

**REGISTERED L No. 1176**

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**AZAD JAMMU & KASHMIR BAR COUNCIL  
(MEMORANDUM OF ASSOCIATIONS) RULES,  
2001**

(Gazette of Azad Jammu & Kashmir, Extra ordinary, 31” December, 2001)

**No. Rule/F-4/2001 Dated 7th April, 2001**

Whereas it is expedient to provide for regulating the business of Bar Associations functioning throughout the Azad Jammu and Kashmir to ensure their efficient performance and provide the rules of procedure with respect to elections., finance and functions of the office bearers of the said Bar Associations and whereas the circumstances render it necessary to formulate Rules of Business of Bar Associations.

Therefore, in exercise of powers conferred by section 53 of the Azad Jammu and Kashmir Legal Practitioners and Bar Council Act (XXX of 1995) and all other enabling provisions in this behalf the Azad Jammu and Kashmir Bar Council hereby makes and notifies the following rules:-

- 1 (a) These rules shall be called “The Azad Jammu and Kashmir Bar Council (Memorandum of Associations) Rules, 2001.
- (b) These rules shall come into force with effect from 15th October, 2001.
- (c) <sup>1</sup>These rules shall apply to all the Bar Associations of Azad Jammu and Kashmir including Bar Association Supreme Court Bar Associations Azad Jammu and Kashmir.
- (d) These rules shall supersede all existing Constitutions of the Bar Associations and nothing in these rules shall affect any election held. Office bearers of any Bar Associations elected in pursuance of constitution of respective Bar Association, appointment made, everything done, all actions taken, notification issued orders made, proceedings initiated, jurisdiction or power

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1. Substituted by amendment rules notification dated 29.01.2014.

exercised under the previous Constitution or any such Bar Association. The provisions of these rules shall have effect <sup>1</sup>(overriding effect) to the provisions of the Constitution of any existing Bar Association and any provision of the said Constitution in force before the commencement of these rules shall in so far as such Constitution are not inconsistent with the provision of these rules, shall be deemed to have been replaced.

2 An Association of lawyers at each district, sub-divisional headquarter, principal seat of the Supreme Court of Azad Jammu & Kashmir and the High Court and the Circuit Benches of the Supreme Court and the High Court shall be known to be a Bar Association in the name of the respective district, sub-divisional headquarter and principal seat of the Supreme Court and the High Court including their Circuits Benches.

3 **Objects:** The objects of a Bar Association shall be:-

- (a) Protect and safeguard the rights, interest and privileges of the Members;
- (b) Strive to remove any difficulty faced by the legal profession;
- (c) Carry out the provision of Azad Jammu & Kashmir Bar Council Act, 1995 and all the rules framed by the Bar Council including any instruction or decision of the Azad Jammu & Kashmir Bar Council made from time to time, and
- (d) Struggle for the civic, liberties, human rights and strive to take immediate action for upholding the rule of law;

4. **Duties of the lawyers/Members:** The .duties of the lawyers/members shall be

- (i) To act without fear or favour for just cause of his client;
- (ii) To devote himself to the cause of his client diligently and with assiduous application of his mind;
- (iii) Not to accept or resort to any favour at the cost of his integrity, morality and propriety;
- (iv) To fight against corruption whenever found and against illegal favour from whatever source it comes or is found; and
- (v) To appoint as Clerk/Munshi a person of good repute and not previously convicted to offence involving moral turpitude having academic qualification; not less than matriculate.
- (vi) Contribute the amount of benevolent fund and Advocate Gratuity Fund in accordance with Azad Jammu and Kashmir. Advocate Benevolent Fund Rules 1998 and The Azad Jammu and Kashmir Advocate Gratuity Funds Rules 1998.

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1. Inserted through Amendment Notification dated 21.10.2015.

**5. In this Memorandum of Association, unless there is anything repugnant:**

- (a) "Advocate" means and advocate whose name is borne on the Rolls of Advocates maintained by the Azad Jammu and Kashmir Bar Council including all persons who were, as Advocates, entitled to practice in the subordinate Courts, High Courts and the Supreme Court immediately before the commencement of the 'Azad Jammu and Kashmir legal practitioners and Bar Council Act," 1995.
- (b) "Association" .means the Bar Association as defined in rule, 1 (c) recognized by the Bar Council in accordance with the Azad Jammu and Kashmir Bar Association (Recognition) Rules, 2001.
- (c) "Act" means the Azad Jammu and Kashmir Legal practitioners and Bar Council Act, 1995.
- (d) "Bar Council" means the Azad Jammu and Kashmir Bar Council constituted under the Azad Jammu and Kashmir Bar Council Act 1995 and the rules framed hereunder.
- (e) "Committee" means a Committee constituted by the Bar Association or by the President in accordance with the provisions of Memorandum of Association.
- (f) "Eligible Voter" means an advocate whose name for the time being appears on the Rolls of the Bar Association and he fulfilled the conditions laid down under the Act and rules framed hereunder and not debarred from use of Horary books or declared as defaulter.
- (g) <sup>1</sup>"Regular Member" means, a member of the District, Sub-divisional Bar Association, the Supreme Court Bar Association and the High Court Bar Association who is validly entitled to participate in the affairs of the Bar Association.
- <sup>2</sup>gg) "visitor Member" means a member of another Bar Association visiting the Bar Association casually to avail the facilities of bar association.
- (h) "Office Bearer", means president, Vice President, Secretary, Joint Secretary, Finance Secretary, Secretary Library or librarian, auditor and members of the Executive Committee, as may be elected under the memorandum of Association or any other persons to whom all or any of the functions of the office bearer for the time being assigned by the Executive Committee or the Bar Association.

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1. Word regular inserted vide notification dated 29.01.2014.

2. Added through amendment in rules notification dated 29.01.2014.

- (i) "Election Board", means a Board Constituted by the Bar Association consisting of three senior members. One of them being Chairman appointed by the President.

Provided in case of failure to constitute an Election Board, the Executive Committee of the Bar Council shall constitute an Election Board for the conduct of Election of the Bar Associations.

- (j) <sup>1</sup>omitted
- (k) "Meeting", means the meeting of the House and of its Committees;
- (l) "Annual Meeting", means a meeting of the house convene for the approval of the annual accounts and reports on the performance of the Associations;
- (m) "Special Meeting", means a meeting to the house convened for special purposes;
- (n) "Emergent Meeting", means a meeting of the house upon the requisition of the members under the Memorandum of Associations; and
- (o) General Meeting; , means a meeting of the house or any of its Committee convened to deal with the ordinary business of the Association or any of its Committee;

6. **Eligibility for Membership:** All advocates on the Rolls of Bar Council as defined in rule 5(a) and are practicing regularly in the district sub-division in the case of District and sub-divisional Bar Association and at the principal seats of the Supreme Court and the High Court including Circuit Benches of the Supreme Court in the case of the Supreme Court Bar Association and the High Court Bar Association shall be eligible to seek membership of the Association. All fresh entrance to the profession shall be deemed to be practicing regularly for the purpose of this rule at the Place which has been declared to be a place of practice at the time of enrollment..

7. **Mode of Admission:** Every Advocate fulfilling the requirement of these rules may apply to the Bar Association concerned for enrollment as member of the said Bar Association on payment

- (a) Rs. 200/- as Admission fee; and
- (b) Rs. 30/- as Monthly subscription by 10th of each month;

8. Application for membership shall be made to the Secretary along with the attested copy of the enrollment certificate and a photograph. The application shall be placed before the Executive Committee, who shall grant membership.

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1. Through amendment in rules notification dated 18.01.2017.

9. An Application shall not be rejected by the Executive Committee unless the applicant has been given an opportunity of being heard. In case the application is rejected. The executive committee shall record reasons for its rejection and a copy of the order shall immediately be supplied to the applicant. The applicant shall have a right to file an appeal against the order of executive committee before the general house of the Bar Association and the same shall be preferred within 15 days from the date of the communication of such decision.

- (1) Provided that the members of the executive committee shall not participate in the proceedings of the general house of the Bar Association at the hearing of such appeal:

Provided further that the appeal shall be decided by the general house within a period of one month from the date of its receipt

- (2) In case the general house of the Bar Association upholds the decision of the executive committee, the applicant shall have a right to file revision before the Bar Council and the revision shall be heard by its executive committee.

10 By virtue of the membership of Bar Association, every advocate shall be entitled to the privileges and the services including all amenities of bar association.

11 A member of another bar association shall be entitled to all amenities admissible to regular members if he pays Rs. 500/-as admission fee and Rs. 50/-as monthly subscription but he shall not be entitled to exercise right of vote or to contest election or take part, in any manner, whatsoever, in the election of the bar association.

12 **Organizational Structure of the bar Association:** <sup>1</sup>A Bar Association shall consist of president, vice president, Secretary General, Joint Secretary and Members of Executive Committee consisting of at least 5 members.

13 Absence/ illness of a member- no subscription shall be paid by a member who had discontinued practice or was absent from his ordinary place of business for a considerable period provided that an information to this effect was sent to the secretary by or on behalf of such member within three months.

Provided if such information is not received within time prescribed, the member shall automatically cease to be the member

Provided further the removal of membership of an advocate shall be restored by the executive committee subject to payment of the outstanding dues.

14 **Defaulter:** A member, who fails to pay his monthly subscription for three consecutive months shall be served with a notice for

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1. Substituted through amendment in Rules Notification dated 21.10.2015.

the payment of subscription, in case the members fails to make payment despite the service of the notice, shall after the expiry of the last date of the fourth month, cease to be a member of the association.

Provided that such member may apply for restoration of his membership on making payment of the arrears of subscription due on him in addition thereto such penalty as imposed by the president or Executive Committee and on payment, his member ship shall be restored by the president or the Executive Committee forthwith:

Provided further that if such member does not apply for restoration within two months after he had ceased to be a member, the secretary shall report to the Bar Council recommending removal of his name from the rolls of advocates.

15 **Expulsion from membership:** The general house may expel a member from membership after giving him an opportunity of being heard from the membership of the association on any of the following grounds:-

- (a) He is guilty of misconduct
- (b) His behaviour to all other members is objectionable:
- (c) He acts against the interest of the Association:
- (d) He fails to pay the amount of benevolent fund and advocates gratuity fund to the Bar Council: and
- (e) The Executive Committee shall keep a vigilant eye upon each member and in case in the opinion of the committee, a member is found engaged in any other business, trade or profession even on part time basis and does not hold any brief with him.

Provided that the matter of expulsion shall not be placed before general house unless it has been initiated on the grounds (a)to (C) by not less than 1/3<sup>rd</sup> majority of the total members or 100 members, whichever is the less and expulsion shall be made by 2/3<sup>rd</sup> of the total majority, and in the case grounds (d) and (e) upon an information of the Secretary of Bar Council received by the Bar Association and any member of the Association or public at large respectively.

<sup>1</sup>15-A The Executive committee of the AJ&K Bar Council shall forthwith suspended the membership in the Bar Association of an Advocate or suspend the license of an advocate or cease the status of an office bearer of any Bar Association, if the advocate concerned or office bearer violates the decisions/directions of the AJ&K Bar Council, or impairs the cause of the legal fraternity, or impairs the cause of the Bar Association or misuses his office.

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1. Added through amendment in rules notification dated 29.01.2014.

<sup>1</sup>15-B An advocate as a matter of right is eligible to appear in Courts wearing Robe in Criminal or Civil litigation pending for or against him.

16. An appeal against the expulsion shall lie to the Executive Committee of Bar Council within period of 30 days.

17. The powers/functions of President Vice President, Secretary, Joint Secretary, Secretary Library.

- (a) The President shall be responsible for ensuring due compliance of the Act, rules framed there under and the memorandum of Associations;
- (b) He shall convene and preside over a Bar Association and the Executive Committee;
- (c) He shall have a right of casting vote;
- (d) He shall, after receiving a complaint from a member about the misbehavior of any of- the functionaries of the subordinates judiciary, personally take up the matter with the authorities to resolve it amicably and if not settled and he is of the opinion that matter shall be placed before the general house for its consideration, he may pass such orders;
- (e) He shall refer a complaint receive by him against a member containing allegations of misconduct to the Executive Committee and if the Executive Committee recommends that the matter needs consideration by the bar Association or the Bar Council, as the case may be, he shall refer the matter to the house or the Bar Council:
- (f) He shall place before the General House a complaint for consideration as to declaring the person complained against to be or not to be a Tout in a special meeting convened for the purpose in compliance to the provisions of the Act and rules framed there under;
- (g) He shall maintain the dignity and prestige of the profession;
- (h) He shall have the right to incur and sanction expenditure up to 5000/- from the funds of the Association and if the expenditure exceeds Rs. 5000/- he shall place the matter before the Executive Committee for its approval;
- (i) He shall convene a meeting of the Executive Committee and an Emergent meeting of the house on the requisition signed by at least 1/10th of the total membership;
- (j) He shall operate the bank account either with Secretary or with any other office bearer authorized by the Resolution of the General House;

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1. Added through amendment in rules notification dated 29.01.2014.

- (k) He shall exercise control over the employee of the Bar Association;
- (l) He shall have the disciplinary control over the clerks/ Munshis of the members of the Bar Association; •
- (m) He shall satisfy himself of the qualification and conduct of the clerks/ munshi of the members of the Bar Association;
- (n) He shall be satisfied, cause to issue identity cards to the clerks/munshis of the members of the Bar Association and shall expel a person who is performing the duties of clerk/munshi of a member of Bar Association without having 'registration of such Clerk/Munshi with the Bar Association upon the recommendations of the member concerned;
- (o) He shall have the power to constitute from amongst its members, Sub-Committees as he may deem necessary for the effective performance of the functions of the Bar Association;

18 <sup>1</sup>**Vice-President:** The Vice-President in the absence of the President the vice president shall exercise all the powers and duties of the President.

19 <sup>2</sup>**Secretary General:** The Secretary General shall have the confidence and co-operation of all the members of the Association in properly maintaining the welfare and the prestige, of the Association. It shall be the duty of the Secretary; to:-

- (i) Personally attend, to conduct and sign all correspondence on behalf of the Association;
- (ii) Control and manage the establishment;
- (iii) Look to the maintenance and upkeep of the Library, Bar Room and furniture of the Association;
- (iv) Call the ordinary, emergent and general meetings of the Association and the Executive Committee and record their minutes;
- (v) Maintain an up to date record of the clerks and munshis and check their credential after every three months;
- (vi) Maintain the lists of the Touts and disrepute persons (declared by Courts or the Executive Committee)
- (vii) Arrange and manage all social, cultural and academic functions.
- (viii) Take action against the defaulters according to rules;

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1. Inserted through amendment Notification dated 21.10.2015.

2. Inserted through amendment Notification dated 21.10.2015.

- (ix) Maintain list of members from using the library under the Library Rules and paste their names on the notice board;
- (x) Make Payments sanctioned by the President and the Executive Committee;
- (xi) Collect all amounts and keep safe custody thereon and then deposit all such amounts of the Association in the Bank authorized by the Executive Committee;
- (xii) Check the library and its registers at least once a month;
- (xiii) Call General meeting under rule 57 or rules 80 and 62 when requisitioned either by the members or the Accounts Sub-committee under rule 38 for submission of accounts of the Association after every three months;
- (xiv) Initiate all proceedings against the defaulters under these rules and the Touts defined under Sub-Rule (f) of rule 17 on its own motion or an allegation received by him in accordance with the Act and the rules framed there under;

20 The Secretary <sup>1</sup>General shall maintain the following registers and books of accounts in such form and manners as the executive committee may direct from time to time and the same shall be correctly and regularly be kept;

- 1 Constitution/Memorandum of Association;
- 2 Register of the members of the Association;
- 3 Accounts Books;
  - (a) Money receipt Register;
  - (b) Expenditure Register;
  - (c) Bank Pass Book;
  - (d) Cheque Books;
  - (e) Receipt Register;
  - (f) Files pertaining to voucher/receipt with respect to expenditure made out of the funds of the Bar Association;
  - (g) Register of the Rolls of the Employee of Bar Association

Including their attendance register, the register of payments of their monthly pay and allowances;
- 4 Library Rules;
  - (a) Library Rules;

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1. Inserted through amendment Notification dated 21.10.2015.

- (b) Register of Books in the library;
- (c) Register of pertaining to issue and receipt of books of the library;
- 5 Establishment Register;
- 6 Stock Register;
- 7 Register for the recording of the minutes of the meetings General House of the Bar Association;
- 8 Register for recording the minutes to the meetings Executive Committee;
- 9 The Register pertaining to notice issued under the rules;
- 10 Correspondence Register;
- 11 Files of the Association Subject-Wise;
- 12 Register of complaints against members, Touts and the Subordinate Judiciary;
- 13 Defaulter Register showing money due on account of subscription an another Register with respect to fine imposed and realized from the members as price of the books lost, damaged, or failure to return books in time and price of library books declared, lost or damaged by the members;
- 21 **The Secretary <sup>1</sup>General** shall at the close of his tenure; hand over all the registers/record of the Association to the new elected Secretary after it has been checked;
- 22 **Joint Secretary <sup>2</sup>General:** The Joint Secretary, in the absence of the Secretary, shall exercise the powers and duties assigned to the Secretary;
- 23 **Vacancy:** if the office of an office bearer becomes vacant during the existing term, the vacant office shall be filled by holding election in according with the rules within 30 days of becoming the office vacant;  
Provided that a vacancy shall be filled in by election in case the vacancy occurs at least three month remains for the term to be expired.
- 24 **Constitution of the Executive Committee:** There shall be constituted an Executive Committee consisting of the following members;
  - 1 President;
  - 2 Vice-President;
  - 3 Secretary General, or
  - 4 Joint Secretary; and

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1. Inserted through amendment Notification dated 21.10.2015.

2. Inserted through amendment Notification dated 21.10.2015.

5 At least five members ..... <sup>1</sup>(deleted) by the General House;

25 **Powers and duties of Executive Committee:** The Executive Committee shall be in charge of and responsible for the conduct of the affairs of the Bar Association. It shall have the following powers and duties:-

- (a) To employ, suspend reprimand and dismiss the employee of the associations.
- (b) To fix and modify the emoluments, grades, conditions of service including increments, special allowances, of the employees of the Association;
- (c) Sanction expenditure exceeding Rs. 5000/-.
- (d) To Cause to appoint an Auditor; <sup>2</sup>(omitted)
- (e) To impose an emergent subscription or donation to meet the extraordinary expenses;
- (f) To maintain such establishment for the association as it may deem necessary;
- (g) The Executive Committee shall make ensure the receipt of all cash and cheques received for credit to the fund of the Association which shall be entered on the receipt side of the cash book soon after the receipt is issued, the disbursement of all moneys from the fund of the Bar Association shall be ensure to be entered on the expenditure side of the cash book as soon as the disbursements is made;
- (h) The Executive Committee shall ensure that at the end of every six month, a statement of the documents giving full detail of income and expenditure shall be compiled and at the end of each financial year an annual statement in the form of balance sheet shall be prepared and placed for the approval of the general house at the annual meeting;
- (i) The Executive Committee shall also ensure that the accounts of the Bar Association are duly audited in accordance with the audit rules applicable for the State treasury through an Auditor or Auditors duly appointed by it for each financial year;
- (j) The Executive Committee shall also place the report of the Auditor in the annual meeting of the Bar Association and state whether in its opinion the annual accounts is full and fair account containing all necessary particulars and properly drawn up so as to expedient a true and correct view of the Committee;

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1. Inserted through amendment Notification dated 21.10.2015.

<sup>2</sup> Omitted ibid

- (k) The executive committee or the President shall supervise the cleanliness and hygienic condition of the Bar Rooms and its canteen. It shall also fix the rates of commodities be supplied to the Members by the Canteen.
- (l) The Executive Committee shall enquire and report all matters referred to it by the President relating to the conduct of the members of the Bar Association, the clerks/munshis of members of Bar Association or an employee of the Bar Association and shall ask the individual affected appear before it and shall refer the matter to the General House, if the decision of the Executive Committee is unanimous and the relief is denied;
- (m) To initiate proceedings against Touts and disrepute Persons;
- (n) To check the record of the library books;

(26) **Finance Secretary:-** <sup>1</sup>(omitted)

27 **Library Committee:** The Library Committee shall consist of three senior members of the Bar Association and the same shall be elected by General House of the Bar Association. The Committee shall be responsible:-

- a) To check all books of the Bar Library as entered in the Library Register and to classify the categories of books, issue able books and non-issue able books;
- b) To check if the books are properly issued and received back in time; and
- c) To suggest action against the defaulting member;

**General Meeting of the House**

28 A General meeting of the House shall be convened by the President for the disposal of all such matters for which its approval or sanction is required under the rules;

29 President and in his absence, the Vice-President shall convene a meeting of the Bar Association requisitioned in writing by at least ten percent of the total membership of the Bar Association within seven days of the requisition but in case the requisitioned meeting is not convened within the prescribed time, the requisition may convene such meeting within ten days of the requisition;

30 All authority under the rules shall vest in the General House of the Bar Association as considered by the members assembled in the General Meeting. The House shall act through Executive Committee, annually elected under the rules by the members of the Association;

31 At the first meeting of the General House to be convened through the Executive Committee, within one month of the commencement of

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<sup>1</sup> Omitted vide notification dated 21.10.2015.

the term, the Finance Secretary, through Executive Committee shall present the annual budget of the Association;

32 The Budgetary funds, so allocate, shall not be varied, reduced or increased except with the approval of the General House;

33 The annual general meeting of the House shall be held in (<sup>1</sup>December ) of the year for fixation of the date of annual elections and for the approval of the report on the annual accounts and the performance of the Bar Association;

Provided in case due to any reason the annual general meeting of the House Could not be convened, in <sup>2</sup>(December), the same shall be convened on such date and time as approved by the Executive Committee of the Bar Council;

34 The Secretary General shall place on table copies of all the relevant documents to be presented before the House a week before the discussion for the information of the members.

#### **Notice for Meetings**

35 Not less than seven days, notice shall be given to members of the Bar Association for special or general meetings, such notice shall be given by:-

- a) Pasting of the notice on the Notice Board of the Bar Association;
- b) By circulating the notice/book register to all the members of the Bar, giving the agenda of the meeting;
- c) Not less than 48 hours notice shall be given to the members for an emergent meeting.

36 Due compliance of above procedure shall be the responsibility of the office bearers. The Executive Committee shall take appropriate action in case of non- compliance of the above procedure.

#### **Quorum**

37 1) The quorum for the meeting of General House of the Bar Association shall be 1/3rd or at least 50 <sup>3</sup>(Voter members according to the Voter list approved by the Bar Council for the previous election).

2) For the meeting of any Committee, the quorum shall be of simple majority of its total membership.

#### **Procedure at the Special or General Meetings of the House**

38 All special or general meeting shall be presided over by the President and in his absence by the Vice-President. In absence of both, the

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1. Substituted through amendment in rules Notification dated 29.01.2014.

<sup>2</sup> Ibid

3. Substituted vide amendment Notification dated 21.10.2015.

meeting shall be presided over by the senior member elected by the members present in the meeting comprising not less than half or 50 members on rolls, whichever is the less.

39 The President or the person presiding over the meeting shall have full authority to regulate the proceeding of meeting and to maintain order in such manner as he may deem fit;

40 All the proceedings of the meeting shall be recorded verbatim in the register of minutes by the Secretary and signed by the President or the member presiding;

41 All resolutions shall be determined by simple majority votes, when equally divided the President shall have the casting vote.

42 No resolution to question the conduct or character of any member or to vary or add to or to amend any rule of the Association shall be moved in the House unless 2/3<sup>rd</sup> members on its rolls are present in special or general meeting convened for the said purpose no resolution shall be deemed to have been carried or passed unless not less than 3/4<sup>th</sup> of the members present shall have voted for the same;

43 In case any resolution is moved regarding the conduct of a member, the votes shall be by secret ballots. Ballots signed and dated by the President shall be distributed to the members present who shall write on the reverse of it yes or no. The members shall cast their individual votes in the ballot box. The decision shall be announced by the President who shall communicate it to the Bar Council if it is adverse to the member, for action.

44 (1) All other matter brought before the General House shall be decided by majority and shall be binding on all the members of the Association. Such voting shall ordinary be by show of hand Except any particular case the President for the majority of member present may decide this voting to take place by secret ballot;

(2) A member desiring to raise a point of order or point of privilege or desiring to speak on any matter at a meeting of the Association, shall rise his seat or if unable to do so, shall otherwise intimate his desire to the Chairman of the meeting and shall speak only when called upon to do so by the Chairman of the meeting and shall address the meeting standing except when permitted otherwise for the time allocated to him by the Chairman. If at any time the Chairman rises, the member shall resume his seat;

Provided the opinion of the House or the Committee or as the case may be can be dissented from by any member and he may append a written note of dissent which shall form part of the minutes of the meeting of the House or the Committee.

### **Elections**

45 (1) <sup>1</sup>That annual election of the Bar Associations except Supreme Court Bar Association shall be held under the supervision of the

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1. Substituted through amendment in rules Notification dated 29.01.2014.

Election board on Saturday of the 2nd week of February each year, and in case the holiday falls on Saturday then prior to the day(s) on which the holiday(s) fall. All the office holders of the Association mentioned in the aforesaid Rules shall be elected by the members of the Association who had been declared eligible voters in the list provided by the Executive Committee of the Bar Council subject to the fulfillment of the conditions prescribed in the proviso to this rule and placed on the notice board on the 15th December each year by the president.

Provided that the president shall publish a list of defaulters on 15th November, who shall clear their dues by 30th November. The president shall paste the final list on the notice board of the Bar Association on 1st December and manage to furnish to the Bar Council office list of members of the Bar before 15th December failing which he shall be proceeded against under rule 83 of the Memorandum of Association 2001. However, an Advocate, whose name is not included in the list published by the president, may prefer appeal to the Executive Committee of Bar Council till 30th December, whose decision shall be final. <sup>1</sup>After verifying the voter list the Executive Committee of Bar Council shall notify the final voters list at the earliest but not later than twenty days before the election.

45-A <sup>2</sup>The annual election of Supreme Court Bar Association of Azad Jammu and Kashmir shall be held under the Supervision of the Election Board of Saturday of the 2nd week of October each year and in case the holiday falls on Saturday then prior to the day when holiday falls”.

Provided in case the conduct of election in the aforesaid manner is not possible, the matter shall be reported to the Executive committee of the Bar Council who shall, after consultation with the office bearers of the concerned Bar Association, fix a date of election.

(2) All office holders of the Association mentioned in the rules shall be elected by the members of the Association who have been declared eligible voters by the President in the list published and pasted on the Notice Board of the Bar Association on 15th of December each year.

<sup>3</sup>45-B The Annual Election of High Court Bar Association shall be held under the supervision of Election Board on Saturday of 2nd week of March each year and in case the Holiday falls on Saturday then prior to the day when Holiday falls.

<sup>4</sup>45-C No Contesting Candidate or his supporters shall canvass for votes through advertisement, banners, play cards, stickers and posters etc.

(ii) No meal/lunch/dinner by a contesting candidate or his supporters will be offered/arranged to or for voters directly or indirectly in connection with election.

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1. Inserted through amenity Notification dated 29.01.2017.  
2. Added through amendment in rules Notification dated 29.01.2014.  
3. Added through amendment and rules Notification dated 21.10.2015.  
4. Added through amendment and rules Notification dated 18.01.2017.

(iii) No professional practicing advocate can be a contesting candidates unless he has active length of practice as under;

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| President:         | (i) 10 years in case of Tehsil Bar Association and District Bar Association.<br><br>(iii) 10 years as an Advocate of High Court in case of High Court Bar Association.                          |
| Vice President:    | (i) 07 years in case of Tehsil Bar Association.<br><br>(ii) 10 year in case of District Bar Association.<br><br>(iii) 10 years as an Advocate High Court in Case of High Court Bar Association. |
| Secretary General: | (i) 05 years in case of Tehsil Bar Association.<br><br>(ii) 07 year in case of District Bar Avocation.<br><br>(iii) 08 years as an Advocate High Court in Case of High Court Bar Association.   |
| Other office:      | Joint Secretary and Members of the Executive Committee (3 year practice)  |

<sup>1</sup>45 D A Bar Association shall not invite the Chief Justice of the Supreme Court, the Chief Justice of High Court, any judge of the Supreme Court or High Court or subordinate judiciary or any public office holder to Bar Association as Chief Guest or a guest in any function/activity of Bar Association before one month of the Election of Bar Avocation to keep the transparency, impartiality and fairness of the Election Process.

46 The <sup>2</sup>(Executive Committee) shall constitute an Election Board consisting of Chairman and two other members who shall be the senior members of the Bar, seven days before the schedule for annual election announced by the Executive Committee, to conduct the annual election and to decide all election issues. It shall remain in office for the whole year.

<sup>3</sup>Provided that standing practice of Chairman and members of election board shall not be less than 10 years.

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1.  
2. Substituted through amendment and rules Notification dated 21.10.2015.  
3. Inserted through amendment in Rules Notification dated 18.01.2017.

47 In case of re-election under the rules, the Election Board constituted shall continue to function till the final result of the election.

48 All the issues shall be decided by majority and all proceedings shall be in writing and open to inspection by any member of the Bar after the final decision of the Election Board

49 The Election Board shall maintain secrecy of ballot and shall assure its free and voluntary exercise of the right to vote.

50 The Election Board shall follow the schedule of annual election announced by the Executive Committee;

51 The contesting candidate for an office shall be proposed and seconded in writing by an eligible voter and accepted in writing by the candidate and signed and dated;

52 A proposal shall relate only to one candidate and shall be invalid if it relates to more than one;

53 (1) The contesting candidate himself or his proposer or seconder shall submit the Nomination paper or papers to the Election Board. The Election Board or any other person specifically authorized by the Board in this behalf shall note on each proposal as soon as it is received, its number as well as the time and the date on which it is received.

(2) The Election Board shall prescribe the amount of security to be payable by the candidate of each office;

54 The Election Board, after the expiry of time fixed for submission of the nomination papers shall paste on the notice board of the Bar Association a complete list of the nomination papers received for each office, the name of the contesting candidates, their proposal and seconder and the time of receipt of every such nomination;

55 On the date and time fixed in the schedule, the Election Board shall scrutinize and examine all the nomination papers for all the office holders in the presence of contesting candidates or their proposer or seconder of the candidate, duly appointed agents of the contestants;

56 The Election Board shall accept nomination papers if these were found to be in order. The Election Board shall paste on the Notice Board, the list of validly nomination papers for each office;

57 A candidate may withdraw his candidature on or before the day fixed for the poll;

58 The candidate for the office, for which there is no other contesting candidate and his nomination papers had been accepted as valid nomination, the candidate shall be declared as elected for that office by the Election Board

59 The Election Board shall arrange for the ballot papers and the ballot box for each office in the manner deemed fit and proper to the Board;

60 On the date and time fixed for in the election schedule, the Election Board shall give to each eligible voter his ballot paper signed by Chairman Election Board one by one and obtain his signature on the voter list. Each voter shall get ballot paper for each office and the eligible voter shall be required to<sup>1</sup> tick mark (✓) for candidate of his choice for each office.

Provided that Election Board shall enter the registered number of eligible voter and shall obtain his signatures on the counter file of the eligible voters list maintained in accordance with these rules

61 The eligible voter shall cast his vote for each office secretly and with full sense of responsibility to the prestige honour and independence of his profession;

62 At the close of election, the Election Board shall separately count for each contested office in the presence of the candidate or his other authorized agent

63 <sup>2</sup>(i) After counting votes for each office, the Chairman Election Board shall immediately announced the result and notify the same forthwith.

<sup>3</sup>ii) The new elected office bearers shall take over the Charge of their offices within seven days of the election. The outgoing office bearers are bound to hand over the charge to new elected office bearer within aforesaid period and non observation of the rule shall be treated as misconduct and responsible shall be proceeded under Rule 15-A and 83 of rules.

<sup>4</sup>63-A The Chairman Election Board shall prepare a report of votes received by each Candidate and shall declare the result of elections. In case of equality of votes of candidates the decisions shall be taken by drawing of lots.

#### **ELECTION PETITIONS**

64 (1) On the application of any eligible voter or contesting candidate that there is reasonable evidence that elections as a whole or election of any particular office is void, the Executive Committee of the Bar Council shall inquire into the allegations and decide the issue after giving full opportunity to the parties concerned;

(2) An objection to election under Sub-Rule (1) may be filed by a petition by impleading the contesting candidates for the office concerned as party to the petition along with the Election Board, stating therein the detail of grounds for setting aside the election and the relief claimed by the petitioners which shall be signed and duly verified, in the manner provided in the Code of Civil Procedure and the petition shall be delivered to the Secretary Bar Council within 30 days of the date of holding election. The Secretary shall

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1. Substituted through amendment in rules Notification dated 29.01.2014.  
2. Added through amendment Notification dated 18.01.2017.  
3. Added through amendment Notification dated 18.01.2017.  
4. Added through amendment in rules Notification dated 29.01.2014.

refer the petition to the Executive Committee within 15 days of the date of filing. The petition shall be accompanied by a deposit of Rs. <sup>1</sup>5000/-;

65 The election as a whole or of the individual member/officer bearer shall be declared void under the following circumstances:-

- (a) It has been established that the candidate or with his connivance or consent someone or any eligible voter had paid on behalf of eligible voter or voters of Association as annual or part of annual subscription or any amount due from such voter or voters;
- (b) The candidate or with his connivance or consent, an advocate or person, not being on the Roll of Bar Association previously, is got admitted as eligible voter prior to the date of election on payment with the intent to secure vote;
- (c) The candidate or his proposer or seconder were not eligible voters on the relevant date;
- (d) The candidate or his proposer or seconder was debarred from the use of library books for reasons of loss or damage of books or for failure to return them in time fixed by the Library Sub-Committee; and.
- (e) Where the Act, rules framed there under, election Rules or any instructions or orders issued by the Bar Council have been violated.

66 In case the election as a whole has been declared void or the election of a particular office bearer has been set aside, re-election shall be ordered to be held within 20 days in accordance with these rules.

67 (1) <sup>2</sup>If the annual election is not held within the time stipulated in aforementioned rules, all office bearers of the Bar Association shall cease to hold office and thereafter, any act done or any action taken by them as the case may be, shall be illegal and void, under the circumstances mentioned in the aforesaid rules, the Executive committee of the Bar Council in this regard shall nominate an advocate to perform the function of interim president for the purpose of holiday election of the Bar Association within a period of one month. The election so held shall be the valid elections of the office bearers of Associations and the interim President shall cease to hold the office thereafter.

<sup>3</sup>67-A The non compliance of rule 45, 45, -A, 45B and rule 86 shall be treated as misconduct. The President and Secretary General of said Bar Association shall be automatically disqualified for the period of 05 years for any office of Bar Association or Member Bar Council. The Executive committee of Bar Council shall notify the disqualification of the president and

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1. Substituted by amendment Notification dated 29.01.2014.
2. Substituted by amendment in rules Notification dated 29.01.2014
3. Added through amendment in Rules Notification dated 31.08.2016.

Secretary General of the said Bar Association. The Executive Committee may proceed under rule 15-A of the above rules.

<sup>1</sup>67-B Any person aggrieved by the decision/judgment/order of Executive committee under rule 15-A, 83 or any other rule of AJ&K Bar Council (Memorandum of Association) Rules, 2001 may file an appeal before the Bar Council within 30 days from the decision/order/judgment of Executive Committee.

### **LIBRARY RULES**

68 The Library Committee shall be responsible for the efficient and proper maintenance of the Library and for effective control of it according to the rules. The committee shall consist of three senior members of the Association appointed by the president.

69 The Committee shall check all the books and registers after every three months and shall submit its report to the president regarding the efficiency of the library staff, books lost or damaged and the member or members responsible for such loss or damage and the action taken or proposed against the member concerned.

70 The Committee shall classify books.

- (a) To be issued to members for study in the library as texts.
- (b) Books to be issued and removed from the library for reference of citation before the Courts as reference book.
- (c) The following books shall not be removed from the library and be classified as texts.
  - (i) All texts.
  - (ii) All digests.
  - (iii) All journals to be classified reference books i.e. NLR, PLD PLJ, PCr.L.J, SCMR, SCR, PSC, LAW NOTES and AIR Volumes.

71 Each member shall enroll himself to the roll of library on payment of Rs. 100/- as security and shall obtain a library card. The Librarian shall issue books to the members on production of Library card. The librarian shall issue books classified as "Text" but shall not permit them to be removed from the library. The books classified as reference books shall be issued to members for three days and shall be allowed to be removed from the library.

72 The member shall return the reference books issue to him within the prescribed time and in case of failure a fine of Rs. 1/- shall be levied for each book per day.

73 The member shall be responsible for the upkeep of book issued to him and for its return to the Librarian within specified time. The

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1. Added through amendment in Rules Notification dated 31.08.2016.

member shall be responsible for the books lost or damaged for which he shall be liable to replace the book or to pay its price which shall be determined by the Library Committee.

74 The Librarian shall report to the Library Committee with respect to a member who has contravened the rules. The Committee shall take appropriate action against the member under rules.

75 On the report of the Librarian, the Library Committee shall declare the member not to be entitled to issue of the library books until he complies with the rules or returns the books or replaces them or pays their price,

76 The Librarian shall not issue any book to the following members or declare defaulter under rule 9.

77 The Library Committee shall publish the list of defaulting members and past it on the notice board of the Bar Association. The Committee shall supply the list of defaulting members to the Secretary for the preparation of eligible voters list by the 20th October each year.

78 All the fines imposed under the rules or price of books, lost or damaged shall be treated, added and realized as an arrears, of the Bar Association for the purpose of debarring the member from the membership of the Association and of further action under the Act and rules framed by the Bar Council. The librarian shall maintain a register 'fine register for funds realized or money paid for books damaged or books lost by the defaulting members.

79 No member shall be entitled to the issue of any library book if he is declared as the defaulting member under rule 75.

80 No Book shall be issued to the member if the Librarian has reasons to believe that the book is intended for the use of the defaulting member or "declared defaulter" the Librarian shall inform such cases to the Library Committee for action.

81 The Librarian shall maintain the registers for the books mentioned in rule 70.

82 The Librarian shall enter all new books purchased by the Sub-committee in various registers and circulate their titles to all the members for their Information and paste the list of new arrivals of the books on the notice board of the Bar Association.

83 <sup>1</sup>Non observance or violation of the provisions of the aforementioned rules, by an advocate shall be deemed to be professional misconduct making him liable for disciplinary action.

84 <sup>2</sup>No advocate shall be allowed to use the designation of office bearer of Bar Association, unless he is elected or nominated by the

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1. Added by amendment Notification dated 29.01.2014.

2. Added by amendment Notification dated 29.01.2014.

Executive Committee of Bar Council in accordance with Rules, otherwise he shall be proceeded against under rule 15-A and 83 of the aforesaid rules.

85 <sup>1</sup>Every advocate enrolled by the Bar Council is duty bound to follow the decisions of the Bar Council and if an advocate is not satisfied by any decision of Bar Council, he may refer the matter to the Bar Council through a resolution of the Bar Association concerned to review the decision and the Bar Council shall consider the resolution of the Bar Association in an urgent meeting within 15 days from receiving the resolution. The Bar Council may review its decision or refuse to review the decision. The decision of the Bar Council shall be final and no advocate shall object to the decision of the Bar Council in personal capacity. The violation of the decisions of the Bar Council shall amount to misconduct.

86 <sup>2</sup>Audit of the funds of Bar Association shall be held by the audit committee consisting of runner up candidates for president and Secretary General. The Audit Committee shall submit audit report before the General House on. Or before 31st December every year.

Provided that if the president or Secretary General are elected unopposed, the Executive Committee of the Bar Association shall constitute audit committee consisting of three members within fifteen days of the election and shall inform the Bar Council.

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1. Added through amendment in Rules Notification dated 21.10.2015.  
2. Added through amendment in Rules Notification dated 21.10.2015.