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The Bar Council of Uttar Pradesh Election Rules, 1968

(Framed Under Section 15(2) of the Advocates Act as Approved by the Bar Council of India)

In exercise of the powers conferred by Section 15 of the Advocates Act (Act No. XXV of 1961), the Bar Council of Uttar Pradesh after obtaining the approval of the Bar Council of India makes the following rules:

1. **Short title and commencement.**- These rules shall be called the "Bar Council of U.P. Election Rules, 1968" and they shall come into force from the date of their approval.
2. These rules shall be subject to the rules made by the Bar Council of India under the power vested in it by the Act.
3. **Interpretation.**- In these rules, unless the context otherwise requires-

(a) "Act" means the Advocates Act, 1961;

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

(c) "Bar Association" means a Bar Association registered under the Indian Societies Act, 1860 and also registered by the State Bar Council in accordance with the rules framed by the State Bar Council for the purpose of these rules;

(d) "Bar Council" means the Bar Council for the State of U.P.;

(e) "Casual Vacancy" means a vacancy that has been causal; otherwise than by the expiry of the term of office of a member;

(f) "Chairman" means the Chairman of the Bar Council of the State of U.P.

(g) "Clear days" means that time is to be reckoned exclusive of both the first and the last days;

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

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

(i) "Count" means-

- (a) all the operations involved in the counting of the first preferences recorded for candidates, or
- (b) all the operations involved in the transfer of the surplus of an elected candidate, or
- (c) all the operations involved in the transfer of the total value of votes of an excluded candidate, or
- (d) all other operations involved in, incidental to, or necessary for the entire process of ascertainment of votes,
- (j) "*Electoral roll*" means and includes the roll containing the names of the Advocates prepared in accordance with the rules of the Bar Council of India in Part III, Chapter I.
- (k) "*Exhausted Paper*" means a voting appear on which no further preference is recorded for a continuing candidate and includes a paper votings on which-
- (a) the names of two or more candidates whether counting or not are marked with the same figure and are next in order of preference, or
- (b) the name of the candidate next in order of preference whether continuing or not, is marked by a figure not following consecutively after some other figure on the voting paper or by two or more figures; or
- (c) there is such effacement, obliteration, erasure, or mutilation as to make any preferences other than the first preference ambiguous.
- (l) "*First Preference*" means the figure '1' set opposite the name of a candidate; "*Second Preference*" means the figure '2' set opposite the name of a candidate; and "*third preference*" means the figure '3' set opposite the name of a candidate, and so on;
- (m) "*Form*" means a form prescribed under the rules;
- (n) "*Original Vote*" in relation to any candidate, means a vote derived from voting paper on which a first preference is recorded for such candidate;

(o) "*Presiding Officer*" means a person appointed as such by the Returning Officer and Polling Officer means a person appointed by the Returning Officer or by the Presiding Officer to assist him;

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

(q) "*Surplus*" means the number by which the value of the vote, original and transferred, of any candidate exceeds the quota;

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

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

(t) "*Voter*" means a person whose name is included in the Electoral Roll;

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

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

(w) "*Electoral Roll*" means the list of voters prepared district wise under rules;

(x) "*Secretary*" means the Secretary of the Bar Council or any other person appointed by the Bar Council to perform the duties of Secretary.

4. **Time and place of election.**- Election of members to the Bar Council shall be held at such place or places, on such date or dates, and during such hour or hours as the Council may appoint. Different dates and different hours may be appointed for polling at different places; provided that a Returning Officer at his discretion may make necessary changes in the place and date of polling or on a written request made by at least 23 advocates of that place entitled to vote.

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

(ii) the voting shall be by personal ballot.

6. **Notice of election.**- (a) Notice of the time and place of election shall be given by publication under the signature of the secretary, in one issue of a daily newspaper in the State not less than 60 clear days before the date of election. The notifications shall specify *inter alia*-

(i) the dates for nominations;

(ii) the dates for scrutiny;

(iii) the dates for withdrawal of the candidature;

(iv) the date or dates of polling;

(v) the last date on which the voting papers despatched by post should reach the Secretary;

(vi) the date and place and time for counting of votes; and

(vii) the minimum number of seats that should be filled from amongst advocates who on the relevant date will have been on the State roll for at least 10 years:

Provided that the last date for the filing of the nomination shall not be less than 35 clear days before the date of the election and that there shall be at least 5 clear days after the last date of the scrutiny for withdrawal of the candidature. Copies of the notices shall be affixed on the Notice board of the Bar Council, and sent to the Advocate-General and to the Bar Associations.

(b) Copies of the above notice shall be put up on the notice board of the Bar Council and sent to-(i) Bar Associations, and (ii) the Advocate-General, and (iii) shall also be sent to the official Gazette of the State for publication.

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

8. Candidates how to be proposed:

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. A 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 candidate 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. 200 (rupees two hundred) only, and this deposit shall be made to the Secretary in cash or Bank Draft and for such deposit a receipt shall be issued in Form E:

Provided that if more proposals than one are received in respect of a candidate, a single deposit of Rs. 200 shall be sufficient.

(iii) The amount of deposit shall be credited to the fund created under Section 15 (2) (b) of the Act, except in case 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.

Provided further that the deposit of every candidate standing for election shall stand forfeited in case the candidate is unable to secure at least one-sixth of the quota fixed for election and is not elected. Whereas the deposit of remaining candidates will be refundable to them.

(iv) A candidate shall not be eligible for nomination, if he suffers from any disqualification as laid down in the rules framed by Bar Council of India in Part III, Chapter I as specified in Appendix I to these rules.

9. **Doubts as to validity of proposals.**- The Secretary shall scrutinise the nomination papers received at the place and time notified under Rule 6, and if in his opinion any nomination paper is invalid, he shall report the same to Returning Officer and in his absence the Advocate General who shall decide the validity or otherwise of such nomination paper, and his decision shall be final. The candidates or their agents shall be entitled to be present both at the time of the scrutiny before Returning Officer or the Advocate-General and make their submissions. No nomination paper shall be rejected except for a defect of a substantial character. In other cases the Returning Officer or the Advocate-General may allow any defect to be rectified.
10. **Withdrawal from election.**- Any person whose name has been proposed as a candidate may withdraw his candidature by a communication in writing so as to reach the Secretary not later than the date specified for the purpose in the notification under Rule 6. The signatures of candidates withdrawing should be attested by a Judge or Magistrate.
11. **Declaration when number of candidates is equal to the number of seats.**- If the number of duly nominated candidates who have been on the State rolls for more than 10 years is less than or equal to the number required by the proviso to Section 3(2) (b) of the Act, they shall be declared elected. The number thus elected shall be deemed to be the number required by the said proviso. If the number of such candidates is in excess of the required number but the number of all the nominated candidates does not exceed the total number to be elected, all the candidates shall be declared elected. In every other case there shall be a poll as prescribed by these rules.
12. **Publication of list of candidates.**- (a) Not less than 20 clear days before the date fixed for elections the Secretary shall publish the names of all the candidate, validly nominated except the names of those who have withdrawn under Rule 10 as nearly as possible in Form "B" on the notice board of the Bar Council;

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

13. **Preparation of list of voters.**- The Secretary shall-

(i) Prepare and maintain a list of voters separately for each district consisting of the name 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 unless disqualified under the rules framed by the Bar Council of India.

(ii) Upon the application of any such votes received before the despatch of ballot papers his address may be altered in the manner specified in the application.

(iii) The electoral roll of the State Council shall *inter alia*, contain the following particulars-

(a) serial number,

(b) number in the State roll,

(c) name of advocate as on the roll,

(d) address of the advocate.

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

15. Voting in person.- Voters required to vote in person under these rules shall cast their votes at the respective polling booths on the dates notified in his behalf.

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

17. Second voting paper not to be issued.- When a voting paper has once been handed over to a voter, a second voting paper shall not be issued to him unless he satisfies the Presiding Officer that the voting paper has been spoiled or mutilated or lost or destroyed or has not been

received by him, in which case a duplicate voting paper may be issued to him.

18.Despatch of voting papers to Polling Officers for voting in person.-

The Returning Officer shall send to the Presiding Officer of the booths requisite number of voting papers and some additional voting papers sent and enclosing an extract from the electoral roll relating to the polling booth, and other papers, if any with necessary instruction. All the voting papers shall be serially numbered.

19.Supply of voting papers to voters voting in person.- The Presiding Officers shall on the date and at the time or hours fixed in this behalf, supply a voting paper to each voter in his polling booth, who applies in person therefor, and take his signature in the list of voters against the voter's name to signify the issue of the voting paper.

20.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 figure '1' in the space opposite the name of the candidate whom he chooses for his first preference, and

(b) may in addition place on his voting paper the figure '2' or the figures '2' and '3', or the figures '2' and '3' and '4', 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, overwriting 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 Returning Officer as to whether a voting paper has or has not been defaced shall be final.

21.Return of voting paper.- A voter to whom a voting paper has been supplied by the Presiding Officer shall after voting personally return to him the voting paper in the enclosed envelope supplied to him and the Presiding Officer shall then place it in the big envelope.

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

(a) the figure '1' is not marked; or

(b) the figure '1' is set opposite the name of more than one candidate or is so placed as to render it doubtful to which candidate it is intended to apply; or

(c) the figure '1' and some other figures are set opposite the name of the same candidate; or

(d) there is any mark in writing by which the voter can be identified;

(e) a voting paper in which the preferences are indicated in words as 'one' 'two' etc.

(f) the marking on the voting paper is not in the international form of Indian numerals.

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

24. Arrangement of valid voting papers in parcels.- On the day fixed for counting, Returning Officer shall open all the envelopes and after rejecting the voting papers which are invalid, or which cannot be taken into account, shall-

(a) arrange the remaining voting papers according to the first preference recorded for each candidate;

(b) count and record the number of papers in each envelope;

(c) credit to each candidate the value of papers in his parcel.

25. 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 value credited for a candidate under Cl. "(c) of Rule 24";

(b) divide the total by a number which exceeds by one of the number of seats to be filled; and

(c) add one to the quotient, ignoring the remainder if any; the resulting number is the quota.

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

Provided that-

(i) No candidate who has not been an advocate on the State Roll for at least 10 years shall be elected if 10 candidates of less than 10 years' standing have already been declared elected;

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

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

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

27. Transfer of Surplus.- (i) If after exclusion of any candidate under rule 30 at the end of any count, the value of the voting paper credited to a candidate is greater than the quota the surplus shall 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 the votaries' preference;

(ii) if more than one candidate have a surplus, the surplus shall be dealt with first and the others in order of magnitude:

Provided that -

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

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

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

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

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

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

(v) If the surplus of any candidate 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 preferences recorded thereon, and then deal with the sub-paragraph in the same manner as is provided in the case of such paragraph referred to in sub-rule (4);

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

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

28.Exclusion of candidates.- The Returning Officer conducting the elections shall exclude from the poll candidates as specified in rule 3 (b) (i) of the rules of Bar Council of India in Chapter II, Part III, as specified in Appendix II to those rules.

29.Filling of last vacancies.- The procedure prescribed in rule 3 (c) of the rules of the Bar Council of India in Chapter II, Part III shall be followed.

30.Fractions etc., to be disregarded.- In carrying out of the provisions of rules 26 to 29 the Returning Officer shall disregard all fractions and ignore all preferences recorded for candidates already elected or excluded from the poll.

31.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 Returning Officer and sent by him to the Secretary.

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

(iii) After such certificate the Secretary shall cause the names 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 association in the State referred to therein before, and to the successful candidates.

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

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

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

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

(4) All disputes arising under the above sub-rules shall be decided by a tribunal to be known as an Election Tribunal comprising of 3 Advocates whose names are on the Slate Roll and who are not less than 10 years standing and who are not candidates in the said election to the Bar Council.

(5) The Election Tribunal shall be appointed by the Bar Council on or before the date on which the time of the election is fixed under Rule 4. Provided that if any member of the Tribunal so appointed chooses to be a candidate in the said Election he will be replaced by another Advocate nominated by the Advocate General before the date of Election.

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

(i) To dismiss a petition;

(ii) To order recount;

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

(iv) To set aside the election of the candidates who either by himself or through any other person acting with his consent is guilty of corrupt practice.

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

(1) "Bribery", that is to say-

(A) any gift, offer or promise of any gratification to any person whomsoever, with the object, directly or indirectly of including:

(a) a person to stand or not to stand as, or to withdraw or not to withdraw from being a candidate at an election, or

(b) an elector to vote or refrain from voting at an election, or as a reward to-

(i) a person for having so stood or not stood, or for having withdrawn or not having withdrawn his candidature; or

(ii) an elector for having voted or refrained from voting;

(B) the receipt of, or agreement to receive, any gratification whether as a motive or a reward:

(a) by a person for standing or not standing as or for withdrawing or not withdrawing from being a candidate; or

(b) by any person whomsoever for himself or any other person for whom voting or refraining from voting or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature;

For the purposes of this clause the term "gratification" is not restricted to pecuniary gratification or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward.

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

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

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

Mere announcement of his candidature by a candidate shall not amount to an appeal.

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

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

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

(vi) To make an order as to costs.

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

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

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

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

33. Conduct of Elections.- Except as otherwise provided in these rules the secretary shall be incharge of the conduct of the election.

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

The Bar Council of Uttar Pradesh

Form "A"

(Under Rule 8)

Nomination Paper

For election to the Bar Council of Uttar Pradesh

To,

The Secretary,

Bar Council of Uttar Pradesh,

Allahabad

Sir,

I nominate.....an advocate on the roll of the Bar Council of Uttar Pradesh, enrolled on.....practising at.....as a candidate for election to the Bar Council of Uttar Pradesh to be held on.....

(1) Name

Address

.....

.....

.....

Number in the

Electoral Roll.....

Date.....

Signature of the proposer.

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

Signature of the Candidate.

Number in the

Electoral Roll.....

Enrolment on.....

Name and Address of the Candidate:

The Bar Council Of Uttar Pradesh

Form "B"

[Under Rule 12 (a)]

List of Candidates. - The following is the list of candidates for the election to the Bar Council to be held on.....

1. Candidates whose names have been on the State Roll for at least 10 years as required under the proviso to Section 3(2) (b) of the Act.

Name	Date of enrolment	Ordinary place of practice
1	2	3

1. Candidates who have been on the State Roll for less than 10 years:

Name	Date of enrolment	Ordinary place of practice
1	2	3

Date.....

Secretary,

Bar Council of Uttar Pradesh,

Allahabad.

The Bar Council of Uttar Pradesh

Form "C"

[Under Rule 14]

Instructions for the Guidance of Voters

1. The number of members to be elected is Twenty.
2. The voting is by the single transferable preference vote.
3. The mark should be so placed as to indicate clearly and beyond doubt to which candidate he is giving his vote. If the mark is so placed as to make it doubtful to which candidate the vote has been given, that vote will be invalid.
4. **Method of voting.**- (1) A voter in giving his vote-

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

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

(2) A voter shall not sign the voting paper nor place any mark thereon by which he can be identified.

5. **Voting papers when invalid.**- A voting paper shall be invalid on which-

(a) the figure '1' is not marked; or

(b) the figure figure '1' is set opposite the name of more than one candidate or is so placed as to render it doubtful to which candidate it is intended to apply;
or

(c) the figure '1' and some other figures are set opposite the name of the same candidate; or

(d) there is any mark in writing by which the voter can be identified;

(e) the marking on the voting paper is not in the international form of Indian numerals.

6. **Voter voting in person.**- A voter shall, after recording his vote, hand over the voting paper to the Presiding Officer.

Voting Paper

The Bar Council of Uttar Pradesh

(Election Dated-----)

Twenty Members have to be elected.

S.No.	Names as on Roll.	Date of Enrolment.	Place and Address.	Mark of Voter.
1.	Samson.*	1-5-1905		
2.	Ranga.	4-5-1965.		

* An asterisk mark indicates that the name of the candidate has been on the State Roll for at least ten years.

Date:

Facsimile of Returning Officer.

Form "D"

(Under Rule 22)

Election to the Bar Council of Uttar Pradesh

1. Name of polling booth.
2. Total number of ballot papers supplied.

3. Total number of ballot papers used.
4. Total number of duplicate ballot papers supplied.
5. Total number of duplicate ballot papers used.
6. Date.
7. Signature of Polling Officer.

Signature of Polling Officer.

Date:

Place:

Secretary,

Bar Council of Uttar Pradesh

The Bar Council of Uttar Pradesh

Form "E"

Deposit Memo

No.....

Dated.....

Received from Sri.....of.....a sum of Rupees Two Hundred only along with the Nomination Paper for Election as a Member to the Bar Council of Uttar Pradesh.

Accountant.

Secretary

Appendix I

Disqualification of membership

The name of an advocate appearing in the State Roll shall not be entered on the electoral roll if-

- (a) he has at any time been suspended from practice;
- (b) he is an undischarged insolvent;
- (c) 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;
- (d) he is convicted by a competent court for an offence involving moral turpitude;
- (e) 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 Councils concerned or of the Council, or
- (f) he has intimated voluntary suspension of practice and has not given intimation of resumption of practice.

Appendix II

Rules to secure at least a minimum number of advocates of 10 years' standing [rules under proviso to Section 3(2), and Sections 3(5) and 49 (ac) of the Act.]

1. (a) These rules shall apply to the election of members of all the State Bar Councils in India.

(b) In the case of any repugnancy between these rules and any rule or rules of any of the State Bar Councils, these rules shall prevail and the rules framed by the State Bar Councils shall be void to the extent of such repugnancy.
 2. The elections of members of the State Bar Councils shall be in conformity with the proviso to Section 3(2) of the Act and these rules.
- 2-A. There shall be no limit to the number of candidates on the State rolls for at least 10 years that could be declared elected under these rules.

3. In the case of an election by a State Bar Council for electing all the members specified in Section 3 (2) (b) of the Act the following procedure shall be adopted in the counting of votes:

(a) **Election of candidates with quota.** - 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 the voting papers credited to a candidate is equal to or greater than the quota, then he shall be declared elected:

Provided that-

(i) No candidate who has not been an advocate on the State rolls for at least 10 years shall be elected if 7 candidates of such standing in the case of the Bar Councils of Assam, Orissa and Delhi, or 10 candidates of such standing in the case of the other State Bar Councils had already been declared elected.

Illustration. - At an election in the Bar Council of Uttar Pradesh where there are to be 20 elected members, 300 is arrived at as the value of the quota. At the end of one of the counts, there are 4 candidates who have been advocates for less than 10 years on the State roll, getting more than the quota, viz., 500, 400, 300 and 325. But 9 candidates of such standing had already been declared elected in the previous counts. Hence, only the candidates getting 500 can now be declared elected and the other 3 candidates excluded as provided for in rule 3 (b) of these rules.

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

Illustration. - An an election to the Bar Council of Delhi, where there are to be 15 elected members, 300 is the value arrived at for quota 4 candidates who have been advocates on the State rolls for less than 10 years had been declared elected in the prior counts. Only 3 more such candidates can, therefore be elected. But there are 5 such candidates getting more than the quota, viz., 400, 380, 370, 350 and 320. Under this proviso, those the value of whose votes are 400, 380 and 370 shall be declared elected, and the other two excluded as provided for in rule 3 (b) of these rules.

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

Illustration. - The value of the quota arrived at is 300. Two candidates get 400 each. Under the Act and these rules only one of these can be elected. Hence a lot is to be drawn and only one of these declared elected and the other candidate has to be excluded-

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

Illustration. A.B.C and D, candidates who have been on the State roll for less than 10 years get more than the quota. But by reason of Section 3 (2) of the Act and these rules, A and B alone are declared. C and D are to be excluded.

(b) Exclusion of candidates lowest on poll or who have been on rolls for less than 10 years. - The Secretary of Returning Officer conducting the election shall exclude from the poll-

(1) (i) when there are two or more candidates who have obtained more than the quota the candidate who cannot be declared elected under Proviso (i) to Rule (3) (a) of these rules;

(ii) the candidates lowest in the poll in the following order, after all the surpluses have been transferred as provided in the rules of the State Bar Council with regard to transfer of surplus, and the number of candidates elected is less than the required number, and after the exclusion from the poll, if any, under sub-clause (i) of this rule.

First such candidates as are advocates on a State roll for less than 10 years if the number of candidates elected who have been on the State roll for less than 10 years has already reached 10.

Next the other candidates.

Illustration. At an election to the Bar Council of Uttar Pradesh arrived at as the quota. At the end of a count, when there is no further surplus to be distributed, *M* and *N* are the contesting candidates.

M (who has not been on the State rolls for at least 10 years) gets 150 and

N (who has been on the State rolls for more man 10 years) gets 100.

Only 9 candidates who have been advocates on a State roll for at least 10 years have already been declared elected. Hence *M* has to be excluded and the voting papers of *M* will be there after transferred as provided in these rules.

If in the same case 10 candidates who have been advocates on a State roll for at least 10 years had already been declared elected, *N* will be excluded. The voting papers of *N* will be transferred as provided in these rules.

(2) (i) The Secretary or other Returning Officer shall distribute the unexhausted papers of the candidate excluded under these rules among the continuing candidates according to the next preference recorded therein and all exhausted papers shall be set apart as finally dealt with;

(ii) The papers containing original votes of an excluded candidate shall first be transferred, the transfer value of such paper being one hundred;

(iii) The papers containing transferred votes of a excluded candidate shall then be transferred in the order of the transfers in which and at the value at which he obtained them;

(iv) each of such transfers shall be deemed to be a separate transfer, but not a separate count;

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

(vi) 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 or as otherwise provided in these rule;

(vii) If at any time it becomes necessary to exclude a candidate and two or more candidates have the same value of 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 votes shall be excluded;

(viii) 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;

(ix) If during a count, any candidate getting the quota or more has to be excluded by reason of Rule 3 (a) above, the transfer of his votes shall be deferred and made immediately after the other candidates having got the above quota in that count are declared, and their votes transferred are provided for in these rules.

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

If the total number of candidates so far declared elected from amongst the advocates on the State roll for at least 10 years at the relevant date is less than 8 in the case of the Bar Councils of Assam, Orissa and Delhi, and less than 10 in the case of the other Bar Councils, then, the requisite number of candidates of such standing shall first be declared elected and on the balance from amongst other 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. Such candidate shall not, however, be declared elected if he has been on the State roll for less than 10 years and if the total number of candidates so far declared elected from amongst advocates on the State roll for at least 10 years as provided in these rules is less than 8 or 10 as aforesaid as the case may be.

(3) When at the end of any count only one seat remains unfilled and are only 2 continuing candidates and each of them has the same value 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 declare the other candidate to be elected:

Provided that if the total number of candidates who have been on the State roll for at least 10 years on the relevant dates so far elected is less than the required number then that candidate who will be on the State roll for at least 10 years shall be declared elected and the other candidate shall be excluded.

Filling up vacancies or co-option. - (4) In the case of any election to fill a vacancy amongst the members of the State Bar Council, or while co-opting a member, the State Bar Council shall conform to the requirements of section 3(2) of the Act, and the principles laid down in these rules.

Particulars regarding seats to be filled. - (5) In the case of every election of members of a State Bar Council, the State Bar Council, shall

(a) notify the minimum number of seats that should be filled up from amongst advocates who, on the relevant date, will be advocates on a State roll for at least 10 years;

(b) require every candidate to specify in his nomination paper the date of his enrolment and the period for which his name had been on the roll of one or more High Courts under the Indian Bar Councils Act, 1926 and the roll or rolls of State Bar Councils under the Advocates Act, 1961, with full particulars thereof;

(c) indicate on the voting paper which of the candidates have been on a State roll of at least 10 years as required:

Provided that this rule shall not be applicable to any election held by any State Bar Council before the rules have come into force.

Computation of period. - (6) For the purpose of computing the minimum period of 10 years provided for in the proviso to section 3 (2) of the Act, and these rules-

(i) the period during which an advocate may have been on the roll of any other State Bar Council or Councils or on the roll of any High Courts under the Indian Bar Councils Act, 1926, shall be taken into account; and

(ii) the period shall be computed as on the last date notified for receiving the nominations for the election.