

**AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW, JUSTICE AND PARLIAMENTARY AFFAIRS DEPARTMENT
MUZAFFARABAD**

Dated the 26th December, 1995.

No. 966-73/LD/95. The following Act of the Assembly received the assent of the President on the 23 day of December, 1995 is hereby published for general information:-

(ACT XXX OF 1995)

**AN
ACT**

to enact the law relating to the Legal Practitioners and Bar Council in Azad Jammu and Kashmir.

WHEREAS it is expedient to provide for law relating to Legal Practitioners and Bar Council in Azad Jammu and Kashmir the manner hereinafter appearing:

It is hereby enacted as follows:-

**CHAPTER-1
PRELIMINARY**

- 1. Short title, extent and commencement:-** (1) This Act may be called the Azad Jammu and Kashmir Legal Practitioners and Bar Council Act, 1995.
 - (2) It shall come into force at once.
 - (3) It shall extend to whole of Azad Jammu and Kashmir.
- 2. Definitions:-** In this Act, unless there is anything repugnant in the subject or context,-
 - (a) "Advocate" means an advocate entered in the roll under the provisions of this Act;
 - (b) "Bar Council" means the Azad Jammu and Kashmir Bar Council constituted under this Act;
 - (c) "High Court" means the High Court of Azad Jammu and Kashmir;

- (d) “Legal Practitioner” means an advocate practicing as such immediately before the commencement of this Act;
- (e) “Prescribed” means prescribed by rules made under this Act;
- (f) “Member” in relation to the Bar Council, does not include the Chairman thereof;
- (g) “Revenue Office” includes all courts (other than civil courts) Trying suits under any law for the time being in force relating to land-holders and their tenants or agents;
- (h) “Roll” means the roll of advocates maintained by the Bar Council;
- (i) “Shariat Court” means the Shariat Court of Azad Jammu and Kashmir;
- (j) “Subordinate Court” means a court subordinate to the High Court;
- (k) “Tout” means a person:-
 - (i) Who procures, in consideration of any proposes to any legal practitioner or to any person interested in any legal business to procure, in consideration of any remuneration moving from the either of them, the employment of the legal practitioner in such business; or
 - (ii) Who, for the purposes of such procurement, frequents the precincts of courts or of revenue officers, landing stages, lodging places or other places of public resort;
 - (iii) “Tribunal” in relation to the Bar Council, means a Tribunal constituted by it under this Act;

CHAPTER – II
(CONSTITUTION AND INCORPORATION OF BAR COUNCIL)

3. **Constitution of Bar Council:-** (1) There shall be constituted in accordance with the provisions of this Act a Bar Council for Azad Jammu and Kashmir Bar Council.

(2) The Bar Council shall be a body corporate having perpetual succession and a common seal with power to acquire and hold property, both movable and immovable, and to contract, and shall by the name by which it is known sue and be sued.

4. **Term of Bar Council:-** The term of the Bar Council shall be five years beginning on the first day of January following the general elections of the Bar Council; and at the end of each term the members of the Bar Council shall cease to hold office:

Provided that, notwithstanding the expiry of the term, the Bar Council shall continue to function till a new Bar Council be elected and the list of the members thereof is published in the official Gazette.

CHAPTER –III
(BAR COUNCIL)

5. **Composition of Bar Council:-** (1) The Bar Council shall consist of:

- (a) the Advocate General of Azad Jammu and Kashmir, ex-officio; and
- (b) such number of members as may be elected by the Advocates on the roll from amongst themselves.

(2) The number of members to be elected to the Bar Council shall be determined as hereinafter provided, namely:-

- ¹“(a) One member from each district;
- (b) In addition to the member to be elected from each district under clause (a),-
- (i) one member from the advocates exceeding one hundred up to two hundred; and
- (ii) if the number of advocates exceeds two hundred, one member for every one hundred in excess of two hundred.”]
- (3) For the purpose of the election of the members of Bar Council from a district under sub-section (2) the advocates entered on the roll up to 1st January of the year in which the elections are to be held shall constitute the Electoral College.
- (4) At an election of the members of the Bar Council an advocate shall have as many votes as the number of members to be elected.
- (5) A member may resign his office by writing under his hand addressed to the Chairman of the Council.

1 Subs. by the Azad Jammu and Kashmir Legal Practitioners and Bar Council (Amdt.) Act 2016 (Act XIX of 2016) dt. 09.02.2016. The original extract of cl. (a) and (b) of subsection (2) of Sec. 5 are reproduced as under:-

- “(a) Two members from each district;
- (b) In addition to the members to be elected from the district under clause (a),-
- (i) One member from the advocates exceeding fifty up to one hundred; and
- (ii) If the number of advocates exceeds one hundred, one members for every fifty advocates in excess of one hundred:

Provided that the fraction of twenty-five and more shall be counted as fifty and less than twenty-five shall be disregarded.”

(6) A member shall cease to be a member if he is appointed to an office of profit in the service of Pakistan/ Azad Jammu and Kashmir, is suspended or removed from practice under the provisions of Chapter V.

Explanation. If any question arises whether an advocated is or is not, for the purposes of this section, practicing generally in a district, it shall be referred to the Advocated General whose decision thereon shall be final.

¹[(7) Number of seats of the member Bar Council under the said Act shall not be changed or increased for further three elections.”]

6. Qualification for membership of Bar Council:- A person shall be qualified to be elected as a member of Bar Council if he-

- (a) is on the roll maintained by the Bar Council;
- (b) has, on the day of filing of the nomination paper, been an Advocated for not less than ²[ten years as an advocate of High Court]; and
- (c) has cleared all the dues payable by him to the Bar Council.

7. Disqualification for membership of Bar Council:- A person shall be disqualified to be elected as member of Bar Council if he-

- (a) was dismissed or removed from the service of Government or of a public statutory corporation; or
- (b) has been convicted for an offence involving moral turpitude; or

1 Added by Ibid.

2 For the words “sevn years” the words “ten years as an advocate of the High Court” shall be subs. by Ibid.

- (c) has been found guilty of professional misconduct; or
- (d) has been declared a tout; or
- (e) is an undischarged insolvent.

8. Disqualification of membership of Bar Council:- A member of a Bar Council shall cease to be such member if he: -

- (a) Is appointed to an office of profit in the service of Pakistan/Azad Jammu and Kashmir; or
- (b) is suspended or removed from practice under the provisions of Chapter VI; or
- (c) in caes any of the disqualifications specified in Section 7.

9. Chairman and Vice-Chairman of Bar Council:- (1) There shall be a Chairman and a Vice-Chairman of the Bar Council.

- (2) The Advocate General shall be the Chairman of the Bar Council.
- (3) The Vice-Chairman of the Bar Council shall be elected in the prescribed manner by the members of the Council from amongst themselves.
- (4) Subject to the provisions of sub-section (8) the election of the Vice-Chairman shall be held as soon as may be after the commencement of every year and in any case not later than the thirty first day of January.
- (5) Subject to the provisions of sub-section (6) and (7), the Vice-Chairman shall hold office until his successor enters upon his office.
- (6) A Vice-Chairman may resign office by writing under his hand addressed to the Chairman.
- (7) A Vice-Chairman shall cease to hold his office if he is appointed to an office of profit in the service of Pakistan/Azad Jammu and Kashmir or is suspended or

removed from practice under the provisions of Chapter VI.

(8) Where the office of a Vice-Chairman becomes vacant, and election to the vacant office shall be held within thirty days of the office becoming vacant.

(9) The Chairman and Vice-Chairman shall have such powers and functions as may be prescribed.

10. Time of holding elections to the Bar Council:-

Elections to the Bar Council shall be held so as to conclude on or before the thirtieth day of November in the year in which the term of the Bar Council expires:

Provided that elections to the first bar council to be constituted under this Act shall be held on such day as the Government may, by notification in the official Gazette, specify.

11. Election to Bar Council not to be questioned on certain grounds:-

No election of a member to Bar Council shall be called in question on the ground merely that due notice thereof has not been given to any person entitled to vote there at if notice of the date has, not less than thirty days before that date, been published in the official Gazette.

12. Functions of Bar Council:- (1) Subject to the provisions of this Act and the rules made thereunder, the functions of the Bar Council shall be:-

- (a) to admit persons as advocates on its roll, to hold examination for purposes of admission, to prepare and maintain a roll of such advocates, and to remove advocates from the roll;
- (b) to admit persons as advocates entitled to practice before the High Court and to prepare and maintain the roll of such advocates;
- (c) to entertain and determine cases of misconduct against advocates on its roll and to order punishment in such cases;

- (d) to safeguard the rights, privileges and interests of advocates on its roll including initiation of measures for fair and Inexpensive dispensation of justice by subordinate courts and tribunals;
 - (e) to promote and suggest law reforms;
 - (f) to manage and administer the property and funds of the Bar Council and to invest any of its funds;
 - (g) to conduct the election of its members;
 - (h) to prescribe conditions for the recognition of, and to recognize and de-recognize Bar Association;
 - (i) to perform all other functions conferred on it by or under this Act;
 - (j) to do all other things necessary for discharging the aforesaid functions.
- (2) The Bar Council, may in accordance with the rules framed by it, and within the limits of the funds at its disposal for that purpose, make free legal aid available to indigent litigants.

13. Committees of Bar Council:- The Bar Council shall constitute the following standing committees, namely:-

- (a) an executive committee consisting of a chairman and not more than five other members, to be elected by the Council from amongst its members;
- (b) a disciplinary committee consisting of not more than five members to be elected by the Council from amongst its members; and
- (c) one or more enrolment committees each consisting of a Judge of the High Court nominated by the Chief Justice of the High Court who shall be its Chairman and two other members elected by the Council from amongst its members.

(2) Each of the aforesaid committees shall have such powers and functions as may be prescribed.

(3) The Bar Council may constitute from amongst its members such other committees as it may deem necessary for the performance of its functions under this Act, and may authorize any such committee to co-opt as its members any other persons, not exceeding such number as the Council may determine.

(4) The Chairman of every committee shall be entitled to vote and, in case of equality of votes among the members of the Committee, shall have a second vote.

CHAPTER -IV **(GENERAL PROVISIONS RELATING TO BAR COUNCIL)**

14. Filling of Casual Vacancies:- If the seat of a member of Bar Council become vacant during the term of office of the Council, for filling the vacancy, provisions of Section 5 shall apply mutatis, mutandis and the vacancy shall be filled by a person who is co-opted by the Bar Council from amongst persons belonging to the same District to which the Vacancy relates, who are disqualified to be members of the Bar Council.

15. Funds of Bar Council:- (1) All sums received by the Bar Council as enrolment fees or as grants, donations or subscriptions shall form part of the fund of that Council and that fund, subject to the provisions of sub-section(3), shall be managed, administered and utilized in such manner as may be prescribed.

(2) Every person applying for enrolment as an advocate or an advocate of the High Court shall pay the prescribed fee to the Bar Council in such manner as may be prescribed by the Bar Council.

(3) All sums received by the Bar Council under sub-section (1) or as enrolment fees, grants donations or subscription shall form part of the fund of the Council

and that fund shall be managed, administered and utilized in such manner as may be prescribed.

- 16. Accounts and Audit:-** (1) The Bar Council shall cause to be maintained such books of accounts and other books in such form and in such manner as may be prescribed.

(2) The accounts of Bar Council shall be audited by an auditor who is a chartered accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961), of Pakistan at such time and in such manner as may be prescribed..

(3) As soon as the accounts of Bar Council have been audited, the Bar Council shall send a copy of such accounts together with a copy of the report of the auditor thereon, to the Government.

- 17. Vacancies in Bar Council etc not to invalidate action taken:-** No act done by Bar Council or any Tribunal or committee thereof shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of such council, Tribunal or committee.

- 18. Indemnity:-** No suit or other legal proceeding shall lie against Bar Council or any committee, Tribunal, member, officer or servant of the Bar Council for any act in good faith done or intended to be done in pursuance of the provisions of this Act or the rules made thereunder.

CHAPTER- V

Advocates, their Enrolments Right to Practice, Seniority

Pre-Audience, etc.

- 19. Classes of Advocates:-** There shall be the following four classes of advocated, namely:-

- (a) Senior advocates of the Supreme Court;
- (b) Advocates of the Supreme Court;
- (c) Advocates of the High Court / Shariat Court; and

(d) Other advocates.

20. Right of Advocates to Practice:- (1) Save as otherwise provided in this Act, no person shall be entitled to practice the profession of law unless he is an advocate.

(2) Subject to the provisions of this Act, the rules made thereunder and any other law for the time being in force. “

(a) an advocate of the Supreme Court, High Court or Shariat Court shall be entitled as of right to practice throughout Azad Jammu and Kashmir, and to appear, act and plead before any court or tribunal in Azad Jammu and Kashmir; and

(b) any other advocate shall be entitled as of right to practice throughout the Azad Jammu and Kashmir.

(3) No advocate shall appear or act for any person in any court or tribunal unless he has been appointed for the purpose by such person by a document in writing signed by such person or his recognized agent or some other person duly authorized by him to make such appointment, and such document has been filed in such court or tribunal:

Provided that nothing in this sub-section shall apply to:-

(a) a public prosecutor or any advocate appointed by the State; or

(b) an advocate when appearing on behalf of another advocate, if the advocate so appearing has filed a memo of appearance:

Provided further that an advocate may be allowed to appear for an accused in custody on his undertaking to file the document required under this sub-section.

21. Admission and enrolment of advocates of the Supreme Court:- The Bar Council shall prepare and

maintain a roll of advocates of the Supreme court, in which shall be entered the names of:-

- (a) All persons who were, as advocates, senior advocates or advocates-on-record entitled to practice in the Supreme Court immediately before the commencement of this Act; and
- (b) All persons who are admitted as advocates of the Supreme Court under the provisions of this Act:

Provided that no person shall call himself, or hold himself as an Advocate of the Supreme Court until he has signed the Roll of Advocates kept under the Rules of the Supreme Court, and the right of a person to appear, act and plead before that court shall be subject to the said Rules.

22. Admission and enrolment of advocates of the High Court/Shariat Court:-

The Bar Council shall prepare and maintain a roll of advocates of High Court/Shariat Court in which shall be entered the names of:-

- (a) all persons who were, as advocates, entitled to practice in the High Court/Shariat Court immediately before the commencement of this Act; and
- (b) all persons who are admitted as advocates of the High Court/Shariat Court under the provisional of this Act.

23. Admission and enrolment of other advocates:- The Bar Council shall, besides the roll of advocates to be prepared and maintained by it under Section 22 prepare and maintain a roll of advocates, in which shall be entered the names of :-

- (a) all persons who were, as Advocates be entitled to practice in any court subordinate to the High Court or Shariat Court immediately before the commencement of this Act; and

- (b) all persons who are admitted as advocates under the provisions of this Act.

24. Persons qualified for admissions as Advocates:- (1)

Subject to the provisions of this Act, and the rules made thereunder, a person shall be qualified to be admitted as an Advocate if he fulfills the following conditions, namely:-

- (a) he is a citizen of Azad Jammu and Kashmir or a person deriving his nationality from the State of Jammu and Kashmir:

Provided that, subject to the other provisions of this Act, a national of any other country may be admitted as an advocate, if the citizens of Azad Jammu and Kashmir duly qualified are permitted to practice law in that other country;

- (b) he has completed the age of twenty-one years;
- (c) he is Barrister or is was enrolled as an advocate of a High Court in any area which before the fourteenth day of August, 1947, was comprised within India as defined by the Government of India Act, 1935, or has obtained:-
 - (i) before the 7th day of February, 1966, a degree in law from any university in Pakistan: or
 - (ii) before the fourteenth day of August, 1947, a degree in law from any university in any area which was comprised before that date within India as defined by the Government of India Act, 1935: or
 - (iii) a Bachelor's degree in any subject other than law from any university outside Pakistan recognized by the Bar Council, and a degree in law from alike university;
- (d) he has undergone such course of training and passed such examination after the training as may be prescribed by the Bar Council:

Provided that this clause shall not apply to any class of person who, by reason of their legal training or experience, are declared by the Bar Council to be exempted from the provisions of this clause;

(e) he has paid such enrolment fee and fulfils such other conditions as may be prescribed by the Bar Council.

(2) A person shall be disqualified from being admitted as an advocate if:-

(i) he was dismissed or removed from service of Government or of a public statutory corporation or a charge involving moral turpitude; unless a period of five years, or such less period as the Government may, by notification in the official Gazette, specify in this behalf, has elapsed since his dismissal or removal; or

(ii) he has been convicted for an offence involving moral turpitude, unless a period of five years; or such less period as the Government may, by notification in the official Gazette, specify in this behalf, has elapsed since the expiration of his sentence; or

(iii) he has been declared a tout and such declaration has not been withdrawn.

(3) Where any person has been admitted by the Bar Council as an advocate of the Supreme Court or as an advocate of High Court/Shariat Court and the Supreme Court or as the case may be, the High Court may if it is of the opinion that it will not be in the interest of the legal profession for such person to continue on the roll of advocates refer the matter to the Bar Council for its reconsideration.

25. Persons qualified for admission as advocates of High Court/Shariat Court:- Subject to the Provisions of this Act and the rules made thereunder, a person shall be qualified to be admitted as an advocate of a High

Court/Shariat Court if he fulfils the following conditions, namely:-

- (a) he has practiced as an advocate, vakil or pleader before Subordinate courts in Azad Jammu and Kashmir for a period of not less than 2 years; or
- (b) he has practiced outside Azad Jammu and Kashmir as an advocate before High Court specified in this behalf by the Bar Council; or
- (c) he has for reason of his legal training or experience been exempted by the Bar Council with the previous approval of the High Court from the requirement of clause (a) and clause (b) and;
- (d) he has paid such enrolment fee and fulfils such other conditions as may be prescribed by the Bar Council.

26. **Persons qualified for admission as advocates of the Supreme Court:-** Subject to the provision of this Act and the rules made thereunder, a person shall be qualified to be admitted as an advocate of the Supreme Court if he fulfils such conditions as may be laid down in this behalf from time to time by the Rules of the Supreme Court and has paid to the Bar Council such enrolment fee as may be prescribed by that Council.
27. **Eligibility women for admission:-** No woman shall be dis-qualified for admission as an advocate for reason only of her sex.
28. **Authority to whom application for enrolment may be made:-** An application for admission as an advocate, other than an advocate of the Supreme Court, shall be made in the prescribed form to the Bar Council within whose jurisdiction the applicant proposes to practice generally; and an application for admission as an advocate of the Supreme Court shall be made in the prescribed form to the Bar Council.
29. **Disposal of applications for admission as an advocate:-** (1) All applications for admission as an

advocate received by Bar Council shall be referred to its enrolment committee.

(2) The enrolment committee may either grant the application or return it to the Bar Council, recording its reasons for not granting the application.

(3) Where any application is returned to Bar Council under subsection. (2), the Bar Council may, after considering the reasons recorded by the enrolment committee either grant or reject the application.

30. Appeal against order of rejection:- Where any application for admission as an advocate is rejected by Bar Council, the applicant may, within such period and in such manner as may be prescribed, appeal to the enrolment committee of the Bar Council and the decision of that committee on such appeal shall be final.

31. Payment of fees:- (1) The Bar Council may prescribe the following fees, namely:-

- (a) fee for enrolment as an advocate or an advocate of the High Court/Shariat Court which shall be fixed after consultation with the High Court, to be paid to the Bar Council ;
- (b) fee for enrolment as an advocate of the Supreme Court, which shall be fixed after consultation with the Supreme Court to be paid to the Bar Council; and
- (c) annual fee payable by advocate to the Bar Council on whose roll their names are entered;

Provided that no person whose name is entered on the roll under clause (a) of Sections 23, clause (a) of Section 22 or clause (a) of Section 21 as an advocate, an advocate of the High Court/Shariat Court or an advocate of the Supreme Court shall be required to pay the fee for enrolment as such advocate.

(2) The fee referred to in clause (a) or clause (b) of sub-section, (1) may be paid in such installments if any as may be prescribed.

(3) The annual fee referred to in clause (c) of sub-section (1) shall be paid by such date as may be prescribed.

(4) If an advocate fails to pay an installment of fee or the annual fee payable by him by the prescribed date he shall be liable to pay such further fee for late payments as may be prescribed:

Provided that, if he fails to pay such installment or fee within a period of six months following the date on which it become due, he shall by notice be asked to show cause why his name be not struck off the roll of advocates and if the explanation is unsatisfactory, his name shall be struck off the roll of advocates and shall not be restored except upon payment of the installment of fee due and such penalty not exceeding the amount of such installment or fee as may be prescribed, unless the enrolment committee, having regard to the circumstances of the case, exempts any person from the payment of such penalty.

32. Order in which names shall be entered in the roll:-

(1) Entries in the roll shall be made in the order of seniority and such seniority shall be determined as follows, namely:-

- (a) all such persons as are referred to in clause (a) of Section 21, clause (a) of Section 22 or clause (a) of Section 23 shall be entered first in the order in which they were respectively entitled to seniority interse immediately before the commencement of this Act; and
- (b) the seniority of any other person admitted, after that date to be an advocate or an advocate of the High Court/Shariat Court or an advocate of the Supreme Court shall be determined by the date of his admission:

Provided that, for the purpose of clause (b) the seniority of a person who, before his admission as an advocate, was entitled as right to practice in any other High Court shall be determined by the date on which he became so entitled.

(2) Where the date of seniority of two or more persons is the same, the one senior in age shall rank as senior to the other.

33. Certificate of enrolment:- The Bar Council shall issue a certificate of enrolment 'in the prescribed form to every person enrolled under Section 32.

34. Copy of roll to be kept with Supreme Court and High Court/Shariat Court:- (1) The Bar Council shall send to the Supreme Court an authenticated copy of the Roll, as prepared under Section 21 and shall thereafter communicate to the Supreme Court all alterations in, and additions to, the rolls soon as the same has been made.

(2) The Bar Council shall send to the High Court and Shariat Court a copy of the rolls as prepared under Section 22 and Section 23 and shall thereafter communicate to the High Court and Shariat Court all alterations in, and additions to, any such roll as soon as the same has been made.

35. Copies of rolls to be sent to Bar Council:- Each Bar Association shall send copies of rolls as soon as the same has been made.

36. Roll of advocates:- (1) The Bar Council shall prepare and maintain a roll of advocates of the High Court/Shariat Court and a roll of the other advocates which shall comprise the entries made in the roll of the advocates of the High Court/Shariat Court or, as the case may be, of the other advocates.

(2) Entries in the roll shall be in the order of seniority which shall be determined in accordance with the principles laid down in Section 32.

- 37. Right of pre-audience:-** (1) The Advocate General for Azad Jammu and Kashmir shall have the right of pre-audience over all other advocates.
- (2) Subject to sub-section (1), the Advocate General shall have the right of pre-audience over all other advocates.
- (3) The right of pre-audience among other advocates shall be determined by their seniority intense.

CHAPTER -VI **CONDUCT OF ADVOCATES**

- 38. Punishment of advocates for misconduct:-** (1) An advocate may in the manner hereinafter provided, be reprimanded or removed from practice if he is found guilty of professional or other misconduct.
- (2) A complain that an advocate has being guilty of misconduct may be made by any court or person to the Bar Council.
- (3) Every complaint against an advocate made under sub-section (2) except where the complaint has been made by a court, shall be accompanied by a fee of ten rupees.
- (4) Upon receipt of a complaint under sub-section (2) against any advocate, the disciplinary committee of the Bar Council may, unless it summarily rejects his complaint, after making such enquiry and giving the parties such opportunity of being heard as it may consider necessary, either reject the complaint or refer the case to the Tribunal for decision.

Provided that that the disciplinary committee shall not summarily reject a complaint made by the Supreme Court, High Court/Shariat Court.

- (5) Any person whose complaint is rejected by the disciplinary committee under sub-section (4) may, within thirty days of the day on which the order of the committee is communicated to him, prefer an appeal to

the Tribunal which decision in such appeal shall be final.

- 39. Tribunals of Bar Council:-** The Bar Council may constitute one or more Tribunals each consisting of two of its members elected by it for the purpose and Judge of the High Court nominated by the Chief Justice, who shall be the Chairman.
- 40. Procedure in Inquiries:-** (1) In inquiries relating to conduct of advocates, the Tribunal shall, except as hereinafter provided, follow such procedure as may be prescribed.
- (2) The Tribunal shall fix a date for the hearing of the case and shall cause notice of the day so fixed to be given to the complainant, to the advocate concerned and to the Advocate General and shall afford to the complainant, the advocate concerned and the Advocate General an opportunity of leading evidence, if any, and of being heard before orders are passed in the case.
- (3) The Chairman of the Tribunal may empower one of the member of Tribunal to consider and decided preliminary issues and to record evidence.
- (4) The Tribunal may, where it considers it necessary so to do, require the person making a complaint, except where the complaint has been made by a Court, to deposit with the Tribunal, as security for costs, such sum as it may specify.
- (5) On completion of the inquiry, the Tribunal may either dismiss the complaint or, where reference to the Inquiry Committee on whose report the matter has come before Tribunal was made at the motion of Bar Council, direct that the proceedings be filed; or it may make an order imposing any of the penalties referred to in sub-section (1) of Section 38.
- (6) Where the Tribunal makes an order for the suspension of an advocate from practice, it shall specify the period of suspension, and for that period the advocate shall be debarred from practicing in any court

or before any authority or person in Azad Jammu and Kashmir.

(7) The Tribunal may, of its own motion or on application made to it in this behalf, review any order passed under sub-section (5) and maintain vary or rescind the same as it thinks fit.

(8) When any advocate is reprimanded or suspended from practice under this Act, a record of the punishment shall be entered against his name in the roll or, as the case may be, the roll of advocates of the Supreme Court maintained by the Bar Council, and when an Advocate is removed from practice his name shall forthwith be struck off the roll; and the certificate of any advocate so suspended or removed shall be recalled.

- 41. Order as to cost:-** (1) A disciplinary Committee and a Tribunal may make order as to costs of proceeding before it as it may deem fit; and where the committee or, as the case may be, the Tribunal is of the opinion that a complaint made against an advocate is false and vexatious, it may, without prejudice to any other remedy available to the advocate, impose upon the complainant compensatory costs not exceeding a sum of five hundred rupees;

Provided that no order under this sub-section shall be made against a Court or the Presiding Officer of a court.

(2) The Tribunal may, on an application made to it in this behalf within the prescribed period, revise any order passed by a disciplinary committee under sub-section (1) or, of its own motion or an application so made, review any order passed by the Tribunal under that sub-section and may, in either case, maintain, vary or rescind the same, as it thinks fit.

(3) Subject to sub-section (2) every order of the disciplinary committee of the Tribunal under sub-section (1) shall be executable as if it were an order of the Supreme Court.

42. Powers of the Tribunal and Inquiry Committee in

inquiries:- (1) For the purpose of any such inquiry as aforesaid, a disciplinary committee and a Tribunal shall have the same powers as are vested in a Court under the Code of Civil procedure, 1908, (Act V of 1908) In respect of the following matters, namely.

- (a) enforcing the attendance of any person;
- (b) compelling the production of documents; and
- (c) issuing commissions for the examination of witnesses;

Provided that the disciplinary committee or the Tribunal shall not have power to require the attendance of the Presiding Officer of any civil or criminal Court save with the previous sanction of the High Court or, in the case of the Presiding Officer of a revenue Court of the Azad Jammu and Kashmir Government.

(2) Every such inquiry shall be deemed to be a Judicial proceeding within the meaning of Sections 193 and 228 of the Azad Jammu and Kashmir Penal Code (Act XLV) of 1860) and a disciplinary committee and a Tribunal shall be deemed to be a Civil Court for the purpose, of Sections 480 and 482 of the Code of Criminal Procedure 1898 (Act V of 1898).

(3) For the purpose of enforcing the attendance of any person or of compelling the production of documents or issuing commissions:-

- (a) the local limits of the Jurisdiction of a disciplinary committee and a Tribunal shall be those of the Jurisdiction of the Bar Council by which the Committee has been appointed or , as the case may be, the Tribunal has been constituted; and
- (b) an Inquiry Committee and a Tribunal may send to any civil Court having Jurisdiction in the place where the Committee or , as the case may be, the Tribunal is sitting, any summons or other process for the

attendance of a witness or the production of a document required by the committee of Tribunal, or any commission, which it desires to issue, and the civil Court shall serve such process or issue such commission, as the case may be, and may enforce any such process as if it were a process for attendance or production before itself.

(4) Proceeding before a Disciplinary Committee or a Tribunal in any such inquiry shall be deemed to be civil proceedings for the purposes of the Qanun-e-Shahadat, 1984, and the provisions of that Section shall apply accordingly.

43. Disciplinary Powers of Bar Council:- (1)

Notwithstanding anything contained in this Chapter, the Disciplinary Committee of Bar Council may, of its own motion, withdraw any inquiry before itself against any advocates and dispose of the same.

(2) In disposing of any case under this Section, the Disciplinary Committee of Bar Council shall observe, so far as may be the procedure laid down in Section 40.

(3) In disposing of any case under this Section, the Disciplinary Committee of Bar Council May make any order which the Tribunal can make under section 40 and the Tribunal shall give effect to any such order.

44. Appeal to the Azad Jammu and Kashmir Bar Council:- (1) Any person aggrieved by an order of a

Tribunal under Section 40 may, within sixty days from the date on which the order is communicated to him, prefer an appeal to the Bar Council.

(2) Every such appeal shall be heard by the Disciplinary Committee of the Bar Council which may pass such order thereon as it may deem fit.

45. Appeal to the Supreme Court:- Any person aggrieved

by an order made by the Disciplinary Committee of the Bar Council under sub-section (3) of Section 37 may, within sixty days from the date on which the order is communicated to him, prefer an appeal to the Supreme

Court which may pass such order there on as it may deem fit.

46. **Application of Section 5 and 12 of the Limitation Act, 1908:-** The provisions of Section 5 and 12 of the Limitation Act, 1908 (Act IX of 1908) shall, so far as may be apply to appeal made under Section 44 or Section 45.
47. **Stay of order:-** An appeal made under Section 44 or Section 45 shall not operate as a stay of the order appealed against but the Disciplinary Committee of the Bar Council or the Supreme Court, as the case may be, may, for sufficient cause, direct the stay of such order on such terms and conditions as it may deem fit.
48. **Powers of the Disciplinary Committee:-** The disciplinary Committee of the Bar Council shall have the same powers as are vested to a Tribunal by Section 42, and that Section shall apply to the Disciplinary Committee, the reference to the “Tribunal” in that Section being construed as a reference to the “Disciplinary Committee of the Bar Council”.
49. **Cost of proceedings before a Disciplinary Committee:-** The Disciplinary Committee of the Bar Council may make such order as to the cost of proceedings before it as it may deem fit and such order shall be executable as if it were an order of the Supreme Court.
50. **Review of order by Disciplinary Committee:-** The Disciplinary Committee of the Bar Council may by its own motion or otherwise review any order passed by it under this Chapter.
51. **Powers of Supreme Court, High Court and Shariat Court to suspend advocates from practices:-** (1) The Supreme Court, High Court/Shariat Court may, while making a complaint under subsection (2) of Section 38 against an advocate, make an order for the suspension of the advocate from practice if, after hearing such advocate, the Court is of the opinion that he has

committed an act of grave indiscipline in the view of the Court on grave professional misconduct in relation to any proceeding before it, and his immediate suspension is expedient or necessary in the interest of administration of Justice.

(2) One a complaint made to it against an advocate by a Court, Sub-Ordinate to it, the High Court may:-

- (a) make an order under sub-section (1) in respect of such advocate if, after hearing him, it is of the opinion that he has committed grave professional or other misconduct in relation to any proceeding before such Subordinate court, and his immediate suspension, pending the proceeding before the Bar Council, is expedient or necessary in the Public interest and forward the complaint to the Bar Council for action in accordance with Section 38; or
- (b) without making any order under sub-section (1) forward the complaint to the Bar Council for action in accordance with Section 38; or
- (c) direct that no further action need to be taken in respect of the complaint:

- 52. Time for disposal of disciplinary matter:-** The disciplinary committee and a Tribunal shall dispose of a complaint against an advocate within three months of the day on which the complaint is received by it; and, if the complaint is not disposed of within that period, the order in sub-section (1) or sub-section (2) of Section 51 for the suspension of the advocate from practice, if any, shall stand vacated on the expiration of that period, unless on review the Court making the order, for reasons to be recorded vacates it earlier.

CHAPTER – VII

(RULES)

- 53. Power of Bar Council to make rules:-** The Bar Council may by notification in the official Gazette, make rules to provide for-

- (a) The manner in which the election of members of the Bar Council shall be held and the manner in which results of election shall be published;
- (b) The manner which the election of the Vice-Chairman of the Bar Council shall be held;
- (c) The manner in which and the authority by which doubts and disputes as to the validity of an election to the Bar Council or to the office of the Vice Chairman of the Bar Council shall be finally decided;
- (d) The power and duties of the Chairman and Vice-Chairman of the Bar Council;
- (e) The summoning and holding of meetings of the Bar Council, the times and places where such meetings are to be held, the conduct of business there and the number of members necessary to constitute a quorum;
- (f) The Constitution and functions of any committee of the Bar Council and the term of office of the members of any such committee;
- (g) The summoning and holding of meetings of such committee, the conduct of business thereon and the number of members necessary to constitute quorum;
- (h) The qualifications and terms and conditions of service of staff to be employed by the bar Council;
- (i) Matter pertaining to management administration, utilization and investment of the fund of the Bar Council;
- (j) The constitution of separate funds for special purposes by the Bar Council'
- (k) the maintenance of books of accounts and other books by the Bar Council;
- (l) The appointment of auditors and the audit of the accounts of the Bar Council;

- (m) The form and manner in which applications for admission as an advocate of the Supreme Court are to be made and the manner in which such applications are to be disposed of;
- (n) The fee payable for enrolment or in respect of any other matter under this Act, and the installments, if any, in which such fee may be paid;
- (o) The forms in which a certificate of enrolment shall be given to a person enrolled as an advocate or an advocate of the High Court/Shariat Court or an advocate of the Supreme Court;
- (p) The standards of professional conduct and etiquette to be observed by advocates;
- (q) The standards of legal education to be observed by Universities in Pakistan or AJK and the inspection of Universities for that purpose;
- (r) The circumstances in which and the conditions subject to which nationals of any foreign Country may be admitted as advocates and foreign qualifications may be recognized for purposes of their admission;
- (s) The procedure to be followed by Tribunals constituted by the Bar Council in inquiries relating to the conduct of an advocate;
- (t) the course of practical training in law and the examination to be passed after such training for admission as an advocate;
- (u) The form and manner in which applications for admission as an advocate or an advocate of High Court/Shariat Court are to be made and the manner in which such applications are to be disposed of;
- (v) The conditions subject to which a person may be admitted as an advocate or an advocate of the

High Court/Shariat Court; the procedure to be followed by a Tribunal constituted by;

- (w) The Bar Council in inquiries relating to the conduct of an advocate;
- (x) The forming and regulation of firms of lawyers either throughout the District or any specified part thereof;
- (y) The recognition, derecognition and functioning of Bar Associations.
- (z) The forming, recognition and de-recognition and functioning of a Supreme Court Bar Association or any Bar Association at the National level:

Provided that, for holding the first elections to the Bar Council to be constituted under this Act rules with reference to clauses (a), (b) and (c) shall be made by the Government.

CHAPTER-VIII **(MISCELLANEOUS)**

- 54. Grants to Bar Council:-** The Government may make such grants-in-aid of the funds of the Bar Council as it deems fit, having regard to the total number of advocate on the roll of the Council.
- 55. Penalty for illegal practice:-** (1) Any person who is not an advocate and practices the profession of law and any person who is not entitled under this Act to practice in the High Court/Shariat Court or the Supreme Court practices before that Court, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.
- (2) Any advocate who practices the profession of law, or acts or appears as an agent for any other person, while he is suspended from practice shall be punished with imprisonment for a term which may extend to one year or with fine, or with both.

56. Powers to frame and publish lists of touts:- (1) The High Court, Shariat Court, District and Session Judge, District Criminal Courts, District Magistrate, Tehsil Criminal Courts, Family Courts and every Revenue Officer, not being below with the rank of Collector of a district (each as regards their or his own Courts and the Courts, if any subordinate thereto), may frame and publish lists of persons proved, to their or his satisfaction, or to the satisfaction of any subordinate Court as provided in sub-section (3) by evidence of general repute or otherwise, to habitually act as touts, may from time to time, alter and amend such lists

Explanations:- (1) The passing of resolution, declaring any person to be or not to be tout, by a majority of the members association of persons entitled to practice the profession of Law in any Court or revenue- office shall be prima facie evidence of the general repute of such person and of the fact that he is, or is not tout.

(2) No person's name shall be included in any such list until he shall have had an opportunity of showing cause against such inclusion

(3) Any authority empowered under sub-section (1) to frame and publish a list of touts may send to any Court subordinate to such authority the names of such persons alleged or suspected to be touts, and order that Court to hold an inquiry in regard to such persons and the subordinate Court shall there upon hold an inquiry into the conduct of such persons and, after giving each such persons an opportunity of showing cause as provided in sub section (2) shall report to the authority which has ordered the inquiry, the name of each such persons who has been proved to the satisfaction of the subordinate Court to be a tout; and that authority may include the name of any such person in the list of touts framed and published by the authority;

Proved that such authority shall hear any such person who, before his name so included, appears before it and desire to be heard.

(4) A copy of every such list shall be kept hung up in every court to which the same relates.

(5) The Court or Judge may, by general or special order, exclude from the precincts of the Court any person whose name included in any such list.

(6) Any person who acts as a tout whilst his name is included in any such list shall be punishable with imprisonment which may extend to three years, or with fine, or with both.

Explanation:- Any person ordered to be excluded from the precincts of a Court under the provisions of sub-section (5), if found on such precincts while such order is in force, shall be deemed, unless the contrary be proved, to be at such precincts for the purposes of acting as a tout.

57. Bar Council or Bar Association not to indulge in political activities:- The Bar Council and a Bar Association shall perform such functions as are conferred on it by this Act or the rules made thereunder and shall not indulge in any political activity, directly or indirectly.

58. Removal from Bar Association:- (1) An Advocate who has once been admitted as member of the Bar Association shall not be removed from such membership except on the ground that he has either incurred any of the disqualifications for the membership of the Bar Council under this Act or has been in default in paying the fees of the Bar Association for a period of not less than twelve months:

Provided that the membership of an advocate who is removed on the ground of his having been in such default shall stand restored if he pays up the fees due within sixty days of such removal.

(2) Notwithstanding anything contained in any law or rule, the right of an advocate to practice as such shall not be dependent upon his being a member of a Bar Association or be affected in any manner by reason only

of his not being, or having ceased to be, a member, or of his having been removed from the membership, of a Bar Association.

59. Powers of the High Court relating to remuneration of advocates:- The High Court shall from time to time fix and regulate the fees payable by any party in respect of the fees of his adversary's advocate in all proceedings in such High Court and in the courts subordinate to such High Court.

60. Group Insurance:- (1) The Bar Council may from time to time arrange for the insurance of the life of such advocates of the Supreme Court and High Court who are borne on its roll as have not attained the age of sixty-five years, and a Bar Association may likewise arrange for the insurance of the life of such advocates borne on its rolls as have not attained the age of sixty-two years, and for such period as it deems fit.

(2) Where any such arrangement as has been referred to in sub-section (1) has been made by the Bar Council:-

- (a) it shall establish a separate Group Insurance Fund which shall vest in and be administered by the Bar Council;
- (b) every advocates whose life has been insured under such arrangement shall pay to the Bar Council, annually, monthly, or at such other intervals as may be prescribed, such sum of money as the premium for the insurance of his life, as may be determined by the Bar Council;
- (c) all sums received as premium under clause (b) and any interest or profit accruing thereon shall be credited into the Group Insurance Fund of the Bar Council;
- (d) all expenses incurred by the Bar Council on the arrangements with an insurance company or other insurer, and on the administration of the

Group Insurance fund shall be defrayed from such Fund; and

(e) any sums remaining in such Fund after defraying the expenses referred to in clause (d) may be utilized for such purposes connected with the welfare of advocates as may be prescribed.

(3) The provisions of sub-section (4) of Section 31 shall apply to the insurance premium as required to be paid under clause (d) of sub-section (2), as if such premium were an annual fee or installment of a fee payable under that section.

61. Benevolent Fund:- (1) A Bar Council may establish a fund to be called the Advocates Benevolent Fund.

(2) Where a Bar Council establishes a Benevolent Fund:-

(a) every advocate shall pay to the Benevolent Fund, annually, monthly or at such other intervals as may be prescribed, be determined by the Bar Council;

(b) the moneys credited into the Fund shall be kept in such bank as may be prescribed by the Bar Council, for:-

(i) the relief of advocates and their families;

(ii) giving financial relief to the families of deceased advocates;

(iii) making grants to advocates on special occasions; and

(iv) defraying expenditure in respect of the management of the fund.

(3) The provisions of sub-section (4) of Section 31 shall apply to contributions required to be made to the Benevolent Fund under clause (a) of sub-section (2) as if such contributions were an annual fee payable under that section.

- 62. Repeal**:- The Legal Practitioners Act as enforced in Azad Jammu and Kashmir vide Resolution No. 571 of 1948 is hereby repealed.

Sd/-
Syed Atta Mohy-ud-Din Quardri)
Draftsman Law.