

# BAR COUNCIL OF MAHARASHTRA & GOA

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It is hereby notified for general information that the Bar Council of Maharashtra & Goa in exercise of powers in sections 6 r/w. Section 15 of the Advocates Act, in section IV-A of Chapter II of Part IV of the Bar Council of India Rules, 1975 and in section 14 r/w. 15 r/w. 28 of the Maharashtra Advocates Welfare Fund Act, 1981, has framed following Rules which have been approved by the Bar Council of India under its Resolution passed in its meeting dated 26<sup>th</sup> & 27<sup>th</sup> June, 2005.

Date : October 1, 2005.

Sd/-

Secretary

Bar Council of Maharashtra & Goa.

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## **THE BAR ASSOCIATIONS (CONSTITUTION, REGISTRATION & CONTROL) RULES, 2005.**

### **CHAPTER I – Preliminary**

#### **(1) SHORT TITLE, EXTENT AND COMMENCEMENT**

- a) These Rules shall be called “The Bar Associations (Constitution, Registration & Control ) Rules, 2005”.
- b) These Rules shall extend to the whole areas of States of Maharashtra and Goa and the Union Territories of Daman & Diu and Dadra & Nagar-Haveli.
- c) These Rules shall come into force in the area of State of Maharashtra on the date of their publication in Maharashtra Government Gazette and in the area of State of Goa and of the Union Territories of Daman & Diu and Dadra & Nagar-Haveli on the date of their publication by the Goa Government Gazette and in the Union Territories on the date of their publication by the respective Administration in the Government Gazette of those Union Territories.

**(2) DEFINITIONS**

In this rules, unless the context otherwise requires,

- a) "Act" means the Advocate Act, 1961.
- b) "Advocate" means the person whose name appears on the rolls of Advocate prepared and maintained under the provisions of the Act by the Bar Council of Maharashtra & Goa.
- c) "Aid Fund" means the fund constituted or maintained by the Bar Council under its Advocate Aid Fund Rules, 1972, under provisions of Section 6(2) of the Act.
- d) "Bar Council" means the Bar Council of Maharashtra and Goa constituted under section 3 of the Act.
- e) "Bar Associations" means the Associations of advocates as defined in clause (d) of Section 2 of the Maharashtra Advocates Welfare Fund Act, 1981.
- f) "Certificate of Registration" means the certificate of registration granted by the Bar Council under these rules or deemed to have been granted under these rules or certificate of registration which is renewed by the Bar Council from time to time under these Rules.
- g) "Prescribed" means prescribed by the Bar Council from time to time by its resolution under these Rules.
- h) "Welfare Act" means the Maharashtra Advocates Welfare Fund Act, 1981.

**(3) REGISTRATION OF BAR ASSOCIATION**

- a) Every Bar Association shall apply to the Bar Council for recognition and registration thereof under these rules in prescribed form, along-with:

- (i) Copy of the Rules and Bye-laws of the Associations certified as true copy by the Registrar or other competent authority appointed under the Societies Registration Act, 1880 and copy of certificate or registration issued under said Act of 1880 certified likewise;
- (ii) List of the office bearers of the Associations, showing their full names, ages, residential addresses, designations, dates of their appointment as office bearers and the expiry date of their appointments.
- (iii) Registration fee @ Rs.100/- (One Hundred Only) for its every fifty members or part thereof calculated on the basis of information furnished in the application.

Provided that;

- (i) the Bar Associations registered and recognised under the provisions of the Welfare Act prior to commencement of these rules shall be deemed to have been registered under these Rules.
  - (ii) any Bar Association constituted after the date of commencement of these Rules, shall within period of six months from the constitution thereof, apply for recognition and registration, and;
  - (iii) that existing Bar Association which is not registered on the date of commencement of these Rules under the provisions of the Welfare Act shall, within period of six months from the date of commencement of these Rules, likewise apply for recognition and registration.
- b) The Bar Council may, after such enquiry as it deems necessary, refuse to recognize and register any Bar Associations under these Rules and in case of such refusal half of the registration fees paid along-with the application for registration shall be refunded by the Bar Council and it shall be the duty of the President and Secretary of concerned Bar Association named to communicate such refusal to all

its members individually by written memo within period of a month from knowledge of such refusal by Bar Council.

- c) The Order of grant or of refusing to grant registration passed by the Bar Council shall be communicated to the President or Secretary named in said application within three months of receipt of application for registration.
- d) The Bar Council on recognition of the Bar Association shall issue a certificate of registration in such form as may be prescribed.
- e) The certificate of registration issued under these Rules to the Bar Associations shall be valid only for period of five years from the date of issuance thereof by Bar Council.

Provided that the certificate issued under these Rules to the Bar Associations prior to the date of commencement of these Rules and under the provisions of the Welfare Act shall be deemed to have been issued under these Rules and shall be valid for period of only one year from the date of commencement of these Rules.

**(4) RENEWAL OF CERTIFICATE OF REGISTRATION**

- a) Every Bar Association to which certificate of registration is issued under these Rules or of which certificate of registration is as above-said deemed to have been issued under these Rules or of which certificate of registration is renewed under these rules shall apply to the Bar Council for renewal of such certificate at-least three months prior to the date of expiry of period of its validity.
- b) Every Application for renewal of such certificate shall be in the prescribed form and shall be accompanied with;
  - (i) Copy of its up-to-date rules and Bye-Laws of the Association certified as true copy.
  - (ii) Copy of its valid Certificate of Registration under the Societies Registration Act of 1880 certified as true copy.

- (iii) Renewal fee @ Rs.100/- (Rupees One Hundred Only) for every fifty members or part thereof calculated on the basis of said up-to-date list produced with the application for renewal.

Provided that when application for renewal of the certificate of registration is received by Bar Council after expiry of period of its validity, such certificate, may be renewed subject to payment of additional late fee @ Rs.100/- (Rs. One Hundred Only) per month or part thereof of delay caused.

- c) Bar Council may, after such inquiry as it deems necessary, refuse to renew such certificate of registration and its decision shall be final and in that case half of the fee paid for renewal as above will be refunded by Bar Council.
- d) The order of granting of renewal of or of refusing the renewal of such certificate shall be communicated to the concerned Bar Association within period of three months from receipt of application of renewal by the Bar Council.
- e) In case of refusal of renewal of such certificate by the Bar Council, it shall be duty of the President and Secretary of concerned Bar Association to communicate such refusal to all its members individually by written memo within period of a month from knowledge of such order of refusal by the Bar Council.
- f) Every Certificate or registration renewed will be valid for period of five years from the date of order of renewal by Bar Council.
- g) Bar Council may pass order of renewal of certificate of registration on the original certificate in such form it may prescribe.

**(5) BAR ASSOCIATION TO BE BODY CORPORATE AND SOCIETY**

- a) Bar Associations which holds valid certificate of registration shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property, both moveable and immovable property and to contract and may by the name by which it is known, sue or be sued.

- b) The Bar Association which is not registered as 'Society' under the provisions of the Societies Registration Act of 1880 at the time of commencement of enforcement of these rules shall itself get registered as society within period of one year from commencement of enforcement of these rules.

**(6) POWERS OF BAR ASSOCIATION**

Every Bar Association which holds valid certificate of registration under provisions of these rules shall be empowered;

- a) to undertake Group Insurance Policy of its members for recovering loss and compensation incurred on account of death of or of major illness caused to its members.
- b) to make recommendation or to issue certificates for receiving individual benefits by its members under various welfare schemes implemented by the Bar Council.
- c) to make representations to the Bar Council in relation to difficulties experienced by its members while carrying out their profession or in relation to improvement in administration of justice or in relation to removal of injustice or grievance suffered by its members individually or collectively.
- d) to hold, conduct, celebrate, organize or perform singly or jointly or to participate in any seminar, function, conference, ceremony or competition sponsored, financed or organized by the Bar Council.

**(7) DUTIES OF BAR ASSOCIATION**

- 1) Every Bar Association holding valid certificate of registration for its proper management or administration shall frame, adopt or enforce written scheme, constitution or by-laws.

Provided that Bar Associations deemed to have been registered under provisions of Rule 3(1) of these Rules, shall comply with this condition within one year from commencement of enforcement of these rules.

- 2) Every Bar Association shall;
- a) every year furnish information to the Bar Council as required under Section 15(1) of the Welfare Fund Act along with contribution equal to 5% of amount of subscriptions collected by it during preceding year.
  - b) intimate any change of the office bearer of the Association within fifteen days from such change in the prescribed form.
  - c) intimate any change in the membership, including admissions and readmissions, within thirty days of such change in the prescribed form.
  - d) intimate death, retirement or voluntary suspension of practice of any of its member within thirty days from the date of occurrence thereof or from knowledge thereof by President or Secretary of the Association whichever is later.
  - e) be vigilant in supervising whether every member of Bar Association is a member of fund constituted and maintained under the Welfare Act or has paid in lumpsum and is paying amount under Rule-40 of Bar Council of India Rules 1975.
  - f) supervise whether every Vakalatnama is affixed with stamp prescribed by the Welfare Act from time to time.
  - g) provide for sale and supply of stamps prescribed by the Welfare Act.
  - h) observe and follow in the conferences, seminars, talks or meetings or functions held, sponsored or authorized by the Bar Association, whether public or not and whether held by it singly or jointly with other agencies or not, the rules of protocol, as prescribed by the High Court of Bombay from time to time in relation to honour and decorum of the dignitaries present including members of Bar Council.

- i) keep a vigil over the professional activities of its members and shall promptly inform the Council about any advocate committing breach of rules of professional standards and etiquettes or of any other misconduct which in the opinion of its Executive Committee or General Body is derogatory of the profession or is the dereliction of his duties towards his client or fellow members, and;
- j) to the best of its capacity carry out all directions and instructions issued by the Bar Council and Bar Council of India from time to time.

#### **8) POWERS OF BAR COUNCIL**

- a) The Bar Council may in its discretion may;
  - i) cancel the certificate of registration granted to any Bar Association under these Rules or deemed to have been issued under these Rules or renewed under these Rules or;
  - ii) refuse to renew the certificate of registration granted to any Bar Association under these Rules or deemed to have been issued to it under these rules.

If it is found that concerned Bar Association is not performing its duties prescribed under these Rules

Provided that the Bar Council will exercise power under this rule only after issuing show-cause notice containing grounds to concerned Bar Association and after giving sufficient opportunity of hearing.

#### **9) DISQUALIFICATION OF BAR ASSOCIATION**

The Bar Association which is not registered under these rules or of which certificate of registration is not renewed from time to time, or of which certificate of registration is cancelled or of which certificate of registration is refused to be renewed under these rules shall not be;

- a) deemed to be effective instrument for implementation of welfare scheme referred to in Clause (a) of sub-section (2) of Section 6 and in sub-section (2) of Section 7 of the Act.

- b) entitled as of right to make any recommendation or certification of any kind to Bar Council, in matter of sanction of benefit to any Advocate under Welfare Schemes implemented and enforced by Bar Council.
- c) entitled to receive any benefit from Library Fund of the Bar Council.
- d) entitled or authorized as of right to make any representation to Bar Council for assistance, for removal of any difficulty, grievance or injustice or for recommendation to any authority or agency by this Bar Council or;
- e) entitled to hold, conduct, or celebrate or to actively participate singly or co-jointly with other agency in any function, seminar, conference, ceremony or competition sponsored or financed by the Bar Council.

**(10) DUTY OF BAR COUNCIL**

It shall be duty of Bar Council to credit all amounts received as contributions from amount of subscription from the Bar Associations under above Rule 7(2) in the Aid Fund constituted under Section 6(2) of the Act.

**(11) OBLIGATION OF ADVOCATE**

- a) Every advocate;
  - (i) whether he had at any time appeared or not and whether he at present is appearing as Advocate in any matter in any Court or judicial forum or not.
  - (ii) whether he had at any time practiced or whether he is presently practicing as advocate or not, or
  - (iii) whether he practices his profession of advocate for full-time or for part-time or in or outside the States of Maharashtra and Goa or not,

shall be member of the Bar Association holding valid certificate of registration.

- b) No advocates at any one given time shall be member of two or more Bar Associations holding valid certificate of registration.

- c) Every Advocate, who is not already member, shall become member of fund constituted and maintained under the Welfare Act within period of three months from commencement of these rules.
- d) Every Advocate shall affix the stamp as prescribed by the Welfare Act on every Vakalatnama filed by him individually or by the firm of which he is partner, adviser or beneficiary and
- e) Every Advocate shall, if not already made, make payments as prescribed in Rule 40 (Section VI-A Chapter II Part VI) of the Bar Council of India Rules, 1975 within period of three months from commencement of these rules.
- f) Every Advocate shall show on demand duly signed and sealed identity card (with his photo) issued by the Bar Council.

**(12) DISQUALIFICATION OF AN ADVOCATE**

- a) Any Advocates who fails to discharge his obligations prescribed by these rules shall not be entitled to;
  - (i) claim or receive any benefit from Aid Fund of Bar Council;
  - (ii) participate in any manner as of right in any conference, seminar, talk, competition or talk organized or sponsored by the Bar Council or;
  - (iii) make, as of right, any representation to the Bar Council for redressal of any grievance or for remedying any injustice caused to him by any person or agency.
- b) An Advocate who deliberately and persistently fails to discharge his obligations prescribed by these rules shall be liable for suspension of his Sanad or enrolment for such period as may be ordered by the Bar Council.

Provided that such suspension of order shall be passed after giving such advocate show-cause notice of period not less than a month and after giving him sufficient and reasonable opportunity of hearing.

Provided further that any such order of suspension may be revoked by the Bar Council in its discretion at any time before maturity of period mentioned in such order.

**(13) REPEAL AND SAVING**

- a) On enforcement of these rules, the provisions in Rules 3 and Form I & II of the Maharashtra Advocates Welfare Fund Rules, 1983 framed under the provisions of the Welfare Act shall stand repealed.
- b) The registration of Bar Association made with the Bar Council under the provisions of Welfare Act and said Rules there-under shall be valid subject to condition of requisite and further compliance in conformity with these rules.

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