrative Law, Griffith and Street, 1963, London

4. International Law (Public) :

- (i) Oppenheim's International Law.
- (ii) Starke's International Law.
- (iii) Brierly: The Law of Nations.
- (iv) International Law by V.D. Mahajan.

(v) International Law by M.P. Tandon.

(vii) Notification. No. 127/8-C-168, dated March 18, 1969, pages 113-115.

1. In these rules, unless there is anything repugnant in the subject or context, the word "advocate" shall include a partnership or firm of advocates.

2. Save as otherwise provided in any law for the time being in force, no advocate shall be entitled to appear, plead or act for any person in any Court in any proceeding unless the advocate files an appointment in writing signed by such person or his recognised agent or by some other person duly authorised by or under a power of attorney to make such appointment and signed by the Advocate in token of its acceptance, or the advocate files a memorandum of appearance in the form prescribed by the High Court:

Provided that where an advocate has already filed an appointment in any proceeding, it shall be sufficient for another advocate, who is engaged to appear in the proceedings merely for the purposes of pleading, to file a memorandum of appearance or to declare before the Court that he appears on instructions from the advocate who has already filed his appointment in the proceeding:

Provided further that nothing herein contained shall apply to an advocate who has been requested by the Court to assist the Court in any case or proceeding or who has been appointed at the expense of the State to defend an accused person in a criminal proceeding.

Explanation. - A separate appointment or a memorandum of appearance shall be filed in each of the several connected proceedings notwithstanding that the same advocate is retained for the party in all connected proceedings.

3. An advocate who is not on the Roll of Advocates of the Bar Council of the State in which the Court is situate, shall not appear, act or plead in such Court, unless he files an appointment along with an advocate who is on the Roll of such State Bar Council and who is ordinarily practising in such Court.

In cases in which a party is represented by more than one advocate, it shall be necessary for all of them to file a joint appointment or for each of them to file a separate one.

4. The acceptance of an appointment on behalf of a firm or partnership of advocates shall be indicated by a partner affixing his own signature as a partner on behalf of the firm or partner or on behalf of the firm or partnership of advocates.

5. An advocate at the time of acceptance of his appointment shall also endorse on it his address, which address shall be regarded as one for service within the meaning of Rule 5 of Order III of the Code of Civil Procedure, 1908:

Provided that where more than one advocate accept the appointment it shall be sufficient for one of them to endorse his address, which address shall be regarded as one for service within the meaning of Rule 5 of Order III, C.P. Code. Where an advocate appointed by a party in any of the proceedings is prevented by reasonable cause from appearing and conducting the proceedings at any hearing, he may instruct another advocate to appear for him at that hearing.

6. (1) In civil cases, the appointment of an advocate, unless otherwise limited, shall be deemed to be in force to the extent provided in that behalf by Rule 4 of Order III of the Code of Civil Procedure, 1908.

(2) In criminal cases, the appointment of an advocate unless otherwise limited shall be deemed to be in force until determined with the leave of the Court by writing signed by the party or the advocate, as the case may be, and filed in Court or until the party or the advocate dies, or until all proceedings in the case are ended so far as regarded to the party.

(3) For the purposes of sub-rule (2), a case shall be deemed to mean every kind of enquiry, trial or proceeding before a Criminal Court whether instituted on a police report or otherwise than on a police report, and further -

(i) an application for bail or reduction, enhancement or cancellation of bail in the case,

(ii) an application for transfer of the case from one Court to another,

(iii) an application for stay of the case pending disposal of a civil proceeding in respect of the same transaction out of which the case arises,

(iv) an application for suspension, postponement or stay of the execution of the order or sentence passed in the case,

(v) An application for the return, restoration or restitution of the property as per the order of disposal of property passed in the case,

(vi) an application for leave to appeal against an order of acquittal passed in the case,

(vii) any appeal or application for revision against any order or sentence passed in the case,

(viii) a reference arising out of the case,

- (ix) an application for review of an order or sentence passed in the case or in an appeal, reference or revision arising out of the case,
- (x) an application for making concurrent sentences awarded in the case or in an appeal, reference, revision review arising out of the case,
- (xi) an application relating to or incidental to or arising in or out of any appeal, reference, revision or review arising in or out of the case (including an application for leave to appeal to the Supreme Court),
- (xii) any application or act for obtaining copies of documents or for the return of articles or documents produced or filed in the case or in any of the proceedings mentioned hereinbefore,
- (xiii) any application or act for obtaining the withdrawal or the refund or payment of or out of the moneys paid or deposited in the Court in connection with the case or any of the proceedings mentioned hereinbefore (including moneys paid or deposited for covering the costs of the preparation and the printing of the Transcript Record of Appeal to the Supreme Court),
- (xiv) any application for the refund of or out of the moneys paid or recovered as fine or for the return, restitution or restoration of the property forfeited or confiscated in the case or in any appeal, reference revision or review arising out of the case as per final orders passed in that behalf,
- (xv) any application for expunging remarks or observations on the record of or made in the judgment in the case or any appeal, reference, revision or review arising out of the case, and
- (xvi) any application or proceeding for sanctioning prosecution under Chapter XXXV of the Code of Criminal Procedure, 1898, or any appeal or revision arising from and out of any order passed in such an application or proceeding, shall be deemed to be proceeding in the case:

Provided that where the venue of the case or proceedings is shifted from one Court (subordinate or otherwise) to another the advocate filing the appointment referred to in sub-rules (1) and (2) above, in the former Court, shall not be bound to appear, act or plead in the latter Court unless he files or he has already filed a memorandum, signed by him, in the latter Court, that he has instructions from his client to appear, act and plead in that Court.

7. (1) Except when specially authorised by the Court or by consent of the party, an advocate, who has advised in connection with the institution of a suit, appeal or other proceeding or has drawn up pleadings in connection with such matter, or has, during the progress of any suit, appeal or other proceeding appeared, acted or pleaded for a party, shall not, unless he first gives the party whom he has advised or for whom he has drawn

up pleadings, appeared, acted or pleaded, an opportunity of engaging his services, appear or act or lead in such suit, appeal or other proceeding or in an appeal or application for revision arising therefrom or in any matter connected therewith for any person whose interest is in any manner in conflict with that of such party.

(2) Where it appears on the face of the record that the appearance of an advocate in any proceeding for any party is prejudicial to the interest of the other party on account of the reasons mentioned in sub-rule (1) above, the Court may refuse to permit the appearance to be filed, or cancel such appearance if it has already been filed, after giving the said advocate an opportunity of being heard.

(3) An advocate who discloses to any party information confided to him in his capacity as an advocate by another party without the latter's consent shall not be protected merely by reasons of his being permitted to appear, act or plead for the said party.

8. (a) The appointment of a firm or partnership of advocates may be accepted by any partner on behalf of the firm.

(b) No such firm or partnership shall be entitled to appear, act or plead in any Court unless all the partners thereof are entitled to appear, act or plead in such Court.

(c) The name of the firm or partnership may contain the names of the persons who were or are members of the partnership but of no others.

(d) the words "and Company" shall not be affixed to the name of any such partnership or firm.

(e) The names of all the members of the firm shall be recorded with the Registrar of the High Court and/or the District Judge as the case may be, and the State Bar Council and the names of all the partners shall also be set out in all professional communications issued by the partners or the firm.

(f) The firm of advocates shall notify to the Registrar of the High Court or the District Judge, as the case may be, the State Bar Council any change in the composition of the firm or the fact of its dissolution as soon as may be from the date on which such change occurs or its dissolution takes place.

(g) Every partner of the firm of advocates shall be bound to disclose the names of all the partners of the firm whenever called upon to do so by the Registrar of the High Court, the District Judge, the State Bar Council, as the case may be, or any Court or any party for or against whom the firm or any partner thereof has filed the application or memorandum of appearance.

(h) In every case where a partner of a firm of advocates signs any document or writing on behalf of the firm he shall do so in the name of the partnership and shall authenticate the same by affixing his own signature as partner.

(i) Neither the firm of advocates nor any partner thereof shall advise a party to appear, act or plead on behalf of a party in any matter or proceeding where the opposite party is represented by any other partner of the firm or by the firm itself.

9. An advocate may correct any clerical error in any proceedings with the previous permission of the Registrar or an officer of the Court specially empowered in this behalf by the Court obtained on a memorandum stating the correction desires.

10. No advocate who has been debarred or suspended or whose name has been struck off the Roll of Advocates shall be permitted to act as a recognised agent of any party within the meaning of Order III of the Code of Civil Procedure, 1908.

11. No advocate who has been found guilty of Contempt of Court shall be permitted to appear, act or plead in any Court unless he has purged himself of contempt.

12. Advocates, appearing before the Court shall wear the following dress:

(1) Advocates other than lady advocates:

(a) Black buttoned up coat chapkan, Achakan or Sherwani, Barrister's gown and bands, or

(b) Black open collar coat, white shirt, white collar, stiff or soft, with Barrister's gown and bands.

(2) Lady Advocates-

Regional dress of subdued colours with Barrister's gown and bands.

(viii) Notification No. 278/8-S-168, dated July 22, 1969, published in U.P. Gazette, Part II, dated 6th December, 1969, page 224.

1. In these rules unless there is anything repugnant in the subject or context, the 'Advocate' means an Advocate in Part II of the Roll of Advocates maintained by the Bar Council of Uttar Pradesh.

2. On receipt of an application from any Advocate or on a recommendation from any Judge of the Court, or a District Judge Subordinate to this Court in respect of an Advocate practising in his Judgeship, the U. P. Bar Council or the Advocate-General for

designating an Advocate as Senior Advocate, the Chief Justice shall refer the request or the recommendation as the case may be to the Judges meeting:

Provided that no recommendations in respect of an Advocate shall be made without his consent in writing:

Provided further that no Advocate who has a standing of less than 10 years of practice as an Advocate shall be considered for designation as Senior Advocate.

3. The application or the recommendation as the case may be shall set out concisely in numbered paragraphs the following facts-

(i) the name of the Advocates,

(ii) any achievements or distinctions which entitle the Advocate to be designated Senior Advocate,

(iii) standing of practice as an Advocate,

(iv) whether or not any prior application or recommendation in respect of the Advocate concerned was made to this Court or to any other court, if so when and with what result.

In the case of a recommendation made by one of the persons or authorities mentioned in Rule 2, the consent of the Advocate concerned in writing shall be attached.

4. The application or the recommendation as the case may be shall be addressed to the Chief Justice of the Court on an unstamped plain paper:

Provided that no application or recommendation in respect of an Advocate who has been considered by the Court but had not been designated as such shall be considered before two years after such rejection.

5. The application or the recommendation as the case may be shall be deemed to have received the approval of the Court if on a consideration of the ability, experience and standing at the Bar of the said Advocate deserving of such distinction the proposal is supported by a majority of two-thirds of the Judges of the Court

6. On such an approval of the proposal the Chief Justice shall designate such Advocate as a Senior Advocate under Section 16 of the Advocates Act, 1961.

7. On designation of an Advocate as a Senior Advocate the Registrar shall notify the fact to the Registrar, Supreme Court, the Bar Council of Uttar Pradesh, Bar Council of India

as also Bar Councils of other States of India, and also all the District and Sessions Judges subordinate to the High Court.

8. A record of all such applications and recommendations shall be maintained in the office with the opinions thereon and the result for future reference.

(ix) Notice, published in U.P. Gazette, Part 8, dated 1st August, 1992, pages 155-156.

Bar Council Election, 1992

(Notice under Rule 4, Chapter I, Part III of the Rules of Bar Council of India)

It is hereby notified that for the purpose of preparing Final Electoral Roll in accordance with Rules 2 and 3 of Chapter I, Part III of the Rules framed by the Bar Council of India under Sections 3(4), 10-B, 15(2) (a), 49(1) (a) and (ab) of the Advocate Act, 1961 for the Election of Members of the Bar Council of Uttar Pradesh, the particulars as to any of the disqualifications as referred to in clauses (a) to (g) of Rule 2 mention below, shall be furnished by an Advocate who has incurred them to the State Bar Council of Uttar Pradesh on or before August 16, 1992:

Rule 2 -

The name of an Advocate appearing in the State Roll shall not be on the Electoral Roll, if on information received or obtained by the State Bar Council concerned that-

(a) his name has at any time been removed;

(b) he has been suspended from practice, provided that his 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 the Council;

(g) he has intimated voluntary suspension of practice and has not given intimation of resumption of practice.

Rule 3 -

Subject to the provisions of Rule 2, the name of every Advocate entered in the Slate Roll shall be entered in the electoral roll of the State Council.

Explanation:

If an Advocate who has incurred any disqualification as referred to in Rule 2 and does not furnish details about it as required in the notice under Rule 4 within time specified shall be deemed to have committed an act of other misconduct as referred to in Section 35(1) of the Act.

These amended rules shall come into force as and from the 1st January, 1991.

It is further notified for general information that the Election of the 25 members of the Bar Council of Uttar Pradesh shall take place on 21st and 22nd December, 1992.