

SUGGESTED AMENDMENTS TO THE ADVOCATES ACT, 1961
Proposed by Bar Council of India (Revised and Final)
adopted vide Item No.62/2017

Section	Proposed Amendments
2	<p>(q) <u>Electoral college means and consists of:-</u></p> <p>(a) The Chairmen of all the State Bar Councils or their nominee members; and</p> <p>(b) One member elected by each State Bar Council to be a member of electoral college.</p>
3(1)	No suggestion received in this regard
3(2)	No suggestion received in this regard
	<p>(b) in the case of a State Bar Council with an electorate not exceeding five thousand, fifteen members, in the case of a State Bar Council with an electorate exceeding five thousand but not exceeding fifteen thousand, twenty members, and in the case of the State Bar Council with an electorate exceeding fifteen thousand, twenty-five members, elected in accordance with the system of proportional representation by means of the single transferable vote from amongst advocates on the electoral roll of the State Bar Council after undertaking the process of verification of certificate and place of practice of advocates under the relevant Rules.</p>
	<p>(c) <u>Co-option of senior and experienced members:-</u></p> <p>In every Bar Council, in addition to the elected members, three designated senior advocates with at least 25 years of practice from the bar and in case of non-availability of such senior advocates, three advocates having experience of a minimum of twenty years shall be co-opted as members of the Council by the elected members, soon after the declaration of result of elections, but prior to the elections of the Office Bearers.</p> <p>In the matter of co-option if there is no unanimity amongst the elected members, co-option shall be by decision of the majority of the members.</p>
Proviso to Section 3(2)(b)	<p>Provided that as nearly as possible one half of such elected members shall subject to any rules that may be made in this behalf by the Bar Council of India, be persons who have for at least ten years been advocates on a State roll and who are in practice as per Verification Rules.</p> <p>Note:- Verification Rules mean Bar Council of India Certificate and place of Practice(Verification) Rules, 2015 and amendments made thereto from time to time.</p>
3(3)	No suggestion received in this regard
3(4)	No suggestion received in this regard

Section	Proposed Amendments
3(5)	No suggestion received in this regard
3(6)	Nothing in clause (b) of sub-section (2) shall affect the representation of elected members in any State Bar Council as constituted immediately before the commencement of this amendment, until that State Bar Council is reconstituted in accordance with the provisions of this Amendment Act of 2017.
4(1)	No suggestion received in this regard
	No suggestion received in this regard
	<p>(c) one member elected by each State Bar Council from amongst its members subject to the following provisions with regard to cluster of smaller State Bar Councils.</p> <p>Provided that where the number of Advocates enrolled in any Bar Council is less than five thousand, a cluster of not more than three Bar Councils of such nearby State Bar Councils shall be made and representation to the Bar Council of India from such cluster shall be made by rotation from amongst the Bar Councils within the cluster, as per the Rules prescribed in this behalf by Bar Council of India.</p>

Section	Proposed Amendments
	<p>(d) Three members co-opted by the members specified in clause(c) in the following manner: -</p> <p>(i) Two Senior Advocates whose names have been on any State roll for at least 35 years.</p> <p>Provided that in case of non-availability of Senior Advocates with 35 years of standing at the Bar, the senior Advocates with lesser length of practice shall be co-opted as prescribed under the Rules of Bar Council of India.</p> <p>(ii) One Senior Advocate whose name has been on any State roll for at least 35 years and having a minimum of 5 years experience as member of Bar Council of India.</p> <p>Provided that where there are more than one such senior Advocates with 5 years of experience as member of Bar Council of India are available, then the Senior Advocate with longer experience as the member, Bar Council of India, shall be co-opted.</p> <p>Provided further that where no Senior Advocate with 5 years experience as member, Bar Council of India is available, any other Advocate with 35 years of practice with 5 years of experience as member of Bar Council of India shall be co-opted.</p> <p>In the matter of co-option, in absence of unanimity amongst the elected members, co-option shall be by decision of the majority of the members.</p> <p>The term of members of Bar Council of India mentioned in this clause(d) and (e) of this sub-section shall be six years from the date of publication of result of such members.</p> <p>Bar Council of India shall co-opt its members under clause (d) and hold elections under clause (e) of this sub-section under this clause within a period of 6 months from the date of commencement of this amendment Act of 2017.</p>
	<p>(e) One member whose name has been on the State roll for atleast 35 years and who has been a member of the Bar Council of India for at least 5 years shall be co-opted by the electoral college.</p> <p>Provided that where there are more than one such Advocate with 5 years of experience as member of Bar Council of India are available, then the senior amongst them shall be co-opted.</p> <p>The co-option of such member shall be held as provided under the Rules in this regard.</p>
4(1A)	No suggestion received in this regard
4(2)	No suggestion received in this regard.
4(2A)	No suggestion received in this regard. But in place of Amendment Act 1977, 2017 shall be substituted.

Section	Proposed Amendments
Proviso to Section 4(2A)	No suggestion received in this regard. But in place of Amendment Act 1977, 2017 shall be substituted.
4(3)	No suggestion received in this regard
5	No suggestion received in this regard
6(1)	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	To provide for the elections of its members as prescribed under the Rules framed by the Bar Council of India in this regard.
	(gg) to visit and inspect Universities and Institutions imparting Legal Education in accordance with the directions given under clause (i) of sub-section (1) of section 7;
	No suggestion received in this regard
	No suggestion received in this regard
	(j) to organize compulsory Continuing Legal Education either directly or through Bar Associations, Bar Council of India Trust, the State Bar Councils, Lawyers' Society and any institute of repute recognized by Bar Council of India for this purpose in accordance with the rules made in this behalf.
6(2)	No suggestion received in this regard
6(3)	No suggestion received in this regard
7(1)	No suggestion received in this regard
	No suggestion received in this regard

Section	Proposed Amendments
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	(i) to recognize Universities and Institutions imparting Legal Education leading to a degree in law, constituting a qualification for enrolment as an advocate, and for that purpose to visit and inspect Universities and Institutions imparting Legal Education [or cause the State Bar Councils to visit and inspect Universities and Institutions imparting Legal Education in accordance with such directions as it may given in this behalf];
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	To provide for elections of its members and co-option in state Bar Councils and Bar Council of India.
	No suggestion received in this regard
	No suggestion received in this regard

Section	Proposed Amendments
	<p>(n) to provide for pre-enrolment training and apprenticeship of a person who has obtained degree in a law course, which is recognized as a qualification for enrolment as an advocate under the Act, for a period of one year.</p> <p>(o) to provide for Verification of Certificates or Places of Practice of the Advocates; either directly or through State Bar Council</p> <p>(p) to prescribe conditions for enrollment of persons as advocate with a State Bar Council including the one as to clearing of All India Bar Examination of the Bar Council of India as may be prescribed by the Rules.</p> <p>(q) to provide for, organize and monitor compulsory Continuing Legal Education through Bar Council of India Trust, a society or association recognized by it and as prescribed by guidelines/rules.</p> <p>(r) to provide mechanism for resolving election disputes in relation to any election to Bar Council of India and State Bar Council.</p> <p>(s) to provide common entrance test for admission in the institutions imparting legal education in the country.</p> <p>(t) to register Indian and Foreign Law Firms and to regulate such Firms.</p> <p>(u) to regulate Foreign Lawyers registered and allowed to practice in India under the Rules prescribed by it.</p>
	<p>(v) To register and regulate Bar Associations or other Associations, Societies, Trusts of Advocates operating within the territory of India.</p> <p>(w) to register and regulate the Law Firms, Limited Liability Partnerships operating within the territorial jurisdiction of the State Bar Council.</p>
7(3)	No suggestion received in this regard
7(3)	No suggestion received in this regard
7(4)	May create or recognize any Trust under Indian Trust Act, 1882 or Society registered under Society Registration Act in aid of carrying out the functions mentioned in this Section.
7A	No suggestion received in this regard
8	Term of office of Members of State Bar Council. – The term of office of an elected member of a State Bar Council shall be six years from the date of publication of the result of his election:
8A	No suggestion received in this regard

Section	Proposed Amendments
9(1)	<p>Constitution of disciplinary committees by the Bar Council of India and State Bar Council.</p> <p>In the case of</p> <p>(a) Bar Council of India, the Committee shall comprise of five members comprising a retired High Court Judge who shall be the Chairperson of the Committee, Two Members nominated by the Council from amongst its members and one advocate or Senior Advocate to be nominated by the Council, and one member of any State Bar Council to be nominated by the Council.</p> <p>Provided that if the Bar Council of India prima-facie feels that the case (proceeding) is not of a grave nature, a Disciplinary Committee with two members of Bar Council of India and one co-opted member, who shall be an advocate having at least 10 years of experience at the Bar, shall conduct the proceedings.</p> <p>(b) State Bar Council, the Committee shall comprise of three members comprising a retired District Judge who shall be the Chairperson of the Committee, one Member nominated by the Council from amongst its members and one advocate or Senior Advocate to be nominated by the Council.</p>
9(2)	Deleted
9A	No suggestion received in this regard
10	No suggestion received in this regard
10A	No suggestion received in this regard
10B	No suggestion received in this regard
11	No suggestion received in this regard
12	No suggestion received in this regard
13	No suggestion received in this regard

Section	Proposed Amendments
14	<p>Dispute as to election to Bar Councils:-</p> <p>(1) Any dispute as to the election to the Bar Council of India or the State Bar Councils including election of office bearers shall be referred to the committees, specially constituted for this purpose by the Bar Council of India prior to election.</p> <p>Provided that No election of a member to a Bar Council shall be called in question on the ground merely that due notice thereof has not been given to any person entitled to vote threat, if notice of the date has, not less than thirty days before that date, been published in the Official Gazette.</p> <p>(2) The Committee referred to in Sub-Section-1 shall comprise (a) in case of Bar Council of India a retired Supreme Court Judge as its Chairman and Chairmen of two State Bar Councils as its Members; and (b) in case of State Bar Councils, a retired High Court Judge as its Chairman and two Members of the Bar Council of India other than one hailing from the concerned State. The Committee shall have such powers as may be prescribed under the Rules and shall have powers to pass any interim order.</p>
15	No suggestion received in this regard
16	No suggestion received in this regard
17	No suggestion received in this regard
18(1)	Notwithstanding anything contained in section 17, any person whose name is entered as an advocate on the roll of any State Bar Council may make an application in the prescribed form to the Bar Council of India for the transfer of his name from the roll of that State Bar Council to the roll of any other State Bar Council and, on receipt of any such application the Bar Council of India shall direct that the name of such person shall upon payment of such transfer fee as may be prescribed by the rules, be removed from the roll of the first mentioned State Bar Council and entered in the roll of the other State Bar Council and the State Bar Councils concerned shall comply with such direction:
Proviso to Section 18(1)	No suggestion received in this regard
18(2)	No suggestion received in this regard
19	No suggestion received in this regard
20	No suggestion received in this regard
21	No suggestion received in this regard
22	No suggestion received in this regard
23	No suggestion received in this regard

Section	Proposed Amendments
24(1)	<p>(f) he has paid in respect of the enrolment, stamp duty, if any, chargeable under the Indian Stamp Act, 1899 and an enrolment fee payable to the State Bar Council as may be prescribed by the Rules.</p> <p>(g) He has paid the professional development fee chargeable under the Rules of Bar Council of India and the State Bar Council.</p> <p>(h) he clears the All India Bar Examination or any other test prescribed by Bar Council of India and fulfils such other conditions as may be specified in the rules made by the Bar Council of India under its Rules;</p>
24A	<p>Disqualification for enrolment.— No person shall be admitted as an advocate on a State roll—</p> <p>(a) if he is convicted of an offence involving moral turpitude;</p> <p>(b) if he has been dismissed or removed from employment or office by the State or any State Undertaking or any State Aided or Statutory Body or Corporation on the grave charge of misconduct;</p> <p>Explanation.—In this clause, the expression “State” shall have the meaning assigned to it under Article 12 of the Constitution:]</p>
25	No suggestion received in this regard
26	No suggestion received in this regard
26A	No suggestion received in this regard
27	No suggestion received in this regard
28	No suggestion received in this regard
29	No suggestion received in this regard
30	No suggestion received in this regard
31	No suggestion received in this regard
32	No suggestion received in this regard
33	No suggestion received in this regard
34	No suggestion received in this regard

Section	Proposed Amendments
35(1)	<p>Where on receipt of a complaint or otherwise a State Bar Council has reason to believe that any advocate on its roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee. The decision in this regard shall be taken by the concerned Bar Council within a period of six months from the date of receipt of this complaint.</p> <p>The complaint to the State Bar Council shall be in proper format accompanied with the prescribed fee under the Rules of the State Bar Councils.</p>
35(1A)	No suggestion received in this regard
35(2)	No suggestion received in this regard
35(3)	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	<p>(e) impose such fine as it may deem fit, proportionate to the gravity of the misconduct proved against the advocate, subject to the maximum limit of Rs.1 lac and cost of the proceeding;</p> <p>(f) award a fair and reasonable compensation of such amount, subject to the maximum of Rs.1 lac as it may deem fit, payable to the person aggrieved, if any, by the misconduct of the concerned advocate.</p> <p>(g) impose special and exemplary costs subject to the maximum of Rs.1 lac on the complainant in case, the complaint is found to be vexatious or frivolous or on the respondent-advocate in case he is found to have been un-cooperative in the disciplinary proceedings under the Act.</p>
35(4)	No suggestion received in this regard
35(5)	No suggestion received in this regard
35(6)	<p>During the pendency of a disciplinary proceeding in the complaints of grave misconduct, the Bar Council of India and State Bar Council as the case may be, if, it deems fit and proper may suspend the advocate from practice, but, no such suspension shall be made without the prior recommendation of concerned Disciplinary Committee.</p>

Section	Proposed Amendments
35A	<p>Prohibition on the boycotts or abstention from work –</p> <p>(1) No association of advocates or any member of the association either individually or collectively shall boycott or abstain from courts work or cause obstruction in any form in court's functioning (without any just or proper reason) during court working hours in court premises nor shall individually or collectively give a call for such boycott or abstinence from work during court hours without any just or valid reasons.</p> <p>(2) Violation of this clause shall be treated as misconduct and shall be liable for disciplinary action as contemplated under the Act and Rules.</p>
36	No suggestion received in this regard
36A	No suggestion received in this regard
36B(1)	<p>(a) The State Bar Council shall dispose of the complaint received by it under section 35 expeditiously and in each case the proceeding shall be initiated by the concerned Bar Council within a period of 6 months from the date of receipt of the complaint.</p> <p>(b) The proceeding initiated either on the complaint or Suo-Motu shall be completed within a period of one year from the date of initiation subject to extension for a maximum period of one year by the Bar Council of India, for the reason to be recorded in writing.</p> <p>(c) (i) In case the final decision whether or not to initiate the proceeding within a period of six months from the date of receipt of the complaint is not taken by the State Bar Council</p> <p style="text-align: center;">OR</p> <p>(ii) When the proceedings are initiated, but not completed by the disciplinary committee within a period of one year or extended period as the case may be,</p> <p>such complaint or the proceeding shall stand transferred to the Bar Council of India, which may dispose of the same as if it were a proceeding withdrawn for inquiry under sub-section (2) of section 36.</p>
36B(2)	In case of a transfer of proceedings to Bar Council of India, under the provisions of this section, the State Bar Council shall be required to pay three-fourth of the amount received from the complainant at the time of filing the complaint.
37(1)	The memo of appeal shall be in proper format accompanied with the prescribed fee under the Rules of the Bar Council of India.
38	No suggestion received in this regard
39	No suggestion received in this regard

Section	Proposed Amendments
40	No suggestion received in this regard
41	No suggestion received in this regard
42	No suggestion received in this regard
42A	No suggestion received in this regard
43	No suggestion received in this regard
44	No suggestion received in this regard
45	<p>Penalty for persons illegally practising in courts and before other authorities.-Any person who practises in any court or before any authority or person, in or before whom he is not entitled to practise under the provisions of this Act, shall be punishable with imprisonment which may extend to three years and with fine, which may extend to one lakh and this shall be in addition to penalty imposed under any other law for the time being in force.</p>
46	Omitted
46A	No suggestion received in this regard
46B	<p>Financial assistance to all the Advocates and/or their families in need -</p> <p>(1) The Central Government shall cause the printing of welfare stamps to be affixed on every Vakalatnama, Power of Attorney, Agreements for Litigation, Affidavits, documents relating to consultation and other similar instruments, called by whatever name, but, involving service of advocates. The sale proceeds of such stamps shall be utilized for creation of corpus, which in turn shall be used for initiation and maintenance of various schemes for the assistance, aid, welfare and benefit of practicing advocates and/or their families in the manner prescribed under the relevant Rules. The said corpus shall be managed and maintained by the Central Government and shall be exclusively utilized for the purpose indicated.</p> <p>The instruments referred to above in this sub-Section shall be treated as incomplete unless they are affixed with the welfare stamps.</p> <p>(2) The fund and schemes referred to in Sub-Section-(1) shall be in addition to the schemes evolved by the State Governments for the benefit and welfare of the advocates</p>
47	No suggestion received in this regard
48	No suggestion received in this regard
48A	No suggestion received in this regard

Section	Proposed Amendments
48AA	No suggestion received in this regard
48B	No suggestion received in this regard
49(1)	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	(d) the standards of legal education to be observed by universities in India and the inspection of Universities and Institutions imparting Legal Education for that purpose;
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard

Section	Proposed Amendments
	<p>(ia) to provide for, organize and monitor compulsory Continuing Legal Education for Advocates or class of Advocates either directly or through Bar Council of India Trust.</p> <p>(ib) to make rules to regulate the Indian Law Firms operating in more than one State.</p> <p>(ic) to register and regulate Foreign Law Firms as prescribed under this Act.</p> <p>(id) to register and regulate the Bar Associations, Trusts, Societies of Advocates operating in more than one State.</p>
	No suggestion received in this regard
49(2)	No suggestion received in this regard
49A(1)	No suggestion received in this regard
49A(2)	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	No suggestion received in this regard
	(h) To carry out Welfare Schemes for practicing Advocates.
49A(3)	No suggestion received in this regard
49A(4)	No suggestion received in this regard
49A(5)	No suggestion received in this regard
50	No suggestion received in this regard
51	No suggestion received in this regard
52	No suggestion received in this regard
53	No suggestion received in this regard

Section	Proposed Amendments
54	Repealed
55	No suggestion received in this regard
56	No suggestion received in this regard
57	No suggestion received in this regard
58	No suggestion received in this regard
58A	No suggestion received in this regard
58AA	No suggestion received in this regard
58AB	No suggestion received in this regard
58AC	No suggestion received in this regard
58AD	No suggestion received in this regard
58AE	No suggestion received in this regard
58AF	No suggestion received in this regard
58AG	No suggestion received in this regard
58B	No suggestion received in this regard
59	No suggestion received in this regard
60	No suggestion received in this regard
