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Review Document

ADVOCATES ACT, 1961

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ADVOCATES ACT, 1961

Significance

The Act aims at amending and consolidating the laws relating to legal practitioners and to provide for the establishment of State Bar Councils and an All India Bar Council.

Objective

- The objective of the Act is to integrate and constitute one class of legal practitioners called 'Advocates'
- Secondly, it is aimed at prescribing a uniform qualification for the Bar.
- It also aimed at creating an All India Bar Council and State Bar Councils.

Important Provisions

Section 2- Definitions

(a)"advocate" means an advocate entered in any roll under the provisions of this Act;

(h)"law graduate" means a person who has obtained a bachelors degree in law from any University established by law in India;

(i)"legal practitioner" means an advocate or vakil of any High Court, a pleader, mukhtar or revenue agent;

Section 3- State Bar Councils

(1) There shall be a Bar Council-

a. For each of the States of Andhra Pradesh, Bihar, Gujarat, [Jammu and Kashmir], [Jharkhand], [Madhya Pradesh, Chhattisgarh], [Karnataka], Orissa, Rajasthan, [Uttar Pradesh and Uttaranchal] to be known as the Bar council of that state.

b. For the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, and Tripura to be known as the Bar Council of Assam, Nagaland, Meghalaya, Manipur and Tripura, Mizoram and Arunachal Pradesh.

c. For the State of Kerala and the Union territory of Lakshadweep, Minicoy and Amindivi islands to be known as the Bar Council of Kerala.

d. For the State of Punjab and Haryana, and the Union territory of Chandigarh to be known as the Bar Council of Punjab and Haryana For the State of Himachal Pradesh to be known as the Bar Council of Himachal Pradesh.

e. For the State of West Bengal and the union territory of Andaman and Nicobar islands] to be known as the Bar Council of West Bengal and

f. for the Union territory of Delhi to be known as the Bar Council of Delhi

(2) A State Bar Council shall consist of the following members, namely:-

a. In the case of the State Bar Council of Delhi, the Additional Solicitor General of India, ex officio in the case of the State Bar Council of Assam, Nagaland, Meghalaya, Manipur and Tripura, the Advocate-General of each of the State of Assam, Nagaland, Meghalaya, Manipur and Tripura, ex officio, inn the case of the State Bar Council Punjab and Haryana, ex officio] and in the case of any other State Bar Council, the Advocate- General of the State.

b. In the case of a State Bar Council with an electorate not exceeding five thousand, fifteen members, in the case of a State Bar Council, with an electorate exceeding five thousand but not exceeding ten thousand, twenty members, and in the case of a State Bar Council with an electorate exceeding ten thousand, twenty-five members, elected in accordance with the system of proportional representation by means of the single transferable vote from amongst advocates on the electoral roll of the State Bar Council.

(3) There shall be a Chairman and a Vice-Chairman of each State Bar Council elected by the Council in such manner as may be prescribed.

(4) advocate shall be disqualified from voting at an election under sub-section (2) or being chosen as, and for being a member of a State Bar Council, unless he possesses such qualifications or satisfies such conditions as may be prescribed in this behalf by the Bar Council

of India, and subject to any such rules that may be made, an electoral roll shall be prepared and revised from time to time by each State Bar Council.

Section 6- Functions of State Bar Council

- (a) to admit persons as advocates on its roll;
- (b) to prepare and maintain such roll;
- (c) to entertain and determine cases of misconduct against advocates on its roll;
- (d) to promote the growth of Bar Associations for the purposes of effective implementation of the welfare schemes
- (e) to conduct seminars and organize talks on legal topics by eminent jurists and publish journals and papers of legal interest;
- (f) to manage and invest the funds of the Bar Council;
- (g) to provide for the election of its members;
- (h) to perform all other functions conferred on it by or under this Act;

Section 24- Qualification to be enrolled as an Advocate

- a) he is a citizen of India: Provided that subject to the other provisions contained in the Act, a national of any other country may be admitted as an advocate on a State roll, if citizens of India, duly qualified, are permitted to practice law in that other country.
- b) he has completed the age of twenty-one years.
- c) he has obtained a degree in law

Section 30- Right of advocates to practice

- (i) in all courts including the Supreme Court;
- (ii) before any tribunal or person legally authorized to take evidence; and

(iii) before any other authority or person before whom such advocate is by or under any law for the time being in force entitled to practice.

Section 34- Power of High Courts to make rules

(1) The High Court may make rules laying down the conditions subject to which an advocate shall be permitted to practice in the High Court and the courts subordinate.

(2) Without prejudice to the provisions contained in sub-section (1) , the High Court at Calcutta and the High Court at Bombay may make rules---

(i)providing for the qualification and admission of proper persons to be attorneys;

(ii)declaring what shall be deemed to be the functions, powers and duties of such attorneys and the procedure to be followed in removing or suspending any such attorney from practice;

(iii)determining the persons who shall be entitled respectively to plead and to act in the High Court in the exercise of its original jurisdiction.

(3) Until rules are made under this section, and rules made by a High Court under its Letters Patent or any other law relating to any of the matters specified in this section which were in force immediately before the appointed day, shall continue in force so far as consistent with this Act, and shall be deemed to be rules made under this section.

Section 38- Appeal to the Supreme Court

Any person aggrieved by an order made by the disciplinary committee of the Bar Council of India within sixty days of the date on which the order is communicated to him, prefer an appeal to the Supreme Court and the Supreme Court may pass such order thereon as it deems fit.

Conclusion

The Advocates Act, 1961 is an elaborative act which deals with various aspects in relation to the legal profession. It specifies the powers, functions of both the council and in relation to the enrollment, qualifications etc. It has integrated and constituted only one class as a legal practitioner that is the advocates.

References

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About the Author



I'm Pritika Nagpal from Jims School of Law, Greater Noida. It was an immense pleasure to work with LegalEagle Law Forum as a part of one month internship. I felt quite amazed after reviewing six different bare acts as a part of my task. I personally had gained a vast knowledge about the sections of the bare act. Indeed, it was such a good experience for me as I have seen a different scenario of work apart from my other previous online internships. Thanks to LegalEagle Law Forum for providing such a tremendous platform and giving me a wonderful opportunity to be a part of BARE ACT REVIEW PROGRAM INTERNSHIP.

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