

## **Bar Council of Uttar Pradesh Election Rules, 1992**

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### ***The Bar Council of Uttar Pradesh Election Rules, 1992***

***(Framed Under Section 15(2) of the Advocates Act (as Approved by the Bar Council of India on 27.6.92.)***

In exercise of the powers conferred by section 15 of the Advocates Act (Act No. XXV of 1961), the Bar Council of Uttar Pradesh makes the following rules:-

1. **Short Title and Commencement.**- These rules shall be called the "Bar Council of UP. Election Rules, 1992 and they shall come into force from the date of their approval by the Bar Council of India. (i.e. 27th June, 1992).
2. These rules shall be subject to the rules made by the Bar Council of India under the powers vested in it by the Act.
3. **Interpretation.**- In these rules, unless the context otherwise requires:-

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

(b) "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 affiliated 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 caused otherwise than by the expiry of the term of office of a Member.

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

(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 enure process ascertainment of votes.

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

(k) "*Exhausted paper*" means a voting paper on which no further preference is recorded for a continuing candidate and includes a paper votings on which;

(a) the names of two or more candidates, whether continuing or not, are marked with the same figure and are next in order of preference, or

(b) the name of the etacement 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 of efacement, obliteration, erasure or mutilation as to make any preference other man 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 in "Hindi, English or Roman in numerical figures.

(m) '*Form*' means a form prescribed under these 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 votes, original and transferred, of any candidate exceeds the quota;

(r) '*Transferred Vote*' in relation to any candidate means a vote the value or part of the value of which is credited to such candidate and which is 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 districtwise under the rules.

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

4. **Time and place of Election.**- Election of members to the Bar Council shall be held at each District Head Quarter and at Munsifs Court except Allahabad and Lucknow where it shall be at the High Court or 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.

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.

(iii) The Ballot paper shall be issued only on production of Identity card or enrolment Certificate, issued by the Bar Council.

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 notification 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 filling 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 notice shall be affixed on the Notice board of the Bar Council, and sent to the Advocate-General and to the Bar Association.

(a) 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. 1 prescribed by the Bar Council which shall be delivered to the Secretary by the proposer of 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. 2500/- (rupees two thousand five 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. 2500/- shall be sufficient.

(iii) The amount of deposit shall be credited to the fund of the Bar Council which is not refundable 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 on half 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 and 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 signature of the candidates withdrawing should be attested by 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 candidates, validly nominated except the names of those who have withdrawn under Rule 10 as nearly as possible in Form "B" on the notice board of the Bar Council;

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

13. **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 Advocate, 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 voter received at least 75 days before the date of polling 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 papers 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 papers shall also bear on it the facsimile of the Returning Officer 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 this behalf.

**16. Polling booths for voters voting in person.-** (i) 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 sufficient number of Polling Officers for the booths, and may himself act as such at one or more of the booths.

(ii) Bar Council may give such general direction as it may consider necessary with regard to maintenance of secrecy of the ballot papers and the places where polling booths ought to be established and the persons to be appointed as Presiding Officer.

(iii) The Presiding Officer will see and manage the secrecy of the Ballot papers and its maintenance on the polling Booths.

**17. Second voting papers 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.

**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 bearing his facsimile with a covering letter stating the number of the papers sent and enclosing an extract from the electoral roll relating to the polling 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 hour fixed in this behalf, supply a voting papers to each voter in his polling booth, who applies in person therefor on production of Identity Card or Enrolment Certificate issued by the Bar Council 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', '3' and '4' and so on, in the 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, in Hindi, English or Roman.

**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 can not 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 selection shall be determined as follows:-

(a) add the value credited for a candidate under clause "(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 12 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 candidate who has obtained the greater value of votes shall be declared elected in preference to the candidate whose value of votes is less.

(iii) In the case of two or more persons of the category referred to in proviso (ii) above, getting the same value of votes at the end of any 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 voter's preference.

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

Provided that-

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

(iii) Where there are more surpluses than one to 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-parcel of the exhausted papers.

(b) The Returning Officer shall ascertain the value of the papers in each sub-parcel 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-parcel 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-parcel in the same manner as is provided in the case of such parcel referred to in sub-rule 4.

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

(vii) 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.

**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 the Bar Council of India contained 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 I, 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 associations 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 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. 2500/- 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 State 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 elections 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 inducing:-

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

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

(i) a person for having so stood or not stood, or for having withdrawn 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 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 gratifications or gratifications estimable in money and in 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 filling of any petition under Clause (1) of this 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 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 of the Proposer.

Address.....

.....

.....

Enrolment 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

Enrolment Number in the

Electoral Roll .....

Enrolled 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

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

Name	Date of Enrolment	Ordinary Place of practice

Secretary

Bar Council of Uttar Pradesh

Allahabad

Date.....

**Bar Council of Uttar Pradesh**

**Form No. "C"**

*(Under Rule 4)*

**Instructions for the Guidance of Votes.**

1. The number of members to be elected is Twenty Five.
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 he 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 in Hindi, English or Roman numerals.

(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 '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 inter-national 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 Five Members have to be Elected

S. No.	Names as on Roll	District	Mark of Voter
1.	Samson*		
2.	Ranga		

\* 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)*

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

**Form "E"**

**The Bar Council of Uttar Pradesh Deposit Memo**

No.....

Dated.....

Received from Sri..... of .....  
..... a sum of Rupees. Two thousand five hundred only  
alongwith the Nomination Paper for Election as a Member to the Bar Council  
of Uttar Pradesh.

Accountant

Secretary

**Rules for Standards of Professional Conduct and Etiquette**

**(As passed by the Bar Council of India)**

## **CHAPTER II**

### **Standards of Professional Conduct and Etiquette**

*[Rules under Section 49(1)(c) of the Act read with the Proviso thereto]*

#### **Preamble**

An Advocate shall, at all times, comport himself in a manner befitting his status as an officer of the Court, a privileged member of the community, and a gentleman, tearing in mind that what may be lawful and moral for a person who is not a member of the Bar, or for a member of the Bar in his non-professional capacity may still be improper for an Advocate. Without prejudice to the generality of the foregoing obligation, an Advocate shall fearlessly uphold the interests of his client, and in his conduct conform to the rules hereinafter mentioned both in letter and in spirit. The rules hereinafter mentioned contain canons of conduct and etiquette adopted as general guides; yet the specific mention thereof shall not be construed as a denial of the existence of others equally imperative though not specifically mentioned.

#### **Section I - Duty to the Court**

1. An Advocate shall, during the presentation of his case and while otherwise acting before a Court, conduct himself with dignity and self respect. He shall not be servile and whenever there is proper ground for serious complaint against a judicial officer, it shall be his right and duty to submit his grievance to proper authorities.
2. An Advocate shall maintain towards the Courts a respectful attitude, bearing in mind that the dignity of the judicial office is essential for the survival of a free community.
3. An Advocate shall not influence the decision of a Court by any illegal or improper means. Private communications with a judge relating to a pending case are forbidden.
4. An Advocate shall use his best efforts to restrain and prevent his client from resorting to sharp or unfair practices or from doing anything in relation to the Court, opposing counsel or parties which the Advocate himself ought not to do. An Advocate shall refuse to represent the client who persists in such improper conduct. He shall not consider himself a mere mouth piece of the client, and shall exercise his own judgments in

the use of restrained language in correspondence avoiding scurrilous attacks in pleadings, and using intemperate language during arguments in Court.'

5. An Advocate shall appear in Court at all times only in the prescribed dress, and his appearance shall always be presentable.
6. An Advocate shall not enter appearance, act, plead or practise in any way before a Court, Tribunal or Authority mentioned in Section 30 of the Act, if the sole or any member thereof is related to the Advocate as father, grand-father, son, grandson, uncle, brother, nephew, first cousin, husband, wife, mother, daughter, sister, aunt, niece, father-in-law, mother-in-law, son-in-law, brother-in-law, daughter-in-law or sister-in-law.
7. An Advocate shall not wear bands or gown in public places other than in Courts except on such ceremonial occasions, and at such places as the Bar Council of India or the Court may prescribe.
8. An Advocate shall not appear in or before any Court or Tribunal or any other authority for or against an organisation or any Institution, society or corporation, if he is a member of the Executive Committee of such organisation or institution or society or corporation. "Executive-Committee", by whatever name it may be called, shall include any Committee or body of person which, for the time being, is vested with the general management of the affairs of the organisation or institution, society or corporation:

Provided that this rule shall not apply to such a member appearing as "amicus curiae" or without a fee in a matter affecting the affairs of a Bar Council, Incorporated Law Society or a Bar Association.

9. An Advocate should not act or plead in any matter in which he is himself pecuniarily interested.

*Illustration.*

1. He should not act in a bankruptcy petition when he himself is also a creditor of the bankrupt.
2. He should not accept a brief from a company of which he is a director.
3. An Advocate shall not stand as a surety, or certify the soundness of a surety, for his client required for the purpose of any legal proceedings.

## **Section II - Duty to the Client**

11. An Advocate is bound to accept any brief in the Courts or Tribunals or before any other authority in or before which he professes to practise at

- a fee consistent with his standing at the Bar and the nature of the case. Special circumstances may justify his refusal to accept a particular brief.
12. An Advocate shall not ordinarily withdraw from engagements once accepted, without sufficient cause and unless reasonable and sufficient notice is given to the client. Upon his withdrawal from a case, he shall refund such part of the fee as has not been earned.
  13. An Advocate should not accept a brief or appear in a case in which he has reason to believe that he will be a witness and if being engaged in a case, it becomes apparent that he is a witness on a material question of fact, he should not continue to appear as an Advocate if he can retire without jeopardising his client's interests.
  14. An Advocate shall at the commencement of his engagement and during the continuance thereof, make all such full and frank disclosures to his client relating to his connection with the parties and any interest in or about the controversy as are likely to affect his client's judgment in either engaging him or continuing the engagement.
  15. It shall be the duty of an Advocate fearlessly to uphold the interests of his client by all fair and honourable means without regard to any unpleasant consequences to himself or any other, he shall defend a person accused of a crime regardless of his personal opinion as to the guilt of the accused, bearing in mind that his loyalty is to the law which requires that no man should be convicted without adequate evidence.
  16. An Advocate appearing for the prosecution in a criminal trial shall so conduct the prosecution that it does not lead to conviction of the innocent. The suppression of material capable of establishing the innocence of the accused shall be scrupulously avoided.
  17. An Advocate shall not directly or indirectly, commit a breach of the obligations imposed by Section 126 of the Indian Evidence Act.
  18. An Advocate shall not at any time, be a party to fomenting of litigation.
  19. An Advocate shall not act on the instructions of any person other than his client or his authorised agent.
  20. An Advocate shall not stipulate for a fee contingent on the results of litigation or agree to share the proceeds thereof.
  21. An Advocate shall not buy or traffic in or stipulate for or agree to receive any share or interest in any actionable claim. Nothing in this Rule shall apply to stock, shares and debentures or government securities, or to any instruments which are, for the time being, by law or custom negotiable, or to any mercantile document of title to goods.
  22. An Advocate shall not, directly or indirectly, bid for or purchase, either in his own name or in any other name, for his own benefit or for the benefit of any other person, any property sold in the execution of a decree or order in any suit, appeal or other proceeding in which he was in any way professionally engaged. This prohibition, however, does not prevent an Advocate from bidding for or purchasing for his client any

- property which his client may himself legally bid for or purchase, provided the Advocate is expressly authorised in writing in this behalf.
23. An Advocate shall not adjust fee payable to him by his client against his own personal liability to the client, which liability does not arise in the course of his employment as an Advocate.
  24. An Advocate shall not do any thing whereby he abuses or takes advantage of the confidence reposed in him by his client.
  25. An Advocate should keep accounts of the client's money entrusted to him, and the accounts should show the amounts received from the client or on his behalf, the expenses incurred for him and the debits made on account of fees with respective dates and all other necessary particulars.
  26. Where moneys are received from or on account of a client, the entries in the accounts should contain a reference as to whether the amounts have been received for fees or expenses, and during the course of the proceedings, no Advocate shall, except with the consent in writing of the client concerned be at liberty to divert any portion of the expenses towards fees.
  27. Where any amount is received or given to him on behalf of his client the fact of such receipt must be intimated to the client as early as possible.
  28. After the termination of the proceeding the Advocate shall be at liberty to appropriate towards the settled fee due to him any sum remaining unexpended out of the amount paid or sent to him for expenses, or any amount that has come into his hands in that proceeding.
  29. Where the fee has been left unsettled, the Advocate shall be entitled to deduct, out of any moneys of the client remaining in his hands, at the termination of the proceeding for which he had been engaged, the fee payable under the rules of the Court in force for the time being, or by then settled and the balance, if any, shall be refunded to the client.
  30. A copy of the client's account shall be furnished to him on demand provided the necessary copying charge is paid.
  31. An Advocate shall not enter into arrangements whereby funds in his hands are converted into loans.
  32. An Advocate shall not lend money to his client, for the purpose of any action or legal proceedings in which he is engaged by such client.

*Explanation.* - An Advocate shall not be held guilty of a breach of this rule, if, in the course of a pending suit or proceeding, and without any arrangement with the client in respect of the same, the Advocate feels compelled by reason of the rule of the Court to make a payment to the Court on account of the client for the progress of the suit or proceedings.

33. An Advocate who has, at any time, advised in connection with the institution of a suit, appeal or other matter or has drawn pleadings or acted for a party, shall not act, appear or plead for the opposite party.

### **Section III - Duty to Opponent**

34. An Advocate shall not in any way communicate or negotiate upon the subject matter of controversy with any party represented by an Advocate except through that Advocate.

35. An Advocate shall do his best to carry out all legitimate promises made to the opposite party even though not reduced to writing or enforceable under the rules of the Court.

### **Section IV - Duty to colleagues**

36. An Advocate shall not solicit work or advertise, either directly or indirectly, whether by circulars, advertisements, touts, personal communications, interview not warranted by personal relations, furnishing or inspiring newspaper Comments or producing his photograph to be published in connection with cases in which he has been engaged or concerned. His sign-board or name-plate should be of a reasonable size. The sign-board or name-plate or stationery should not indicate that he is or has been President or Member of a Bar Council or of any Association or that he has been associated with any person or organisation or with any particular cause or matter or that he specialises in any particular type of work or that he has been a Judge or an Advocate-General.

37. An Advocate shall not permit his professional services or his name to be used in aid of or to make possible, the unauthorised practise of law by any lay agency.

38. An Advocate shall not accept a fee less than the fee taxable under the rules when the client is able to pay the same.

39. An Advocate shall not enter appearance in any case in which there is already a vakalatnama or memo or appearance filed by an Advocate engaged for a party except with his consent; in case such consent is not produced he shall apply to the Court stating reasons why the said consent could not be produced and he shall appear only after obtaining the permission of the Court.

### **Section IV - A**

40. Every advocate borne on the rolls of the State Bar Council shall pay to the State Bar Council a sum of Rs. 30/- every third year commencing

from 1st April, 1984 alongwith a statement of particulars as given in the form set out at the end of these Rules, the first payment to be made on or before 1st April, 1984 or such extended time as notified by the Bar Council of India:

Provided, however, that an advocate shall be at liberty to pay the said amount in equal yearly instalments of Rs. 10/-, the first instalment to be payable on or before 1st April, 1984:

Provided further that the amount already received for this purpose from an advocate shall be adjusted against the amount due from his as on 1st April, 1984.

41.(1) All the sums so collected by the State Bar Council in accordance with Rule 40 shall be credited in a separate fund known as "Bar Council of India Advocates Welfare Fund for the State" and shall be deposited in the bank as provided, hereunder.

(2) The Bar Council of India Advocates Welfare Fund Committee for the State shall remit 20% of the total amount collected and credited to its account, to the Bar Council of India by the end of every month which shall be credited by the Bar Council of India and the Bar Council of India shall deposit the said amount in a separate fund to be known as "Bar Council of India Advocates Welfare Fund." This fund shall be managed by the Welfare Committee of the Bar Council of India in the manner prescribed from time to time by the Bar Council of India for the Welfare of the Advocates.

(3) The rest 80% of the total sum so collected by the Bar Council of India Advocates Welfare Fund Committee for the State under Rule 41(1) shall be utilised for the Welfare of the Advocates in respect of Welfare Schemes sponsored by the respective State Bar Councils and this fund shall be administered by the Advocates Welfare Committee for the State which shall submit its report annually to the Bar Council of India.

42.If any advocate fails to pay the aforesaid sum within the prescribed time as provided under rule 40, the Secretary of the Stale Bar Council shall issue to him a notice to show cause within a month why his right to practice be not suspended. In case the advocate pays the amount together with late fee of Rs. 5/- per month, or a part of a month subject to a maximum of Rs. 30/- within the period specified in notice, the proceedings shall be dropped. If the advocate does not pay the amount or fails to show sufficient cause, a Committee of three members

constituted by the State Bar Council in this behalf may pass an order suspending the right of the advocate to practise:

Provided that the order of suspension shall cease to be in force when the advocate concerned pays the amount alongwith a late fee of Rs. 50/- and obtain a certificate in this behalf from the State Bar Council.

43. An advocate who has been convicted of an offence mentioned under section 24A of the Advocates Act or has been declared insolvent or has taken full time service or part time service or engages in business or any avocation inconsistent with his practising as an Advocate or has incurred any disqualification mentioned in the Advocates Act or the rules made thereunder, shall send a declaration to that effect to the respective State Bar Council in which the Advocate is enrolled within ninety days from the date of such disqualification. If the advocate does not file the said declaration or fails to show sufficient cause for not filing such declaration provided therefor, the Committee constituted by the State Bar Council under rule 42 may pass orders suspending the right of the advocate to practise:

Provided that it shall be open to the Committee to condone the delay on an application being made in this behalf;

Provided further that an advocate who had after the date of his enrolment and before the coming into force of this rule, become subject to any of the disqualifications mentioned in this rule, shall within a period of ninety days of the coming into force of this rule send declaration referred to in this rule to the respective State Bar Council in which the Advocate is enrolled and on failure to do so by such Advocate all the provisions of this rule would apply.

44. An appeal shall lie to the Bar Council of India at the instance of an aggrieved advocate within a period of thirty days from the date of the order passed under Rules 42 and 43.

### **Form Under Rule 40**

The Bar Council.....

Dear Sirs,

(1) I am enclosing herewith a Postal Order/Bank Draft/Cash for Rs. 30/- being the payment under Rule 40, Chapter II, Part VI of the Rules of the Bar Council of India.

(2) I am enrolled as an Advocate on the Rolls of your State Bar Council.

(3) I am ordinarily practising at..... in the territory/State of.....

(4) I am a member of the..... Bar Association/  
not a member of any Bar Association.

(5) My present address is.....

Dated:

Place:

Signature

Name in Block Letters

Enrolment No.....

Received a sum of Rs. 30/- from..... towards payment under Rule 40, Chapter II, Part VI of the Rules of the Bar Council of India by way of Postal Order/Bank Draft/Cash on.....

Dated:

Place:

Secretary

Bar Council of.....

44A. (1) There shall be a Bar Council of India Advocates Welfare Committee, consisting of five members elected from amongst the members of the Council. The term of the members of the Committee shall be co-extensive with their term in the Bar Council of India.

(2) (i) Every State Bar Council shall have an Advocates Welfare Committee known as Bar Council of India Advocates Welfare Committee for the State.

(ii) The Committee shall consist of member Bar Council of India from the State concerned who shall be the *Ex-Officio* Chairman of the Committee and two members elected from amongst the members.

(iii) The Secretary of the State Bar Council concerned will act as *Ex-Officio* Secretary of the Committee,

(iv) The term of the member, Bar Council of India in the Committee shall be co-extensive with his term in the Bar Council of India,

(v) The term of the members elected from the State Bar Council shall be two years.

(vi) Two members of the Committee will form a quorum of any meeting of the Committee.

(3) Every State Bar Council shall open an account in the name of the Bar Council of India Welfare Committee for the State, in any nationalised Bank.

(4) No amount shall be withdrawn from the Bank unless the cheque is signed by the Chairman of the Welfare Committee and its Secretary.

(5) The State Bar Council shall implement Welfare Schemes approved by the Bar Council of India through Advocates Welfare Committee as constituted under sub-clause (2) (i). The State Bar Councils may suggest suitable modifications in the Welfare Schemes or suggest more schemes, but such modifications or such suggested schemes shall have effect only after approval by the Bar Council of India.

(6) The State Bar Council shall maintain separate account in respect of the Advocates Welfare Fund which shall be audited annually along with other

accounts of the State Bar Council and send the same alongwith Auditors Report to the Bar Council of India.

44B. The Bar Council of India shall utilise the funds received under Rule 41(2) in accordance with the schemes which may be framed from time to time.

### **Section V - Duty in imparting training**

45. It is improper for an Advocate to demand or accept fees or any premium from any person as a consideration for imparting training in law under the rules prescribed by a State Bar Council to enable such person to qualify for enrolment under the Advocates Act, 1961.

### **Section VI - Duty to Render Legal Aid.**

46. Every Advocate shall in the practice of the profession of law bear in mind that any one genuinely in need of a lawyer is entitled to legal assistance even though he cannot pay for it fully or adequately and that within the limits of an Advocates economic condition, free legal assistance to the indigent and oppressed is one of the highest obligations an Advocate owes to society.

### **Section VII - Restriction on other Employments.**

47. An Advocate shall not personally engage in any business but he may be a sleeping partner in a firm doing business provide that, in the opinion of the appropriate State Bar Council the nature of the business is not inconsistent with the dignity of the profession.

48. An Advocate may be Director or Chairman of the Board of Directors of a company with or without any ordinary sitting fee, provided none of his duties are of an executive character. An Advocate shall not be a Managing Director or a Secretary of any company.

49. An Advocate shall not be a full-time salaried employee of any person, government, firm, corporation or concern, so long as he continues to practise and shall, on taking up any such employment intimate the fact to the Bar Council on whose roll his name appears, and shall thereupon cease to practice as an Advocate so long as he continues in such employment.

Nothing in this rule shall apply to a Law Officer of the Central Government or the Government of a State or of any Public Corporation or body constituted by statute who is entitled to be enrolled under the rules of his State Bar Council

made under Section 28 (2) (d) read with Section 24(1) (e) of the Act despite his being a full time salaried employee.

Law Officer for the purpose of this Rule means a person who is so designated by the terms of his appointment and who, be the said terms, is required to act and or (sic) lead in Courts on behalf of his employee.

50. An Advocate who has inherited, or succeeded by survivorship, to a family business may continue it, but may not personally participate in the management thereof. He may continue to hold a share with others in any business which has decended to him by survivorship or inheritance or by will, provided he does not personally participate in the management thereof.
51. An Advocate may review Parliamentary Bills for a remuneration, edit legal text books at a salary, do 'press-vetting' for newspapers, coach pupils for legal examinations, set and examine question papers; and subject to the rules against advertising and full-time employment, engage in broad-casting, journalism lecturing and teaching subjects, both legal and non-legal.
52. Nothing in these rules shall prevent an Advocate from accepting, after obtaining the concept of the State Bar Council part-time employment provided that in the opinion of the State Bar Council the nature of the employment does not conflict with his professional work and is not inconsistent with the dignity of the profession. This rule shall be subject to such directives if any as may be issued by the Bar Council of India from time to time.

### **CHAPTER III**

#### **(Conditions for Right to Practice)**

*[Rules under Section 49 (1) (ah) of the Act]*

1. Every Advocate shall be under an obligation to see that his name appears on the roll of the State Council within whose jurisdiction he ordinarily practices.
2. An Advocate shall not enter into a partnership or any other arrangement for sharing remuneration with any person or legal Practitioner who is not an Advocate.
3. Every Advocate shall keep informed the Bar Council on the roll of which his name stands, of every change of his address.

4. The Council or a State Council can call upon an advocate to furnish the name of the State Council on the roll of which his name is entered, and call for other particulars.
5. (1) An Advocate who voluntarily suspends his practice for any reason, whatsoever, shall intimate by registered post to the State Bar Council on the rolls of which his name is entered, of such suspension together with his certificate of enrolment in original.

(2) Whenever any such advocate who has suspended his practice desires to resume his practice, he shall apply to the Secretary of the State Bar Council for resumption of practice, alongwith an affidavit, stating whether he has incurred any of the disqualifications under Section 24A, Chapter III of the Act during the period of suspension.

(3) The Enrolment Committee of the State Bar Council may order the resumption of his practice and return the certificate to him with necessary endorsement. If the Enrolment Committee is of the view that the Advocate has incurred any of the disqualifications, the Committee shall refer the matter under proviso to Section 26(1) of the Act.

(4) On suspension and resumption of practice the Secretary shall act in terms of Rule 24 of Part IX."

6. (1) An Advocate whose name has been removed by order of the Supreme Court or a High Court or the Bar Council as the case may be, shall not be entitled to practise the profession of law either before the Courts and authorities mentioned under Section 30 of the Act, or in chambers, or otherwise.

(2) An Advocate who is under suspension, shall be under same disability during the period of such suspension as an Advocate whose name has been removed from the roll.

7. An Officer shall not, for a period of two years after retirement or otherwise ceasing to be in service practice in the area to which his jurisdiction extended at the time of his retirement or otherwise ceased to be in service.

Provided that nothing in these Rules shall prevent any such person from practising in any Court or tribunal or authority of superior jurisdiction to one in which he held office.

*Explanation* : - 'Officer' shall include, a Judicial Officer, Additional Judge of the High Court and Presiding Officer or Member of the Tribunal or authority or such other Officer or authority as referred to in Section 30 of the Act.

'area' shall mean area in which the person concerned was exercising jurisdiction.

8. No Advocate shall be entitled to practice if in the opinion of the Council he is suffering from such contagious disease as makes his practice of law a hazard to the health of others. This disqualification shall last for such period as the Council directs from time to time.

## **CHAPTER IV**

### **Form of Dresses or Robes to be Worn by Advocates**

*[Rules under Section 49 (1) (gg) of the Act]*

Advocates appearing in the Supreme Court, High Courts, Subordinate Courts, Tribunals or Authorities shall wear the following as part of their dress which shall be sober and dignified:-

#### **Advocates other than lady Advocates**

1. (a) a black buttoned up coat, chapkan, achkan, black sherwani and white bands with Advocates' Gowns, or

(b) a black open breast coat, white shirt, white collar, stiff or soft, and white bands with Advocate' Gowns.

In either case long trousers (white, black striped or gery) or Dhoti.

#### **Lady Advocates**

2. (a) Black and full or half sleeve jacket or blouse, white collar, stiff or soft, with white bands with Advocates' Gowns:

(b) Sarees or long skirts (white, or black or any mellow or subdued colour without any print or design) or Flare (white, black or black striped or grey):

Provided that the wearing of Advocates' gown shall be optional except when appearing in the Supreme Court or in a High Court:

Provided further that in Courts other than the Supreme Court, High Court, District Court, Sessions Court or City Civil Court a black tie may be worn instead of bands.