BAR COUNCIL OF HIMACHAL PRADESH

(Constitution and Conduct of Business)
Rules 1999

Rules made by the Bar Council of Himachal Pradesh under section 15 (2) (a), (c), (d), (e), (f), (g), (h), (i) and (j) read with Sections 3, 8 , 9 and 10 of the Advocates Act, 1961,with the approval of the Bar Council of India

(Approved by the Bar Council of India in its meeting held on 15th and 16th April, 2000 and came into force with effect from 15.5.2000)

BAR COUNCIL OF HIMACHAL PRADESH

Rules under Section 15(2)(a), (c), (d), (e), (f), (g), (h), (i) and (j) read with Sections 3, 8, 9 and 10 of the Advocates Act, 1961 with the approval of Bar Council of India.

1. Short Title:

These rules may be called the "Bar Council of Himachal Pradesh (Constitution and Conduct of Business) Rules, 1999. They shall come into force at once.

2. Definition:

Unless the rules in the context otherwise require:-

(i) 'Act' means the Advocates Act, 1961 (No. 25 of 1961)

(ii) 'Rules' mean the Bar Council of H.P. (Constitution and Conduct of Business) Rules, 1999.

(iii) 'High Court' means the High Court of Himachal Pradesh.

(iv) 'Bar Council' means the Bar Council of Himachal Pradesh.

(v) 'Chairman' means the Chairman of the Bar Council of Himachal Pradesh duly elected or authorized in this behalf.

(vi) 'Member' means a member of the Bar Council of Himachal Pradesh.

'Secretary' means the Secretary of the Bar Council of Himahal Pradesh or any other person appointed by the Bar Council to perform the duties of the Secretary whosoever designated.

(viii) 'Committee' means a Committee constituted under the Act or the rules.

3. First Meeting:

Within 15 days from the election becoming final, the Chairman of Election Tribunal shall convene a meeting of the Bar Council after giving notice of the clear days for –

(1) Election of the Chairman and Vice-Chairman,

(2) Election of Members of the Bar Council of India,

(3) Electing Committees; and

(4) Transacting such other business as the Chairman of Election Tribunals may direct. The Chairman of Election Tribunal shall preside at the said meeting.

4. Election of Chairman, Vice Chairman & Member to the Bar Council of India.

(1) The election of the Chairman, Vice Chairman and member Bar Council of India shall be by ballot to be held in such manner as the chairman of the Election Tribunal may determine;

Provided that in the event of there being more than two candidates, no member of the Bar Council shall be deemed to have been elected as Chairman, Vice-Chairman and member Bar Council of India unless he shall have secured a majority of votes of the members present; and that in case of there being more candidates than two, the name of the candidate receiving the lowest number of vote shall be eliminated after the votes have been first recorded and thereafter the votes shall be taken for the other candidates and the same procedure shall be followed until any candidate receives a majority of votes of those present.

(2) Any dispute regarding the validity of the election of the Chairman or Vice Chairman or member Bar Council of India shall be decided by Election Tribunal constituted by the State Bar Council whose decision shall be final. The Election Tribunal appointed under Rule 30 of the Election Rules of the Bar Council of Himachal Pradesh, shall decide its own procedure for determining the dispute.

5. Quorum.

At all meetings of the Bar Council seven members present shall from a quorum. When a meeting is adjourned for want of quorum, no quorum shall be necessary for such adjourned meeting.

(1) Ordinarily meetings of the Bar Council shall be convened by the Secretary under the direction of the Chairman, who shall determine the date, time and place thereof:

Provided that no meeting shall ordinarily be conducted on any day falling within vacations of the Himachal Pradesh High Court.

Not less than seven clear days notice of the meeting shall normally be given to the members.

(2) The Secretary shall convene an extraordinary meeting of the Bar Council on a written direction therefore from the Chairman or on a requisition signed by seven members of the Bar Council specifying the agenda to be considered at such meeting. Not less than three days clear notice of such extraordinary meeting shall normally be given to the members.

(3) Notices under this rule may be given either by hand delivery to the members or by posting the same to the members under certificate of posting as the Secretary may deem fit.

7. Voting.

Voting of the Bar Council shall ordinarily be by show of hands. Each member present shall have one vote and the Chairman of the meeting shall have a casting vote in addition to his own as a member of the Council.

8. Non-contentious matters.

(a) Non-contentious matters which can be disposed of on a perusal of the papers relating thereto may be circulated to the members of the Bar Council and if the said members unanimously minute for some action to be taken, such action may be taken immediately.

(b) If such matter, in the opinion of the Chairman is urgent and it cannot be circulated to any member or members by reason of his or their absence from Shimla or for some other reason, which, in the opinion of the Chairman, is sufficient, then it may be circulated to the other members and if such other members unanimously minute for some action to be taken, such action may be taken immediately.

9. Absence of Chairman and Vice-Chairman.

In the absence of the Chairman and the vice Chairman at any meeting of the Bar Council, the members present may elect one from amongst them to preside over the said meeting.

10. Casual vacancies.

A casual vacancy shall be deemed to occur in the Bar Council if a member dies, resigns his post, is adjudged an insolvent or a lunatic, is suspended from practice or ceases to practise as an Advocate or if he is deemed to have vacated office under Section 10-B of the Act.

11. Filling up of casual vacancies.

To fill a casual vacancy among the elected members of the Bar Council, the remaining members of the Bar Council shall elect an Advocate from amongst Advocates on the roll of the Bar Council of Himachal Pradesh in the manner following:

The secretary shall, on the direction of the Chairman, invite nominations within seven days of the vacancy having occurred or soon thereafter, or in the event of a vacancy occurring during the vacation of the High Court, within seven days of the re-opening of the High Court after the vacation or soon thereafter. Every candidate shall be duly proposed and seconded by a member. In case there is only one candidate, such candidate shall be declared duly elected by the Chairman on the expiry of the time fixed for such nomination. In case of there being more than one candidate the election shall take place at the next meeting of the Bar Council. The election shall be by ballot and the Chairman shall, in case of equality of votes, draw the lots there and then and shall declare the result accordingly:

Provided that such elected member shall continue to be the member of the Bar Council only till the expiry of the term of the out-going member in whose vacancy he is elected.

The nomination papers shall be in the form 'A' of the Schedule of Election Rules of State Bar council.

12. Powers and duties of the Chairman and the Vice-Chairman.

(1) The Chairman, and in his absence the Vice-Chairman, shall preside at the meeting of the Bar Council.

(2) The Chairman, and in his absence the Vice Chairman, shall have a casting vote at all meetings, whenever voting is taken and the votes are equal.

(3) The Chairman shall have the right to attend the meetings of any of the Committees of the Bar Ciouncil, of which he

is not a member, and when so attending such a meeting he shall be considered as ex-officio member of that Committee. The Chairman shall also have the power to convene a meeting of any of the Committees of the Council and place for the consideration of such a Committee an agenda that he may deem expedient to be considered.

(4) Save as otherwise provided in the Act or in the rules made under the Act, the Chairman shall exercise a general control and supervision over all matters of the Bar Council and shall perform the following functions:-

(i) issue certificate of enrolment to persons whose names are brought on the roll of the Bar Council of H.P. in accordance with the orders of the Enrolment Committee or otherwise in accordance with the Provisions of the Advocates Act, 1961;

(ii) authorize the collection of necessary information or documents etc., which may be required in connection with application for enrolment as an Advocate, registration as an apprentice or permission to take the law examination to be held by the Bar Council and other connected matters which may be considered necessary for the purpose of various Committees of the Council.

(iii) Authorize the suspension and/or resumption of practice by Advocates.

(iv) deal with matters relating to the transfer of Advocates from the roll of one State Bar Council to the roll of other State Bar Councils;

(v) dipose of references from the Bar Council of India, H. P. High Court and other authorities, except those –

(i) which involve matters of policy or principle and

(ii) in which he considers that the orders of the Bar council or Executive Committee be obtained;

(vi) authorize the issue of letters in all matters, except those involving question of policy or principle;

(vii) authorize the disbursement of the salaries and medical reimbursement bills etc., of the staff of the Bar council, and the incurring of routine expenses of the Bar Council;

(viii) Sanction traveling allowance and daily allowance bills etc., of the members and the staff of the Bar Council;

(ix) Sanction expenditure upto Rs.500/- on any one term;

(x) Grant casual leave to the staff or authorize the Secretary to do so;

(xi) Do all other things necessary for discharging the aforesaid functions.

(5) The Chairman shall authorize the disbursement of the salaries of the staff of the Bar Council and the incurring of routine expenses of the Bar Council.

(6) The Vice-Chairman shall perform all the duties of the Chairman in his absence and shall have the same powers as those of the chairman when acting in that behalf.

13. Venue of meeting:

The meetings of the Bar Council shall ordinarily be held at Shimla, or at any other place as may be desired by the Chairman for reasons to be recorded in writing.

14. Travelling expenses:

The members of the Bar Council and the Committees thereof elected under the rules made under the Act and who are not

ordinarily residing in the place where the meetings of the Bar Council or the Committee or Committees thereof, as the case may be, are held and members going out on duty from Shimla shall be entitled in lieu of the travelling and other expenses an amount equal to the first class return railway fare from their place of residence to the place of meetings or other duty on the shortest route available from the place of journey to place of duty and also to a daily allowance of Rs.300/- (rupees three hundred only) during the days of absence from the place of their residence.

The members of the Bar Council and the Committee thereof shall be entitled to mileage at Rs. 5/- per km, in lieu of the first class return railway fare and when the journey is performed by car, on their giving a certificate to that effect in respect of the journey.

15. Election of Committee etc.

The Bar Council shall elect the Chairman, vice Chairman, and members of the Committees to be constituted under the rules made under the Act at its first meeting to be held after the election of the Bar Council or after elections to the membership of the Bar Council filling vacant seats by rotation at the end of every second year and after such elections have become final under these rules. The term of office of the Chairman, vice Chairman and the members of the committees shall be two years from the date of election. Provided however the outgoing chairman or Vice Chairman as the case may be, shall continue to function until the election of his successor takes place.

16. The Bar Council may make such rules of business as it may think fit not inconsistent with the Act and these rules.

17. Committees.

There shall be the following standing and other committees of the Bar Council for the purposes of carrying out the provisions of the Act:-

(a Standing Committees, namely –

(i) An Executive Committee.

(ii) Finance Committee,

(iii) Election Committee,

(iv) Rules Drafting Committee,

(v) Privileges Committee,

(vi) Legislation and Law Reforms Committee;

Any other Committee that may be constituted from time to time for any particular purpose not assigned to any other Committee herein before.

18. Functions of the Committee.

(a) The Executive Committee shall exercise all powers and duties connected with administrative work of the Bar Council.

(b) The Enrolment Committee shall dispose of, in the manner prescribed under the Act and the Rules made under sections 28(2)(c) and 28(2)(d) of the Act, every application for admission as an Advocate.

(c) The Disciplinary Committee(s) shall be in charge of all complaints against Advocates for breach of professional conduct and hold enquiry into them in the manner prescribed by the rules relating thereto.

(d) The Finance Committee shall advise the Bar Council on any matters affecting its finances and shall prepare the annual estimates of the income and expenditure of the Bar Council, forjk submission to the Bar Council through the Executive Committee.

(e) The Election Committee shall deal with all matters relating to election of members of the Bar Council and various Committees of the Bar Council.

(f) The Rules Drafting Committee shall prepare draft rules under various provisions of the Advocates Act, 1961, and place them before the Bar Council of Himachal Pradesh. It shall also examine all rules framed by the Bar Council of India and the State Bar Councils and make such recommendation for the amendment of the rules of the Bar Council of Himachal Pradesh as may be considered necessary.

(g) The Privileges Committee shall deal with all matters in regard to the rights, privileges and interests of Advocates and deal with applications by Advocates to serve in any capacity or to be engaged in any work other than that of an Advocate. The recommendations of this Committee shall be placed before a meeting of the Bar Council.

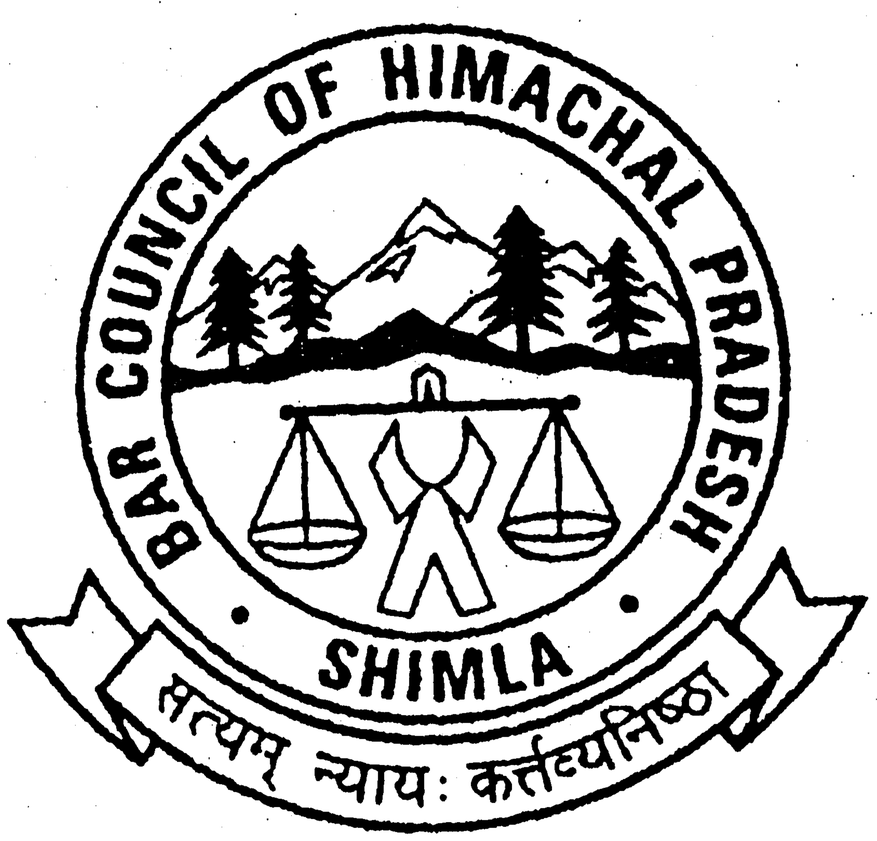
(h) The Legislation and Law Reforms Committee shall examine all Bills, proposed rules and By-laws, Ordinances and Regulations and record the opinion and communicate with the authorities where the opinion of the Bar council is called for.

19. Quorum of Committees.

The quorum for the meeting of a Committee shall be three except in the case of the Enrolment Committee for which the quorum shall be two.

This rule shall not apply to the Disciplinary Committees.

THE BAR COUNCIL OF HIMACHAL PRADESH



THE BAR COUNCIL OF HIMACHAL PRADESH
ELECTION RULES, 1999

(As approved by the Bar Council of India in its meeting held on 15th and 16th April, 2000 and the rules came into force w.e.f. 15.5.2000)

AND

Election Rules of Bar Council of India

THE BAR COUNCIL OF HIMACHAL PRADESH ELECTION RUILES, 1999

Rules made by the Bar Council of Himachal Pradesh under Section 15(2)(a) & (d) of the Advocates Act, 1961.

1. Short title and commencement:

These rules shall be called the "Bar Council of Himachal Pradesh Election Rules, 1999" and they shall come into force with immediate effect.

2. These Rules shall be subject to the rules made by the Bar Council of India under the powers vested in it by the Act.

3. Interpretation:

In these rules, unless the context otherwise requires:

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

(b) "Advocate General" shall mean the Advocate General of the State of Himachal Pradesh.

(c) "Bar Association" means a Bar Association recognized by the Bar Council and included in the list maintained by the Bar Council for the purpose of these rules.

(d) "Bar Council" means the Bar Council for the State of Himachal Pradesh.

(e) "Casual Vacancy" means a vacancy that has been caused otherwise than by the expiry of the term of office of a member.

(f) "Chairman" means the Chairman of the Bar Council Himachal Pradesh.

(g) "Clear days" means that time is to be reckoned exclusive of both the first and the last days.

(h) "Council" means Bar Council of India.

(i) "Continuing Candidate" means any candidate not elected and not excluded from the poll at any given time.

(j) "Count" means:-

(a) All the operations involved in the counting of the first preferences recorded for candidates; or

(b) All the operations involved in the transfer of the surplus of an elected candidate; or

(c) All the operations involved in the transfer of the total value of votes of an excluded candidate; or.

(d) All other operations involved in, incidental to or necessary for the entire process of ascertainment of votes.

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

(l) 'Exhausted Paper' means a voting paper on which no further preference is recorded for a continuing candidate and includes a voting paper on which.

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

(b) the name of the candidate next in order of preference, whether continuing or not, is marked by a figure not following consecutively after some other figure on the voting paper, or by two or more figures; or

(c) there is such effacement, obliteration, erasure, or mutilation as to make any preferences other than the first preference ambiguous.

(m) "first Preference" means the figure '1' set opposite the name of a candidate; 'Second preference' means the figure '2' set opposite the name of a candidate; and "third preference' means the figure '3' set opposite the name of a candidate, and so on.

(n) "Form" means a form prescribed under these rules.

(o) "Original vote" in relation to any candidate, means a vote derived from a voting paper on which a first preference is recorded for such candidate.

(p) "Polling Officer" means a person appointed as such by the Returning Officer and includes the person appointed by the Returning Officer to assist the Poling Officer.

(q) "Quota" means the lowest volume of votes sufficient to secure the right of a candidates.

(r) "Returning Officer" means the person appointed by the Bar Council as such to conduct an election.

(s) "Surplus" means the number by which the value of the votes, original and transferred, of any candidate exceeds the quota.

(t) "Transferred Vote" in relation to any candidate means a vote the value or part of the value of which is credited to such candidate and which is derived from a voting paper on which a second or a subsequent preference is recorded for such candidate.

(u) "Unexhausted Paper" means a voting paper on which a further preference is recorded for a continuing candidate.

(v) "voter' means a person whose name is included in the Electoral Roll.

(w) "Ballot Booth or polling Booth" means a booth set up in respect of a place or group of places for casting votes.

(x) "Ballot Box" means any box, bag or other receptacle used for insertion of voting papers;

(y) "Election Committee" means a Committee constituted by a Bar Council before the date of election for drawing up a detailed programme of election and all other matters incidental thereto;

(z) "State Roll" means the roll of Advocates prepared and maintained by the Bar Council under Section 17 of the Advocates Act, 1961.

4. Address of Voters:

the address given by an Advocate in his application for enrolment as an Advocate to the Bar Council made after the 1st day of December, 1961, or by an advocate on the roll of any High Court in his application for entering his name on the roll of the Bar Council maintained under Section 17 of the Act, shall be deemed to be his address for the purpose of these rules, unless such Advocate has within the time prescribed in these rules notified the change of his address to the Bar Council.

5. Time and Place of Election:

Election of members to the Bar Council shall be held at such place or places, on such date or dates, and during such hour or hours, as the Council may appoint. Different dates and different hours may be appointed for polling at different places.

6. Method of Election:

(i) Election to the Bar Council shall be by the single transferable vote by and amongst the voters in the electoral roll in accordance with these rules.

(ii) The voting shall be by personal ballot only.

Explanation:

An Advocate shall be deemed ordinarily to practise at the place which is given in his address in the electoral roll.

7. Notice of Election:

(a) Notice of the time and place of election shall be given by publication under the signatures of the Secretary, in one issue of a daily English newspaper ordinarily circulated in the State, not less than 45 days before the date of election. The notification shall specify inter alia:-

(i) the dates for nominations;

(ii) the date for scrutiny;

(iii) the date for withdrawal of the candidature;

(iv) the date or dates of polling;

(v) the date and place and time for counting of votes; and

(vi) the minimum number of seats that should be filled from amongst advocates who on the relevant date will have been on the State roll for at least 10 years.

Provided that the last date for the filing of the nominations shall not be less than 25 clear days before the date of the election and that there shall be at least 5 clear days after the last date of the scrutiny for withdrawal of the candidatures.

(b) Copies of the above notice shall be put up on the Notice Board of the Bar Council and sent to (i) Bar Associations and (ii) the Advocate General and (iii) may also be sent to the Official gazette of the State of Himachal Pradesh.

8. Candidates:

No person shall be entitled to seek election unless his name is in the electoral roll.

9. Candidates how to be proposed:

(i) Every candidate for election as a member of the Bar Council shall be proposed by one voter and seconded by another voter. The nomination paper shall be delivered to the Secretary either personally or through an agent or sent by registered post so as to reach the Secretary on or before the date specified in the notification under rule 7.

(ii) Every nomination paper shall be accompanied by a fee of Rs.2500/- and the fee deposited shall not be refunded.

The nomination shall be in form A of the Schedule. x Rs.5000/- as approved by BCI vide letter No. BCI:D:172:2010(BE/09, Dec., 09) dated 16.01.2010.

10. Doubt as to Validity of Proposals:

The Secretary shall scrutinize the nomination papers received, at the place and time notified under rule 7 and, if in his opinion any nomination paper is invalid, he shall report the same to the Chairman of the Election Tribunal or in his absence the next senior member of the Tribunal, who shall decide the validity or otherwise of such nomination paper, and his decision shall be final. The candidates or their agents shall be entitled to be present both at the time of scrutiny before the Secretary as well as before the Chairman of the Tribunal and make their submission. No nomination paper shall be rejected except for a defect of a substantial character and the Secretary or the Chairman of the tribunal may allow any defect which is not of a substantial character, to be rectified.

11. Withdrawal form Election:

Any person whose name has been proposed as a candidate may withdraw his candidature by a communication in writing so as to reach the Secretary not later than the date specified for the purpose in the notification under rule 7.

12. Declaration when number of Candidates is equal to the number of Seats:

If the number of duly nominated candidates who have been on the State Rolls for more than 10 years is less than or equal to the number required by the proviso to Section 3(2)(b) of the Act, they shall be declared elected. The number thus elected shall be deemed to be the number required by the said proviso. If the number of such candidates is in excess of the required number but the number of all the nominated candidates does not exceed the total number to be elected, all the candidates shall be declared elected. In every other case there shall be a poll as prescribed by these rules.

13. Publication of List of Candidates:-

(a) Not less than 20 days before the date fixed for elections, the Secretary shall publish the names of all the candidates validly nominated except the names of those who have withdrawn under rule 11, as nearly as possible in Form B of the Schedule on the Notice Board of the Bar Council.

(b) Copies thereof shall also be sent to the Bar Associations.

14. (i) Preliminary Electoral Roll:

(1) The name of an Advocate appearing in the State Roll shall not be on the Electoral roll, if on information furnished by the Advocate concerned in terms of Rule 4 of the Bar Council of India rules or information received or obtained by the State Bar Council concerned that:

(a) his name has at any time been removed;

(b) he has been suspended from practice, provided that this disqualification shall operate only for a period of five years from the date of the expiry of the period of suspension;

(c) he is an undischarged insolvent;

(d) he has been found guilty of an election offence in regard to an election to the State Council by an election tribunal, provided however, that such disqualification shall not operate beyond the election next following after such finding has been made;

(e) he is convicted by a competent court for an offence involving moral turpitude, provided that this disqualification shall cease to have effect after a period of two years has elapsed since his release;

(f) he is in full-time service or is in such part-time business or other vocation not permitted in the case of practicing advocates by the rules either of the State Council concerned or the Council;

(g) he has intimated voluntary suspension of practice and has not given intimation of resumption of practice.

Explanation:

If an advocate who has incurred any disqualification as referred to in rule 2 of the Bar council of India rules and does not furnish details about it as required in the notice under rule 4 of those rules within the time specified shall be deemed to have committed an act of other misconduct as referred to in Section 5(1) of the Act.

(2) Subject to the provisions of sub-rule (1) the name of every advocate entered in the State Roll shall be entered in the electoral roll of the State Council.

(3) (a) In preparing the Electoral Roll, unless the State Bar Council concerned is already maintaining a list of advocates who are entitled to be voters in terms of rule 2 of the Bar Council of India rules, at least 150 days before the date of election, shall publish notice issued by the Secretary of the state Bar Council concerned in the prescribed form in the official Gazette and in two or more local newspapers one English and the other of local language, as may be decided by the State Bar Council, asking each of the advocates on the roll of the concerned State Bar Council to intimate the State Bar Council within the time to be specified in the said notice or within such extended time as may be given/allowed by the state Bar Council for reasons to be recorded, as to whether he has incurred any disqualification mentioned in rule 2 of the Bar Council of India rules (Rule 2 has to be quoted in the notice)

(c) Before final publication of electoral roll, a State Bar Council may, if satisfied, on the application made by any particular

advocate giving sufficient reasons for not being able to furnish the informations sought in terms of Rule (3) (b), allow the name of the Advocate who has made such application to be included in the Electoral Roll in question, and on such inclusion advocate concerned shall be entitled to take part in the election in question.

(4) A preliminary electoral roll containing the names of all advocates whose names are required to be included under these rules shall be put up on the notice board of the State Council within 120 clear days before the expiry of the term of the members of the said state Council necessitating the election and relevant portion thereof shall be sent to such Bar Associations as the Secretary considers fit.

Provided that this rule shall not apply to the State Br Council the term of office of which has expired prior to the commencement of these rules.

Provided further that the Bar Councils whose term of office has already expired or shall expire within 120 days from the date of commencement of these rules shall, as far as possible, publish the electoral roll forthwith and fix the elections for a date after not less than 120 clear days from the date of publication of the electoral rolls.

(ii) final Electoral Roll:

The final electoral roll shall be prepared after incorporating such changes as may be necessary including the addition of the names of Advocates enrolled after the preparation of the preliminary Electoral Roll and put up on the notice board of the State Council not more than 75 clear days and not less than 60 clear days before the date of election. (Intimation of such publication shall be given within a week after the publication to the Bar Associations aforesaid).

(iii)Revision of Electoral Roll:

If for any reason the election to the State Council is postponed beyond the date of expiry of the term of its members the preliminary or the final electoral roll shall be revised so as to include therein the names of advocates enrolled up to 75 clear days before the date of the election.

(iv) Particulars to be maintained in the Electoral Roll:

The electoral roll of the State Council shall inter alia contain the following particulars:-

(i) Serial number,

(ii) Number of the State Roll,

(iii) Name of Advocate as on the roll; and

(iv) Address of the advocate.

(V) Disqualification for being a Candidate in the Election:

The nomination of any person who at the date of scrutiny thereof is subject to any of the disqualifications referred to in rule 2, of the Bar Council of India rules shall be rejected.

15. Form of Voting Paper:

The voting paper shall contain the names of all the candidates. The address of the candidate and the date of his enrolment as Advocate as in the Roll, shall be given against the name of each candidate. An asterisk mark * shall be put against the names of candidates who on the relevant date have been on the State Roll for at least 10 years, for the purposes of proviso to section 3(2)(b) of the Act. The voting paper shall also bear on it the facsimile of the Secretary's signature. It shall state the total number of the candidates to be elected. The voting paper shall, as nearly as possible, be in the Form 'C'.

16. Voting in Person:

Voters required to vote under these Rules, shall cast their votes at the respective polling booths, on the dates notified in their behalf.

17. Polling Booths For voting:

There may be one or more polling booths at each place. Different dates may be fixed for polling at the different booths. Polling shall ordinarily be from 10 A.M. to 5 P.M. the Returning Officer shall appoint a sufficient number of Polling Officers for the booths and may himself act as such, at one or more of the booths. The Bar Council may give such general directions as it may consider necessary with regard to places where polling booths ought to be established and the persons to be appointed as Polling Officers.

18. Second Voting Paper Not to Be Issued:

When a voting paper has once been handed over to a voter under these Rules, a second voting paper shall not be issued to him unless he satisfies the Polling Officer that the voting paper has been spoilt or mutilated or lost or destroyed or has not been received by him, in which case a duplicate voting paper may be issued to him.

19. Despatch of Voting Papers to Polling Officers for Voting:

The Secretary shall send to the Polling Officers of the booths, requisite number of voting papers and some additional voting papers bearing his facsimile, with a covering letter stating the number of the papers sent and enclosing an extract from the Electoral Roll relating to the polling booth and other papers, if any with necessary instructions.

20. Supply of Voting Papers to Voters:

The Polling Officers shall, on the date and at the time or hour fixed in this behalf, supply a voting paper to each voter in his polling booth, who applies in person therefor, and take his signature in the list of voters against the voter's name, to signify the issue of the voting paper;

21. Procedure for voting:

(1)A voter who has received a voting paper under rule 20, shall retire to a place screened from outside view and mark his preference in the manner prescribed. The voter shall then put it in a sealed box kept for the purpose.

(2) As soon as practicable after the closing of the poll the Polling Officer shall close the slit of the ballot box and where the box does not contain any mechanical device for closing the slit, he shall seal up the slit and also allow any candidate or his agent present, to affix his seal. The ballot box shall thereafter be sealed and secured.

(3) When it is necessary to use a second ballot box, the first box shall be closed, sealed and secured as provided in sub rule (2) before the second ballot box is put into use. The Polling Officer shall, at the close of the poll, prepare an account of ballot papers in Form 'D' of the Scheduled and enclose it in a separate cover with the words "voting Paper account", subscribed thereon.

(4) Sealing of Other Packets:

The Polling Officer shall then make into separate packets:

(a) the marked copy of Electoral roll;

(b) the unused ballot papers;

(c) the cancelled ballot papers;

(d) Any other paper directed by the secretary to be kept in the sealed packet. Each packet shall be sealed with a seal of Polling Officer and of the candidates or their Agents present, who may desire to affix their seal thereon.

(5) Transmission of Ballot Boxes etc:

The Polling Officer shall then deliver to the Secretary at such place as he may direct or send by post or otherwise in any way as directed:-

(a) the ballot boxes containing the ballot papers;

(b) the account of the ballot papers;

(c) the sealed packets referred to in sub-rule (4) above; and

(d) all other papers used at the poll.

22. Method of Voting.

(1) A Voter in giving his vote

(a) shall place on his voting paper the figure '1' in the space opposite the name of the candidate whom he chooses for first preference; and

(b) may in addition place on his voting paper the figure '2' or the figures '2' and '3' and '4', and so on, in the space opposite the names of the other candidates in the order of his preference.

(c) The decision of the returning officer whether a voting paper has or has not been defaced, shall be final.

23. Voting Paper when Invalid:

A voting paper shall be invalid on which:

a) the figure "I" is not marked; or

b) the figure "I" is set opposite, the names of more than one candidate or is so placed as to render it doubtful to which candidate it is intended to apply; or

c) the figure "I" and some other figures are set opposite the name of the same candidate; or

d) there is any mark in writing by which the voter can be identified; or

e) the preference are indicated in words as 'one', 'two' etc., or

f) the marking of the voting paper is not in the international form of Indian numerals.

Presence of Candidate or his Agent during counting:

At the time of counting, the candidate or his agent shall be entitled to be present.

24. Arrangement of Valid Voting Papers in Parcels:

a) On the day fixed for counting, the Returning Officer shall open all the ballot boxes. After rejecting the voting papers which are invalid or which cannot be taken into account for the purpose of election under these Rules, the Returning Officer shall:

b) Arrange the remaining voting papers in parcels according to the first preference recorded for each candidate.

c) Count and record the number of papers in each parcel , and

d) Credit to each candidate the value of papers in his parcel.

25. Ascertainment of Quota:

Every voting paper shall be deemed to be of the value of one hundred and the quota sufficient to secure the return to a candidate at the election shall be determined as follows:

a) add the value credited for a candidate under clause (d) of Rule 25;

b) divide the total by a number which exceeds by one of the number of seats to be filled; and

c) add one to the quotient, ignoring the remainder if any; the resulting number is the quota.

26. Candidates with Quota to be Elected:

If at the end of any count, or at the end of the transfer of any parcel or sub-parcel of an excluded candidate, the value of voting papers credited to a candidate is equal to or greater than the quota, that candidate shall be declared elected;

PROVIDED THAT

i) No candidate who has not been an advocate in the State Roll for at least 10 years shall be elected if 7 candidates of less than 10 years standing have already been declared elected.

ii) If at the end of any count, there are two or more candidates who have not been on the State Rolls for atleast 10 years, getting more than the quota as aforesaid, but the number of candidates that can yet be elected from such category under the proviso to Section 3 (2) (b) is less than the number, the candidate who have obtained the greater value of votes shall be declared elected in preference to the candidates whose value of votes is less.

iii) In the case of two or more persons of the category referred to in proviso (ii) above, getting the same value of votes at the end of any count, the Returning officer conducting the election shall decide by lot, which of such persons shall be declared elected.

iv) The other candidate or candidates not declared elected as aforesaid, by reason of the proviso to Section 3 (2) (b) of the Act and these Rules, shall be excluded from the poll.

27. Transfer of Surplus:

i) If after exclusion of any candidate under Rule 29 at the end of any count, the value of the voting paper credited to a candidate is greater than the quota, the surplus shall be transferred in accordance with the provisions of this rule to the continuing candidates indicated on the voting papers of that candidate as being next in order of the voter's preference.

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

PROVIDED THAT –

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

(iii)Where there are more surpluses than one to distribute and two or more surpluses are equal, regard shall be had to the original votes of each candidate, and the candidate for whom more original votes are recorded, shall have his surplus first distributed, and if the value of the original votes is equal, the Returning Officer shall decide by lot of which candidate shall have his surplus first distributed.

(iv) (a) If the surplus of any candidate to be transferred arises on the original votes only, the Returning Officer shall examine all the papers in the poll belonging to that candidate, divide the unexhausted papers into sub-parcels according to the next preference recorded thereon and make a separate sub-parcel of the exhausted paper.

(b)The Returning Officer shall ascertain the value of the papers in each sub-parcel and of all the unexhausted papers.

(c) If the value of the unexhausted papers is equal to or less than the surplus, the Returning Officer shall transfer all the unexhausted papers, at the value at which they were received by the candidate whose surplus is being transferred.

(d) If the value of the unexhausted papers is greater than the surplus, the Returning Officer shall transfer the sub-parcels of the unexhausted papers, and the value at which each paper shall be transferred, shall be ascertained by dividing the surplus by the total number of unexhausted papers.

(v) If the surplus of any candidate to be transferred arises from transferred as well as original votes, the Returning Officer shall re-examine all the papers in the sub-parcel last transferred to the candidate, divide the unexhausted papers into sub-parcels, according to the next preferences recorded thereon, and then deal with the sub-parcels in the same manner as is provided in the case of such parcels referred to in sub rule (iv).

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

(vii) All papers in the parcel of sub-parcel of an elected candidate not transferred under this Rule, shall be set apart as finally dealt with.

29. Exclusion of Candidates:

The Returning Officer conducting the elections shall exclude from the poll candidates as specified in Rule 4(b))I) of the Rules of the Council contained in Chapter II Part III.

30. Filling of Last Vacancies:

The procedure prescribed in Rule 4(c) of the Rules of the Council in Chapter II Part III, shall be followed.

31. Fractions etc. to be Disregarded:

In carrying out of the provisions of Rules 27 to 30, the Returning Officer shall disregard all fractions and ignore all preferences recorded for candidates already elected or excluded from the poll.

32. Determination of Result and Publication thereof:

(1) Upon the completion of the count, a list of the candidates elected to the Bar Council shall be prepared and signed by the Returning Officer.

(2) After such certificate, a copy of the list shall be published in the official gazette and shall also be sent to the Bar Associations to be affixed as they may direct, and may also be sent to other similar Associations. A copy of the same shall also be put up on the Notice Board of the Bar council.

(3) On the publication of the list in the official gazette, the persons whose names appear in the list shall be deemed to have been declared as elected. The members of the Bar council shall be deemed to have been elected on the date of publication of their names in the official gazette.

33. dispute as to the validity of Elections:

(1) Any voter may contest the validity of the election of a candidate declared to have been elected to the Bar Council, by a petition signed by him and supported by an affidavit and delivered to the Secretary personally or sent by registered post, so as to reach him within 15 days from the date of publication of the results of the election.

(2) The petition shall be accompanied by a fee of Rs.2000/- which shall be paid in cash or sent by Bank Draft in the name of Secretary, Bar Council of Himachal Pradesh at Shimla. The fee shall not be refundable.

(3) Such petition shall include as respondents, all the contesting candidates and the petition shall be accompanied by as many copies as there are respondents.

(4) All disputes arising under the above sub-rules shall be decided by a tribunal to be known as an Election Tribunal comprising 3 Advocates whose names are on the State roll and are not contesting the election and who are not less than of 10 years standing, the senior-most member shall be the chairman thereof.

(5) The Election Tribunal shall be appointed by the Bar Council on or before the date on which the time of the election is fixed under Rule 4. Explanation: The date means the date on which polling is to be held.

(6) The Election Tribunal shall have all or any of the following powers:-

(i)To dismiss a petition;

(ii) To order recount;

(iii)To declare any candidate to have been duly elected on a recount;

(iii) a) To examine the validity of the votes cast;

(i) To set aside the election of the candidate who either by himself or through any other person acting with his consent, is guilty of corrupt practices.

The following shall be deemed to be corrupt practices for the purposes of this Act:

(1) "Bribery', that is to say

(A) any gift, offer or promise of any gratification to any person whosoever, with the object, directly or indirectly inducing –

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

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

(i) a person for having so stood or not stood, or for having withdrawn or not having withdrawn his candidature; or

(ii) an elector for having voted or refrained from voting;

(B) the receipt of, or agreement to receive, any gratification whether as a motive or a reward –

(a) by a person for standing or not standing as, or for withdrawing or not withdrawing from being a candidate; or

(b) by any person whosoever for himself or any other person for voting or refraining from voting or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

For the purposes of this clause the term 'gratification' is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward.

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere with the free exercise of any electoral right including the issuing or sending of any appeal or manifesto for votes whether direct or indirect.

Provided that a mere intimation of a candidature with a bare request for a vote, shall not amount to undue influence.

And provided further that a candidate or his agent, may also orally ask for votes from voters, but on the date of election such requests shall not be made within a radius of 200 yards from the polling station. And a candidate may issue a written intimation to his voters announcing his candidature and seeking their votes or their first preference votes, which intimation shall not contain any other publicity or his eulogy. Such written intimation shall also not amount to undue influence.

Attempt to secure from any voter his ballot paper with intent to prevent him from transmitting it directly or with intent to ensure that the vote has been cast or is to be cast for a particular candidate, shall be deemed to interfere with the free exercise of the electoral right of the said voter.

(3) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel or the use of such vehicle or vessel, for the free conveyance of any elector to or from any polling station.

Explanation: The vacancy arising under sub-rule (6) (iv) shall be filled up as a casual vacancy.

(ii) In other cases to declare a vacancy to be filled up as a casual vacancy.

(iii) To make an order as to costs.

(7) The trial of an election petition shall as far as possible, be governed by the Civil Procedure Code.

(8) No petition shall lie on the ground that any nomination paper was wrongly rejected or the name of any voter was wrongly included in or omitted from the electoral roll or any error or irregularity which is not of a substantial character.

(9) The voting papers and other records relating to the elections shall not be destroyed until the expiry of the time fixed for the filing of any petition under clause (1) of this Rule.

(10) In case where a petition or petitions have been filed under sub-rule (1), no such voting papers or records shall be destroyed till all the election petitions are finally disposed off.

33-A. (1) All the proceedings of the Election Tribunal shall be deemed to be judicial proceedings within the meaning of Sections 193 and 228 of the Indian Penal Code and the Election Tribunal shall be deemed to be a Civil Court for the purposes of Sections 345, 446 and 349 of the Code of Criminal Procedure, 1973.

(2) Notwithstanding the absence of the Chairman or any member of the Election Tribunal on the date fixed for hearing of an

election petition before it, the Tribunal may hold or continue the proceedings on the date so fixed and no such proceedings and no order made by the Election Tribunal in any such proceedings shall be invalid merely by reason of the absence of the Chairman or member thereof on any such date, provided that any two out of the three persons constituting the Tribunal are present, provided further that no final order on the petition shall be made in any proceeding unless the Chairman and other members of the Election Tribunal are present.

(3) The Election Tribunal may make such order as to costs of any election petition or proceeding before it as it may think fit and any such order shall be executable as if it were an order of Civil Court."

34. Conduct of Elections:

Election and all matters relating thereto for which provisions is made in these rules shall be conducted by the Secretary and the Secretary may appoint any person or persons to assist him in the conduct thereof.

Explanation: For the purpose of these Rules, the "Secretary" shall mean a person appointed as Secretary under Section 11 of the Act, or any other person appointed by the Bar Council to perform the duties of the Secretary under these Rules or any person appointed by the Secretary to assist him in the conduct of elections.

35. Finality of Election:

At the expiry of 21 days from the date of publication of the list of elected candidates, the election shall be final and the voting papers shall be destroyed.

Provided that where the validity of an election has been challenged under Rule 33, the voting papers shall be preserved and dealt with as the Election Tribunal may direct.

SCHEDULE

THE BAR COUNCIL OF HIMACHAL PRADESH

FORM 'A'

(under Rule 9)

Nomination paper

For

Election to the Bar Council of Himachal Pradesh

To

The Secretary
Bar Council of Himachal Pradesh
Shimla

Sir,

We nominate_____ an advocate on the Roll of the Bar Council of Himachal Pradesh enrolled on_____ practicing at_____ as a candidate for election to the Bar Council of Himachal Pradesh to be held on_____

(1) Name_____

(2) Address_____

_____

Number in the

Electoral Roll_____

Date_____

Signature

And

(2) Name_____

Address_____

_____

Number in the

Electoral Roll_____

Date_____

Signature

_____

I am willing to serve on the Bar Council, if elected.

Signature of the Candidate

Number in the Electoral Roll_____

Name and Address of the

Candidate_____

_____ Enrolled on_____

Date_____

THE BAR COUNCIL OF HIMACHAL PRADESH

FORM 'B'

SUBJECT TO NECESSARY MODIFICATIONS

[(UNDER RULE 13(a)]

List of Candidates: The following is the list of candidates for the election to the Bar Council to be held on_____.

State Roll for at least 10 years as required under the proviso to Section 3(2)(b) of the Act.

Name 1	Date of enrolment 2	Ordinary place of practice 3

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

Name 1	Date of enrolment 2	Ordinary place of practice 3

Dated_____

Secretary

Bar Council of Himachal Pradesh

Shimla

THE BAR COUNCIL OF INDIA RULES

Part –III

Certain Matters Relating to State Council

CHAPTER – I

Electoral Roll, Disqualification of Membership and Vacation of Office

(Rules under Section 3 (4), 10B, 15 (2) (a) and 49 (1) (a) and (ab) of the Act)

1. Every advocate whose name is on the Electoral Roll of the State council shall be entitled to vote at an election.

2. The name of an advocate appearing in the State Roll shall not be on the Electoral roll, if on information received or obtained by the State Bar Council concerned on the basis of which it is satisfied that-

(a) his name has at any time been removed;

(b) he has been suspended from practice, provided that his disqualification shall operate only for a period of five years from the date of the expiry of the period of suspension;

(c) he is an undischarged insolvent;

(d) he has been found guilty of an election offence in regard to an election to the State Council by an election tribunal, provided however, that such disqualification shall not operate beyond the election next following after such finding has been made;

(e) he is convicted by a competent court for an offence involving moral turpitude, provided that this disqualification shall cease to have effect after a period of two years has elapsed since his release;

(f) he is in full-time service or is in such part time business or other vocation not permitted in the case of practicing advocates by the rules either of the State Council concerned or the Council;

(g) he has intimated voluntary suspension of practice and has not given intimation of resumption of practice.

Explanation:

If an advocate who has incurred any disqualification as referred to in Rule 2 and does not furnish details about it as required in the notice under Rule 4 of these rules within the time specified shall be deemed to have committed an act of other misconduct as referred to in Section 5(1) of the Act.

3. Subject to the provisions of Rule 2, the name of every advocate entered in the State Roll shall be entered in the electoral roll of the State Council.

4. (1) In preparing the Electoral Roll, unless the State Bar Council concerned is already maintaining a list of advocates who are entitled to be voters in terms of rule 2 of these rules, at least 150 days before the date of election, shall publish notice issued by the Secretary of the State Bar Council concerned in prescribed form in the official Gazette and in two or more local newspapers one English and the other in a local language, as may be decided by the State Bar Council, asking each of the advocates on the Roll of the concerned State Bar Council to intimate the State Bar Council within the time to be specified in the said notice or within such extended time as may be given/allowed by the State Bar Council for reasons to be recorded, as to whether he has incurred any disqualification

mentioned in rule 2 of these rules and quote Rule 2 of these rules in the said Notice.

(2) A preliminary electoral roll containing the names of all advocates whose names are required to be included under these rules shall be put up on the notice board of the State Council within 120 clear days before the expiry of the term of the members of the said State Council necessitating the election (and relevant portion thereof shall be sent to such Bar Associations as the Secretary considers fit).

Provided that the Bar Councils whose term of office already expired or shall expire within 120 days from the date of commencement of these rules shall, as far as possible, publish the electoral roll forthwith and fix the elections for a date after not less than 120 clear days from the date of publication of the electoral rolls.

(3) Before final publication of the electoral Roll, a State Bar Council may, if satisfied, on an application made by any particular advocate giving sufficient reasons, allow him name to be included in the Electoral Roll in question, and on such inclusion the advocate concerned shall be entitled to take part in the election.

5. The final electoral roll shall be prepared after incorporating such changes as may be necessary including the addition of the names of Advocates enrolled after the preparation of the preliminary roll and put up on the notice board of the State Council not more than 75 clear days and not less than 60 clear days before the date of election. (Intimation of such publication shall be given within a week after the publication to the Bar Associations aforesaid).

6. REVISION OF ELECTORAL ROLL: If for any reason the election to the State Council is postponed beyond the date of expiry of the term of its members the preliminary or the final electoral roll shall be revised so as to include there in the names of advocates enrolled up to 75 clear days before the date of his election.

Particulars to be maintained in the Electoral Roll

7. The electoral roll of the State Council Shall inter alia contain the following particulars:-

(i) Serial number,

(ii) Number of the State Roll,

(iii) Name of Advocates as on the roll; and

(iv) Address of the Advocate.

Disqualification for being a candidate in the Election

8. The nomination of any person who at the date of scrutiny thereof is subject to any of the disqualifications referred to in rule 2 shall be rejected.

9. Application of these rules:

These rules shall govern the elections of all State Bar Councils to be held after those rules are enforced, and all State Bar Councils holding the elections of their members shall prepare their electoral rolls in terms of these rules.

10. An elected member of the State Council shall be deemed to have vacated his office -

(a) if he is suspended from practice, or his name is removed from the roll by an order of a competent authority, or for any reason whatsoever he ceases to be an advocate.

(b) If he is adjudicated as an insolvent, or

(c) If his name is transferred to the roll of another State Council.

11. No elections shall be called in question for any non-compliance of the provisions of the Act or of any rules made there under unless the result of the election insofar as it concerns a returned candidate or candidates have been materially affected.

Form of Notice under Rule 4

It is hereby noticed that for the purpose of preparing final Electoral Roll in accordance with rules 2 & 3 of Chapter I, Part III of the rules framed by the Bar Council of India under Section 3(4), 10B, 15(2)(a), 49(1)(a) and (ab) of the Advocates Act, 1961, for the next election of Members to this Council the particulars as to any of the disqualifications as referred to in Clauses (a) to (g) of Rule 2 shall be furnished by an Advocate who has incurred them to the State Council within the time specified in the notice issued under rule 4. (herein below to reproduce rule 2 with Explanation).

DATED THE 20 SECRETARY

Number on the State Roll:

1. Name of the advocate as on the Roll:
   (in block letters)
2. (a) Address of the Advocate:
   (as on the state Roll)
   (b) Present address:
3. (a) Have you incurred any of the disqualification mentioned in Rule 2 of Chapter I, Part III of the rules of the Bar Council of India?
4. Are you a member of any Bar Association?
   (if so give the name)
5. Where do you intend to cast your vote?
   (If you are not a voter entitled to vote by Postal Ballot)

I hereby declare and affirm that the foregoing statements are true to my knowledge and I have not concealed anything thereto.

Date

_____

(Signature in full)

Note: These rules have come into effect from 1st January, 1991

CHAPTER-II

Rules to secure at least a minimum number of advocates for 10 years' standing

(Rules under Section 3(2)(b) and proviso, Section 3(5) and 49(1)(ac) of the Act)

1. (a) These rules shall apply to the election of members of all the State Councils in India.

(b) In the case of any repugnancy between these rules and any rule or rules of any of the State Council, these rules shall prevail and the rules framed by the State Councils shall be void to the extent of such repugnancy.

2. the elections of members of the state Councils shall be in conformity with the proviso to Section 3(2) of the act and these rules.

3. There shall be no limit to the number of candidates on the State rolls for at least 10 years that could be declared elected under these rules.

4. In the case of an election by a State Council for electing all the members specified in Section 3(2)(b) of the Act, the following procedure shall be adopted in the counting of votes:

Election of Candidates with quota:

(a) If, at the end of any count, or at the end of the transfer of any parcel or sub parcel of an excluded candidate the value of the voting papers credited to a candidate is equal to or greater than the quota, then, he shall be declared elected.

Provided that

(i) No candidate whose name has not been on the State Roll for at least 10 years shall be elected under Section 3(2)(b) and the proviso thereto of the Act.

(a) If 7 candidates of less than 10 years' standing in the case of a State Council where 15 members are to be elected have been declared elected; or

(b) If 10 candidates of less than 10 years' standing in the case of a State Council where 20 members are to be elected, have been declared elected; or

(c) If 12 candidates of less than 10 years' standing in the case of a State Council where 25 members are to be elected, have been declared elected.

(ii) If at the end of any count, there are two or more candidates, who have not been on the State Rolls for at least 10 years, getting more than the quota as aforesaid, but the number of candidates that can yet be elected from such category under the proviso to Section 3(2)(b) is less than that number, the candidate who has obtained the greater value of votes shall be declared elected in preference to the candidate whose value or votes is less.

(iii) In the case of two or more persons of the category referred to in proviso (ii) above, getting the same value of votes at the end of any count, the Secretary or other returning Officer conducting the election shall decide by lot which of such persons shall be declared elected.

(iv) The other candidate or candidates not declared elected as aforesaid by reason of the proviso to section 3(2)(b) of the Act and these rules shall be excluded from the poll as provided in Rule 4(b) of these rules.

Exclusion of candidates lowest on poll or who have been on rolls for less than 10 years.

(b) (1) the Secretary or Returning Officer conducting the election shall exclude from the poll –

(i) When there are two or more candidates who have obtained more than the quota the candidate who cannot be declared elected under proviso (i) to rule 4(a) of these rules;

(ii) the candidates lowest in the poll in the following order, after all the surpluses have been transferred as provided in the rules of the State council with regard to transfer of surplus and the number of candidates elected is less than the required number and after the exclusion from the poll; if any, under sub-clause (i)of this sub rule.

First such candidates whose names are on the State Roll for less than 10 years, if the number of such candidates declared elected as provided for in these rules:-

(a) 7 in the case of a State Council where in all 15 members have to be elected; or

(b) 10 in the case of a State Council where in all 20 members have to be elected; or

(c) 12 in the case of a State Council where in all 25 members have to be elected;

Next the other candidates

Illustration No. 1: At an election to a State Council where under the Act and these rules, the total number of elected members is 20, 300 is arrived at as the quota. At the end of a count, when there is no further surplus to be distributed, M and N are the contesting candidates.

M whose name has not been on the State Rolls for at least 10 years gets 150, and

N whose has name been on the State Rolls for more than 10 years gets 100.

Only 9 candidates whose names have been on State Roll for at least 10 years have already been declared elected. Hence M has to be excluded and the voting papers of M will be thereafter transferred as provided for in these rules.

If in the same case, 10 candidates whose names have been on a State roll for not less than 10 years had already been declared elected, N will be excluded. The voting papers of N will be transferred as provided in these rules.

Illustration No. 2: At an election to a State Council where under the Act and these rules, the total number of elected members is 15, 300 is arrived at as the quota. At the end of a count, when there is no further surplus to be distributed, M and N are the contesting candidates.

M whose name has not been on the State Rolls for at least 10 years gets 100.

N whose name has been on the State Rolls for more than 10 years get 100.

Only 7 candidates whose names have been on a State roll for at least 10 years have already been declared elected. Hence M has tio be excluded and the voting papers of M will be thereafter transferred as provided in these rules.

If in the same case, 8 candidates whose names have been on a State roll for not less than 10 years had already been declared elected, N will be excluded. The voting papers of N will be transferred as provided for in these rules.

Illustration No. 3: At an election to a State Council where under the Act and these rules the total number of elected members is 25, 300 is arrived at as the quota. At the end of a count, when there is no further surplus to be distributed, M and N are the contesting candidates.

M whose name has not been on the State rolls for at least 10 years gets 150, and

N whose name has been on the State rolls for more than10 years gets 100.

Only 12 candidates who names have been on a State roll at least 10 years have already been declared elected. Hence M has to be excluded and the voting papers of M will be thereafter transferred as provided for in these rules.

If in the same case, 13 candidates whose names have been on a State roll for not less than 10 years had already been declared elected, N will be excluded. The voting papers of N will be transferred as provided for in these rules.

(2) (i) The Secretary or other Returning Officer shall distribute the unexhausted papers of the candidates excluded under these rules among the continuing candidates according to the next preference recorded therein and all exhausted papers shall be set apart as finally dealt with.

(ii) The papers containing original votes of an excluded candidate shall first be transferred, the transfer value of each paper being one hundred.

(iii)The papers containing votes of an excluded candidate shall then be transferred in the order of the transfers in which and at the value at which he obtained them.

(iv) Each of such transfers shall be deemed to be a separate transfer, but not a separate count.

(v) If, as a result of the transfer of papers, the value of the votes obtained by a candidate is equal to or greater than the quota, the counting then proceeding shall be completed, but no further papers shall be transferred to him.

(vi) The process directed by this rule shall be repeated on the successive exclusion one after another of the candidates lowest on the poll until such seat is filled either by the election

of a candidate with the quota or as otherwise provided in these rules.

(vii) If at any time it becomes necessary to exclude a candidate and two or more candidates have the same value of votes and are the lowest on the poll, regard shall be had to the original votes of each candidate and the candidate for whom fewest original votes are recorded, and if the values of their original votes are equal, the candidate with the smallest value at the earlier count at which these candidates had unequal votes shall be excluded.

(viii) If two or more candidates are lowest on the ;poll and each has the same value of votes at all counts, the Returning Officer shall decide by lot which candidate shall be excluded.

(ix) If during a count, any candidate getting the quota or more has to be excluded by reason of rule 4(a) above, the transfer of his votes shall be deferred and made immediately after the other candidate having got the above quota in that count are declared, and their votes transferred as provided for in these rules.

Filling last vacancies

(1) When at the end of any count the number of counting candidates is reduced to the number of seats remaining unfilled, the continuing candidate shall be declared elected subject to the following:-

If the total number of candidates so far declared elected from amongst the advocates whose names have been on the State roll for at least 10 years at the relevant date is less than:-

(iv) 8 in the case of a State Council where 15 members are to be elected, or

(v) 10 in the case of a State council where 20 members are to be elected, or

(vi) 13 in the case of the State Council where 25 members are to be elected.

Then, the requisite number of candidates of such standing shall first be declared elected and only the balance from amongst other candidates shall be declared elected.

(2) When at the end of any count only one seat remains unfilled and the value of the papers of some one candidate exceeds the total value of the papers of all the other continuing candidates together with any surplus not transferred; that candidate shall be declared elected. Such candidate shall not, however, be declared elected if he has been on the State Roll for less than 10 years and if the total number of candidates so far declared from amongst advocate on the State Roll for at least 10 years as provided in these rules is less than 8 or 10 or 13 as aforesaid as the case may be.

(3) When at the end of any count only one seat remains unfilled and there are only 2 continuing candidates, and each of them has the same value of votes and no surplus papers can be transferred, the Returning Officer shall decide by lot which of them shall be excluded, and, after excluding him in the manner aforesaid, declare the other candidate to be elected.

Provided that if the total number of candidates who have been on the State Roll for at least 10 years on the relevant date so far elected is less than the required number, then that candidate who will be on that State roll for at least 10 years shall be declared elected and the other candidate shall be excluded.

Filling up vacancies or co-option

(4) In the case of any election to fill vacancy amongst the members of the State Council, or while co-opting a member, the State Council shall conform to the requirement of Section 3(2(b) of the Act, and the principles laid down in these rules.

Particulars regarding seats to be filled.

5. In the case of every election of members of a State Council, the State Council shall:

(a) notify the minimum number of seats should be filled up from amongst advocates who, on the relevant date, will be advocates on a State Roll for at least 10 years.

(b) require every candidate to specify in his nomination paper the date of his enrolment and the period for which his name had been on the roll of one or more High Courts under the Indian Bar Councils Act, 1926, and the roll or rolls of State Councils under the Advocates Act, 1961 with full particulars thereof.

(c) Indicate on the voting paper which of the candidates have been on the State Roll for at least 10 years as required.

Provided that this rule shall not be applicable to any election held by any State Council before these rules have come into force.

Computation of period

(6) For the purpose of computing the minimum period of 10 years provided for in the proviso to Section 3(2)(b) of the Act, and these rules:-

(i) the period during which an advocate may have been on the roll of any other State Council or Councils on the roll of any High Court or High Courts under the Indian Bar Councils Act, 1926, shall be taken into account, and

(ii) the period shall be computed as on the last date notified for receiving the nominations for the election.

Form C
(Under Rule 15)

VOTING PAPER

THE BAR COUNCIL OF HIMACHAL LPRADESH
(ELECTION DATED_____)
_____members have to be elected.

S.No.	Name as In Roll	Date of enrolment	Place and Address	Mark of voter
1.	Samson*	1.5.1905		
2.	Ranga	4.5.1965		

*An asterisk mark indicates that the name of the candidate has been on the State Roll for at least ten years.

Date: Facsimile of Secretary

FORM 'D'
(Under rule 21)
Election to the Bar Council of Himachal Pradesh

1. Name of Polling booth.
2. total number of ballot
   papers supplied
3. Total number of ballot papers used.
4. Total number of duplicate ballot papers supplied
5. Total number of duplicate paper used.
6. Date:
7. Signature of Polling Officer.

Date:

Place Signature of Polling Officer