

THE BAR COUNCIL OF MAHARASHTRA AND GOA, MUMBAI

Rules framed by the Bar Council of Maharashtra & Goa under Section 15 of Advocates Act, 1961.

GENERAL :

1. Definitions – In these rules, unless the context otherwise requires
 - (a) “Act” means the Advocates Act, 1961 as amended from time to time;
 - (b) “Advocate” means an Advocate entered on the roll of the Bar Council of Maharashtra;
 - (c) “Advocate-General” means the Advocate-General of State of Maharashtra;
 - (d) “Casual Vacancy” means a vacancy caused otherwise than by the expiry of the term;
 - (e) “Chairman” means the Chairman of the Bar Council of Maharashtra;
 - (f) “Council” means the Chairman of the Bar Council of Maharashtra;
 - (g) “Prescribed” means prescribed by the rules;
 - (h) “Rules” means the rules made by the Bar Council;
 - (i) “Secretary” means the Secretary of the Bar Council of Maharashtra and includes any person howsoever designate and entrusted for the time being with the duties of the Secretary; and
 - (j) “Vice-Chairman” means the Vice-Chairman of the Bar Council of Maharashtra.

RULE UNDER SECTION 15 (1)

SEAL

2. The seal of the Council shall not be used for affixed to any instrument except by the authority of the Council and in the presence of one member of the Council or the Secretary who shall sign every instrument to which seal of the Council is affixed in his presence provided that the signature of the other person shall be necessary where the seal is affixed to a certificate of enrolment granted under Section 22 of the Advocates Act, 1961.

3. The Chairman and his absence, the Vice-Chairman, is authorized to sign all such documents, deeds and instruments as may be necessary for the purpose of the Council and affix the seal of the Council thereto.

CHEQUES ETC :

4. All cheques shall be signed, drawn, accepted and endorsed as the case may be Chairman or the Vice-Chairman jointly with the Secretary or the Accountant or otherwise by such other person as the Council may from time to time by resolution so authorize.

POWERS AND DUTIES OF SECRETARY

5. The Secretary shall perform, inter alia, the following duties –
 - (a) To attend all meetings of the Council or of the Committee unless otherwise directed;
 - (b) To arrange for the deposit in Bank of the Monies received on behalf of the Council;
 - (c) To act as Secretary of all Committees, and convene meetings of the Council or its Committees, unless otherwise decided by the Council;
 - (d) To keep or cause to be kept record and Minutes of the proceedings of the Council and its Committees;
 - (e) To appoint such temporary staff, as may be necessary with the permission of the Chairman to transact urgent work.
 - (f) To exercise general control and supervision over the employees of the Council;
 - (g) To issue requisite notification as prescribed and such circulars as may be required;
 - (h) To attend to the correspondence of the Council and on behalf of the Committees and sign receipts for moneys received by the Council;
 - (i) To act as Secretary of the Disciplinary Committee;
 - (j) To perform such other duties as may be assigned to him the Council or the Committees or the Chairman.

6. He shall be the custodian of the seal, the records, registers, accounts, furniture, library and such other property as the Council might acquire from time to time.
7. He shall be responsible for the safe custody of the cash in hand.
8. He shall have authority to spend upto Rs. 250/- each month for unforeseen contingencies without the previous sanction of the Council or the Executive Committee. Such expenditure shall however be placed before the Executive Committee and the Council for information and confirmation.

RULES UNDER SECTION 15(2) (c) AND PART OF (d)

9. The Council shall at its first meeting or soon thereafter as possible to elect the Chairman and the Vice-Chairman
10.
 - (a) At such a meeting the Advocate-General shall preside and in the absence of the Advocate General, any other member may be nominated by the Council to preside and conduct the election provided such a person is not a candidate for such election. The person so presiding shall declare the result of the election under his signature.
 - (b) The names of the candidates for the office of the Chairman may be proposed and seconded at the meeting in which they are to be elected.
 - (c) If there are more than one candidate, the Chairman shall be elected by majority.
 - (d) In case of equality of maximum votes, secured by the candidates, the Chairman shall be elected by drawing lots.
11. After the Chairman is so elected, he shall preside over the meeting and conduct the election of the Vice-Chairman
12. Sub-rule (b),(c) and (d) of rule shall apply to the election of the Vice-Chairman.

13. Any member of the Council may contest the validity of the election of the Chairman or the Vice-Chairman, by a letter stating the ground on which the validity of the election is contested, signed and delivered to the Secretary within 24 hours of the election.
14. The Council shall appoint a Tribunal consisting of three members other than members of the Council who are advocates of not less than 25 years standing at the Bar to hold such enquiry in such manner as they deem fit. The decision of the tribunal shall be final.
15. The Chairman or the Vice-Chairman elected at the meeting whose election is in question shall nevertheless continue to function unless and until his election is declared to be invalid.
16. If the Tribunal decided that the election of the Chairman or the Vice-Chairman as the case may be has been invalid and their election or the election of either of them is set aside, a fresh election shall be held by the Council at its meeting in the manner herein before prescribed.
17. The above rule shall apply *mutatis mutandis* to a bye-election.
18. (a) The Chairman and the Vice-Chairman shall hold office for one year from the date of election

Provided however that the outgoing Chairman or the Vice-Chairman as the case may be shall continue to function even after the expiry of the tenure until the election of his successor take place.

Provided always that if any vacancy arises for any of the offices before the expiry of the aforesaid one year, the succeeding incumbent will hold office for the unexpired part of the year.

- (b) If the office of Chairman or Vice-Chairman becomes vacant before expiry of the tenure due to causal vacancy shall be filled up for the unexpired period of the year.

- (c) The election of the Chairman and the Vice-Chairman on the expiry of his term of office or otherwise shall take place subject to Rule 10 (a), (b), (c) and (d).

RULES UNDER SECTION 15 (2) (e)

19. Any causal vacancy among the elected members of the Council shall be filled by the Council by co-option from amongst the advocates on the roll provided that member thus co-opted shall continue in office only for the unexpired period of the term of the member whose vacancy he filled up.

RULES UNDER SECTION 15 (2) (g)

POWERS AND DUTIES OF THE CHAIRMAN AND THE VICE-CHAIRMAN

20. Save as otherwise provided in these rules and subject to the resolution of the Council and/or the Executive Committee the Chairman shall exercise general control and supervision over the affairs of the Council.
21. He shall preside over the deliberations of the Council and of all committees of which he is a member.
22. He shall cause the meeting of the Council or the Committee other than a Disciplinary Committee to be convened at such time and place as he may fix. He shall also settle the items for agenda of the meetings of the Council.
23. He shall have power to punish any employee of the Council by way of censure or reprimand and may initiate proceeding for suspension, removal or dismissal.
24. He shall be the authority to sanction the disbursement of salaries of staff and to order payment of all outstanding against the Council.
25. The Chairman shall have authority to sanction expenditure of not more than Rs. 1,000/- each month without the previous sanction of the Council or the Executive Committee. Such expenditure shall however be placed before the Executive Committee and the Council for information and confirmation.

26. The Chairman shall have authority for and on behalf of the Council to make, sign and execute agreements and contracts and renew, vary and discharge all such agreements and contracts and to do all acts, deeds and things necessary for an incidental thereto.

VICE-CHAIRMAN

27. The Vice-Chairman shall exercise all the powers and duties and discharge all the functions of the Chairman in his absence or under his direction.

RULES UNDER SECTION 15 (2) (h)

MEETING OF THE COUNCIL

28. Notice of every meeting of the Council shall ordinarily be sent by the Secretary not less than ten days before the date of the meeting except when the Chairman or any seven members require a meeting to be called on short notice on the ground of urgency. No proceeding shall be invalidated merely on the ground that the rule requiring notice is not strictly complied with.
29. Notice of the meeting shall specify the time and place of the meeting and shall contain the agenda fixed for the meeting.
30. The minutes of the previous meetings shall ordinarily be read and recorded at the subsequent meeting.
31. Twelve members shall form a quorum.
32. The Chairman may in his discretion if urgent action by the Council becomes necessary, permit a resolution to be moved by circulation thereof amongst the members of the Council. Provided that the proposed resolution shall not be treated as passed unless agreed to by not less than 15 members on circulation. The resolution so passed shall forthwith be intimated to the members of the Council and the papers shall be placed before the next meeting of the Council.

33. The Council may adjourn from day to day or to any particular day or from place to place but no further notice for adjourned meeting shall be necessary unless the meeting is adjourned for more than 15 days.
34. No business shall be transacted at any meeting unless a quorum of members is present at the time when the meeting proceeds to business.
35. Save and otherwise provided in these rules, decision of any matter shall be majority and in case of equality of votes, the Chairman of the meeting shall have a casting vote.
36. No matter once decided shall be reconsidered for a period of three months unless the Council by a two-thirds majority of the members present so permits.
37. No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
38. At all meetings of the Council, the Chairman and in his absence the Vice-Chairman shall preside. In the absence of the Chairman and the Vice-Chairman the Council shall elect one of its members as Chairman for that meeting.
39. A meeting of the Council shall be called by the Chairman and in his absence the Vice-Chairman as and when in his discretion a meeting should be so called. The Secretary shall call a meeting of the Council at such time and place as the Chairman and in his absence the Vice-Chairman should direct and shall call such meeting in consultation with the Chairman and in his absence the Vice-Chairman if a requisition is made in that behalf by at least seven members of the Council or a resolution is passed by the Executive Committee called for a meeting.

RULES UNDER SECTION 15(2) (i) (j)

CONSTITUTION, FUNCTION AND PROCEDURE OF COMMITTEES

40. The Council shall at the first meeting or so soon thereafter as possible from amongst its members the following Standing Committees :-

- (a) An Executive Committee as provided under Section 10 (1) (a).
- (b) An Enrolment Committee as provided by Section 10 (1) (b).

41. The term of office of the members of the Standing Committee shall be one year from the date of election.

Provided however the outgoing committees shall continue to function until a new committee is elected in its place.

42. The Council may appoint from among its members other committees as it may deem necessary and delegate to such committees such powers, duties and functions as it deems fit provided that the Council shall not delegate any of its functions which under the Act are required to be done by itself.

43. The members of the committee shall be elected by the Council at the first meeting or so soon thereafter as possible and shall hold office for such period as the Council may determine at the time of the appointment.

44. The Council or the Chairman of the Council may refer any matter relating to the work of any committee appointed under Rule 49 for report to be placed before the Council at its meeting when the same comes up for consideration.

45. A minute book of the proceedings of each committee shall be separately maintained by the Secretary. This rule shall not apply to Disciplinary Committee.

46. The Chairman and the Vice-Chairman shall be members whether named or not of every committee other than (a) the Disciplinary Committee (b) the Enrolment Committee and (c) the Executive Committee.

47. Every Committee other than Disciplinary Committee shall refer to the Council for its advice and directions all questions of doubt, difficulty and importance.

RULES UNDER SECTION 15 (2) (j)**MEETINGS OF THE COMMITTEES OTHER THAN A DISCIPLINARY COMMITTEE**

48. Notice of every meeting of the committee shall ordinarily be sent by the Secretary not less than three days before the date of the meeting except when the Chairman or any two members require a meeting to be called on short notice on the ground of urgency.
49. Notice of the meeting shall specify the time and place of the meeting and shall be accompanied or followed by the agenda fixed for the meeting.
50. The minutes of the previous meeting shall ordinarily be read and recorded at the subsequent meeting.
51. Save as otherwise provided in these rules, the decision on any matter shall be by majority and in case of equality of votes, the Chairman of the meeting shall have a casting vote.
52. Each Committee shall have a quorum of two unless otherwise provided.
53. No business shall be transacted at any meeting unless a quorum of members is present at the time when the meeting proceeds to business.
54. No quorum shall be necessary at any adjourned meeting.
55. No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
56. The Chairman, the Vice-Chairman of the Bar Council of Maharashtra and or any member of the Committee constituted by the Council may direct that the business of the Committee be transacted by circulation of papers to the members of the Committee provided that the action proposed to be taken shall not be taken unless agreed to by majority.

RULES UNDER SECTION 15(2)(j)**THE EXECUTIVE COMMITTEE**

57. The affairs of the Council shall, subject to the general control of the Council and its rules, be managed by the Executive Committee.
58. Candidates for the election to the Executive Committee shall be proposed and seconded and in the case of contest, the election shall be secret ballot, and in case of equality of votes, the election shall be decided by drawing lots.
59. A casual vacancy in the Committee shall be filled up by election.
60. The Executive Committee at its first meeting shall elect its own Chairman out of the members of the Executive Committee, the Chairman shall preside and conduct the business of the Executive Committee. In the absence of the Chairman, the Committee shall elect Chairman for the meeting.
61. The Committee shall be responsible to the general body of the Council and shall abide by such directions or resolution passed by the general body.
62. It shall have power :-
- (a) To prepare for and supervise the election of members of the Council.
 - (b) To manage the funds of the Council;
 - (c) To invest the funds of the Council in accordance with the directions from the Council from time to time.
 - (d) To grant leave other than casual leave to members of the staff
 - (e) To appoint and supervise the work of the members of the staff and prescribe their conditions of service;
 - (f) To prescribe books of account, registers and files for the proper management of the affairs of the Council;
 - (g) To consider the annual audit report and place it before the Council with its comments for its considerations;
 - (h) To maintain a library and under the directions of the Council, publish any journal, treatise or pamphlets on legal subjects;
 - (i) To prepare and place before the Council the annual administration report and the statement of accounts;

- (j) To provide for proper annual inspection of the office and its registers;
 - (k) To authorize the Secretary to incur expenditure within prescribed limits;
 - (l) To fix traveling and other allowances to members of the committees of the Council and to members of the staff;
 - (m) To do all other things necessary discharging the aforesaid functions;
 - (n) To appoint, promote, punish and discharge or dismiss any employee of the Council except the Secretary and the Accountant in the manner prescribed under the rules made by the Council in that behalf.
63. The Executive Committee shall exercise full control over all the employees of the Council and shall determine all questions relating to the eligibility for promotion, leave, gratuity, provident fund, pensions and all other questions relating to their employment as prescribed under the rules made by the Council in that behalf.
64. Notwithstanding anything contained in these rules, the Executive Committee shall have the power to suspend for any reasonable cause the Secretary until the Council takes decision in regard to the matter for which he has been suspended. The Chairman or the Secretary shall however have the power to grant casual leave to the employees of the Council to which they may be entitled under the rules made by the Council in that behalf.
65. Besides the routine expenses the Executive Committee shall have authority to spend upto Rs.2,000/- in urgent cases without the prior sanction of the Council, but the expenses so incurred shall be brought to the notice at the next meeting of the Council.
66. In case of any other Committee appointed by the Council except a Disciplinary Committee and an Enrolment Committee ceasing to function on account of any reason whatsoever, the Executive Committee shall perform all its functions and exercise all its powers until a new Committee is appointed by the Council as prescribed under the Act and the rules.

67. The Executive Committee may appoint from amongst its members such other sub-committees as it may think fit.
68. The Executive Committee shall upon receipt from the Finance Committee, present to the Council the Budget of the income and expenditure of the council for the next financial year before the close of outstanding financial year.
69. The Executive Committee may present to the Council supplementary demands for grant at any time during the course of financial year.
70. The Executive Committee shall meet at least once a month except during the High Court vacations unless the Chairman in his discretion otherwise directs.
71. At the meeting of the Executive Committee, three members present shall form a quorum.
72. The Chairman shall call an extra-ordinary meeting of the Committee within forty-eight hours of the receipt of a written requisition for such meeting by any two members of the committee. Such written requisition shall contain the business proposed to be transacted at such meeting and shall state the grounds of urgency for such meeting. No other business shall be transacted at such meeting except the business notified to the members for such meeting.
73. Under the directions of the Chairman or in his absence the Chairman of the Executive Committee, the Secretary shall conduct all the official correspondence of the Council, issued all notices required to be issued under the Act or under any of the rules made thereunder, keep minute books, supervise the work of the office of the council, grant copies of such documents as are permitted by the Chairman of the Executive Committee by a general or special order, certify them to be correct, allow inspection of such records as are permitted by the Executive Committee by a general or special order, be the custodian of the records, library, common seal and such other property of the Council as it might possess from time to time and shall cause accurate books of account to be maintained in the prescribed form and shall

maintain such other records as the Executive Committee may from time to time direct.

RULES UNDER SECTION 15(2)(i)

ENROLEMENT COMMITTEE

74. Candidates for the election of the Enrolment Committee shall be proposed and seconded and in case of contest the election shall be by secret ballot and in case of equality of votes the election shall be decided by drawing lots.
75. A causal vacancy in the Committee shall be filled up by election by the Council.
76. The Enrolment Committee shall dispose of in the manner prescribed under the Act and the Rules every application for admission as an advocate referred to it by the office of the Council.
77. The Chairman of the Enrolment Committee shall direct the Secretary to convene such meeting of the Enrolment Committee as he thinks fit for the disposal of the business required to be transacted by the Committee. He shall however call a meeting of the Committee upon a written request in that behalf by a member of the Committee.
78. All meetings of the Enrolment Committee, two members present shall form a quorum and no business shall be transacted at any meeting in the absence of such a quorum.
79. The Enrolment Committee shall proceed to dispose of every application in accordance with the provisions of the Act, the rules made there-under and the resolutions passed and/or directions given and/or the principles laid down from time to time by the Council and then in force.
80. In the event of the Enrolment Committee feeling any doubt or difficulty as to the eligibility of a person seeking admission or as to the interpretation of any of the provisions of the Act, the rules, resolutions or directions or principles, it shall refer the matter to the Council for clarification of such doubt, difficulty or such question and shall dispose of the application in the light of the ruling and/or directions given by the Council in that behalf.

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

RULES UNDER SECTION 15(2) (i)

DISCIPLINARY COMMITTEE

82. The Council shall constitute and or more Disciplinary Committee as the Council may from time to time determine. Each Disciplinary Committee shall consist of three persons of whom two shall be persons elected by the Council from amongst its members and one shall be person elected by the Council from amongst Advocates on its roll who is not members of the Council.
83. The Disciplinary Committee shall perform all the functions assigned to them under the Act in accordance with the procedure laid down in the act and under the rules made by the Bar Council of India under Section 49 (f) of the Act.

RULES UNDER SECTION 15(2) (i)

RULES COMMITTEE

84. The Council shall at its first meeting or so soon thereafter as possible constitute from amongst its members a Rules Committee for the purpose of making altering and adding rules in exercise of the rule making powers for the consideration of the Council.
85. The Rules Committee shall have the following duties :-
- (a) To submit draft rules to be framed under the provisions of the Act for the approval of the Council.
 - (b) To suggest any modifications, alternations or additions, omissions in the existing rules, and
 - (c) To draft forms consistent with the rules that might be required to be adopted by the Council from time to time.

RULES UNDER SECTION 15 (2)(i)**FINANCE AND ACCOUNTS COMMITTEE**

86. The Council shall have a Finance and Accounts Committee consisting of not more than five members and not less than three members of the council which shall hold office for a term of one year from the date of its election.
87. The Finance and Accounts Committee shall have the following duties:-
- (a) To prepare every year the budget estimates of the receipts and expenditure for the approval of the Council;
 - (b) To check the Accounts of the Council periodically and to prepare the annual statement of accounts and balance sheet in consultation with the auditors;
 - (c) To report on any matter of the Accounts and expenditure referred to it by Council or the Chairman;
 - (d) When so required by any of the Committees of the Council to examine report on and recommend in whole or part any grant or item of expenditure for sanction of the Council; and
 - (e) To make recommendations for the management and investments of the funds of the Council and report on the same to the Executive Committee.