BAR COUNCIL OF INDIA RULES

(UNDER THE ADVOCATES ACT, 1961)

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(AS AMENDED UP TO 30th SEPTEMBER, 2009)

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BAR COUNCIL OF INDIA RULES

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BAR COUNCIL OF INDIA RULES

Rules made by the Bar Council of India in exercise of its rule making powers under the Advocates Act, 1961

PART-I

DEFINITIONS

Definitions: In these rules, unless the context otherwise requires :-

(a) 'Act' means the Advocates Act, 1961, as amended from time to time;

(b) 'Advocate' means an advocate entered in any roll under the provisions of the Act;

(c) 'Casual Vacancy' means a vacancy caused otherwise than by the expiry of the term;

(d) 'Chairman' means the Chairman of the Bar Council of India ;

(e) 'Clear days' means that time is to be reckoned exclusive of both the first and the last days;

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Illustration :- The election of members to a State Council is fixed for the 15th January 1965. Under the rules of the State Council, ballot papers have to be despatched 10 clear days before the date of election. Consequently the last date for the despatch of ballot papers will be 4th January, 1965.

(f) 'Council' means the Bar Council of India ;

(g) 'Prescribed' means prescribed by the rules ;

(h) 'Rules' means the Rules made by the Council;

(i) 'Secretary' means the Secretary of the Bar Council of India and includes any person howsoever designated and entrusted for the time being with the duties of the Secretary;

(j) 'State Council' means a Bar Council constituted under Section 3 of the Act;

(k) 'Vice-Chairman' means the Vice-Chairman of the Bar Council of India.

PART-II

MATTERS RELATING TO THE BAR COUNCIL OF INDIA

CHAPTER-I

(Rules under Section 15 (2), (c), (d), (f) and (g) read with Sections 4 and 10B of the Act.)

A. Election of Members of the Council

1. Notice of every meeting of the Council and committees shall ordinarily be sent by the Secretary not less than 15 days before the date of the meeting except when the Chairman requires a meeting to be called on short notice on grounds of urgency. If any five or more members of the Council require in writing, a meeting to be called on short notice of not less than 10 days for consideration of specified matters, the Secretary shall convene the meeting on such date as requisitioned and the agenda for such meeting shall include matters specified by such members. No proceeding shall be invalidated merely on the ground that the rule relating to notice is not strictly complied with.

2. (1) The notice and agenda for the first meeting of the State Council held after the election of its members on the expiry of the term of its members elected at the previous election under Section 8 of the Act may include the election of a member of the State Council to the Council under Section (1) (c) of the Act.

(2) Every such election shall be held not later than 30 days after the first meeting of the State Council after election under Section 8 of the Act.

3. The election of a member of the Council shall be conducted by the Secretary of the State Council who shall act as the Returning Officer.

4. A person elected as a member of the Council under Section 4 (1) (c) of the Act shall cease to be such member :

(a) from the date when he ceases to be a member of the State Council as mentioned in Section 4 (3) (ii) of the Act.

(b) on the acceptance by the Council of his resignation.

5. (1) In the case of a vacancy in the office of the member of the Council arising for any reason mentioned in Rule 4 (a) of this Chapter or on account of death, intimation of the vacancy shall be given by the Secretary of the State Council to the Secretary of the Council forthwith and

(2) The election to fill the vacancy under Rules 4 (a) or (b) shall be held within 30 days from the date of the vacancy.

6. (a) If the State Council does not take steps in time for the holding of the election as referred to in these Rules, and

(b) in the case of vacancy of the member of the Council arising under Section 10B of the Act,

the Secretary of the Council shall call upon the concerned State Council requiring it to elect its member to the council within 30 days of such notice.

7. Every notice by the Secretary of the State Council fixing a date for the election of a member to the Council under these rules shall be sent not less than 15 clear days before the date fixed for the election. A copy of the said notice shall be sent simultaneously to the Secretary of the Council.

8. (1) The name of each candidate for the election shall be proposed by one member and seconded by another member of the State Council at the meeting. No member shall propose or second more than one name.

(2) If only one candidate has been duly nominated, the Returning Officer shall declare him elected.

(3) Any nominated candidate can withdraw before the voting takes place.

(4) If the number of candidates duly nominated is more than one, there shall be an election by secret ballot. The Returning Officer shall provide voting papers with the names of the candidates typed. Each voting paper shall bear the signature of the Returning Officer.

(5) A voter in giving his vote shall place in his voting paper the mark 'X' against the name of the candidate of his choice.

The voting paper shall not be signed by the voter and in the event of any erasures, obliterations or alterations in the voting papers or of the voting paper purporting to have been signed by the voter, the voting paper shall be deemed to have been defaced and the vote purporting to have been given thereby shall not be taken into account for the purposes of the election. Subject to the provisions of Rule 10, the decision of the Returning Officer whether the voting paper has or has not been defaced shall be final.

A voting paper shall be invalid on which-

(a) the mark 'X' is not made, or

(b) the mark 'X' is set opposite the name 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 mark 'X' and any other mark of 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.

(6) The Returning Officer shall count the valid votes immediately after the close of voting in the presence of the candidates or their nominees who may choose to be present.

(7) The candidate securing the largest number of the votes shall be declared elected by the Returning Officer.

In the case of two more candidates securing an equal number of votes, the Returning Officer shall decide the election by drawing lots.

(8) Immediately after he declaration of the result, the Returning Officer shall put the ballot papers used for voting in the election in a separate cover, have the cover closed and sealed with his signature and that of all contesting candidates if they desire to do so.

(9) The result of the election shall be communicated forthwith to the Secretary of the Council and sent to the State Gazette or Gazettes concerned for publication.

9. (1) In case of a dispute arising out of the election, any of the contesting candidates, or any other member of the State Council, may challenge the election by a petition which shall be filed with, or despatched by registered post to the Secretary of the Council within 10 clear days of declaration by the Returning Officer of the result of the election as mentioned in Rule 8 (7). The petitioner shall also send copies of the petition to all the contesting candidates and to the Secretary of the State Council.

(2) As soon as possible after the receipt of the copy of the petition under sub-rule (1), the Secretary of the State Council shall send the sealed cover containing the ballot papers referred to in Rule 8 (8) above, and all other papers and records relating to the election to the Secretary of the Council.

10. (1) The Council may reject any petition received under Rule 9, if, in its opinion, there is no *prima facie* case.

(2) If the Council is of the opinion that there is a *prima facie* case, either the Council or a Committee of the Council comprising

not more than 3 members of the Council constituted therefor shall, after hearing all the parties concerned, determine the said dispute.

(3) The Council, or the Committee, as the case may be, shall have all or any of the following powers:

(a) to dismiss the petition;
(b) to set aside the election;
(c) to declare any candidate as having been duly elected;
(d) to order a fresh election; and
(e) to make an order as to costs.

(4) A copy of the Order of the Council or the Committee may be sent to the State Council.

(5) The State Council concerened shall cause such fresh election to be held as may be ordered under sub rule (3) of this rule.

(6) The parties shall be entitled to obtain copies of the Order or the decision of the Council or of the Committee as the case may be, on payment of the charges, if any, prescribed therefor under the rules of the Council. The Chairman of the Council or the President of the Committee, as the case may be, may also permit copies of any other part of the record of the enquiry to be furnished on payment of such charges as may be prescribed during the pendency of the election petition.

B. Expiry of term of office of Chairman, Vice-Chairman and Members of Committees of the Council

11. A member of the Council elected as Chairman or Vice-Chairman or Member of any Committee of the Council, shall cease to hold office as such Chairman, Vice-Chairman or Member of Committee on the expiry of his term as a Member of the Bar Council of India.[1]

Rule 11-A. No member shall have the right to resign from the membership of the Bar Council of India on grounds which are not considered genuine or for the purpose of sharing the terms fixed by the Statute.[2]

C. Election of Chairman and Vice-Chairman

12. (1) (a) The election of the Chairman and Vice-Chairman shall be held at a meeting of the Council.

1. Amended vide Resolution No. 83/1997 dt. 10-8-1997.
2. Added in Dec. 1998.

(b) At every such meeting for the election of the Chairman, the Vice-Chairman, if he is not a candidate, shall preside. In the absense of the Vice-Chairman, a member of the Council who is not a candidate, elected by the members present, shall preside.

(c) In the case of the election of the Vice-Chairman, the Chairman, or in his absence the Vice-Chairman, if he is not a candidate shall preside.

In the absence of the Chairman and the Vice-Chairman, any member of the Council who is not a candidate, elected by the members present, shall preside.

(d) (i) The name of the candidate for the election shall be proposed by one member and seconded by another member at the meeting.

(ii) No member shall propose or second more than one name.

(iii) If only one member has been duly nominated, he shall be declared elected.

(iv) Any candidate nominated may withdraw before voting takes place.

(e) If the number of candidates duly nominated is more than one, there shall be an election by secret ballot.

(f) The Secretary shall provide voting papers with the names of the candidates. Each voting paper shall bear the signature of the Secretary.

(g) A voter in giving his vote shall place on his voting paper a mark 'X' against the name of the candidate of his choice.

The voting paper shall not be signed by the voter and in the event of any erasures, obliterations or alterations in the voting paper, or of the voting paper purporting to have been signed by the voter, the voting paper shall be deemed to have been defaced and the vote purporting to have been given thereby shall not be taken into account for the purposes of the election. The decision of the Chairman of the meeting whether the voting paper has or has not been defaced shall be final.

A Voting Paper shall be invalid on which

(i) the mark 'X' is not made, or

(ii) the mark 'X' is set opposite the name of more than one candidate or is so placed as to render it doubtful to which candidate it is intended to apply, or

(iii) the mark 'X' and any other mark or figures are set opposite the name of the same candidate, or

(iv) there is any mark in writing by which the voter can be identified.

(v) The Secretary shall count the valid votes immediately after the close of the voting.

The member securing the largest number of votes shall be declared elected. In the case of two or more members securing an equal number of votes, the Chairman of the meeting shall decide the election by drawing lots.

(2) The Chairman or the Vice-Chairman shall hold office for a period of two years, or until his term of office as Member of the Bar Council of India ceases whichever is earlier[1].

(3) The Chairman or the Vice-Chairman may resign his office by letter addressed to the Secretary of the Council. Such resignation shall take effect from the date of the acceptance thereof by the Council or from such other date as the Council may fix.

Provided in the eventuality of mid-term poll of the office of the Chairman or Vice-Chairman, the term shall be of the residuary term.[2]

13. If the Chairman or the Vice-Chairman ceases to be a member of the Council for any reason, the vacancy shall be filled up by election as far as possible at the next meeting of the Council.

14. The result of the election of the Chairman or the Vice-Chairman shall be sent forthwith to the Gazette of India for publication.

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

15. Save as otherwise provided in these rules, and subject to the resolutions of the Council, the Chairman shall exercise general control and supervision over the affairs of the Council.

[1]. Amended vide Resolution No. 83/1997 dt. 10-8-97.

[2]. Amendment came into effect from 26.7.87

16. He shall preside over the deliberations of the Council and of all committees of which he is a member.

17. Save as otherwise decided at a meeting of the Council or the Committee, as the case may be, he shall cause the meetings of the Council or the Committee convened at such time as he may fix. He shall also settle the items for agenda for the meetings of the Council.

18. He shall have power to pass interim orders in revisional and other matters arising out of the supervisory jurisdiction of the Council.

19. He shall have power to punish any employee of the Council by way of censure or reprimand and may initiate proceedings for suspension, removal or dismissal.

20. He shall be the authority to sanction the disbursement of salaries of the staff and to order payment of any bill outstanding against the Council.

21. The Vice-Chairman shall exercise all the powers and discharge all the functions of the Chairman in his absence and under his direction.

22. On a motion of "No confidence" being passed by Bar Council of India by a resolution passed by majority of not less than 3/4th of the members present and voting and such majority passing "No confidence motion" is more than 2/3rd of the total number of members constituting the Bar Council for the time being, the Chairman or Vice-Chairman or any other office bearer against whom the motion is passed shall cease to hold office forthwith.

Notwithstanding anything contained in the Act or the Rules made thereon, the Chairman or Vice-Chairman shall not preside over the meeting in which motion of "No confidence" is discussed against him and such meeting shall be convened on a notice of atleast one month. The chairman or the Vice-Chairman shall have the right to vote, speak or take part in the proceeding of the meeting*.

* Rule came into force w.e.f. 17th Oct. 1998. (Resolution No. 92/1998)

CHAPTER-II

Meetings of Council and its Committees other than those of the Disciplinary Committees

(Rules under Section 15(2) (h) and (j) of the Act)

1. Notice of every meeting of the Council and the Committees shall ordinarily be sent by the Secretary not less than 15 days before the date of the meeting, except when the Chairman or any two members require a meeting to be called on short notice on grounds of urgency. No proceedings shall be invalidated merely on the ground that the rule relating to notice is not strictly complied with.

2. Notice of the meeting shall specify the time and place of the meeting and shall contain the agenda fixed for the meeting.

3. No member shall be entitled to bring forward for the consideration of the meeting any matter of which he has not given ten days' notice to the Secretary, unless the Chairman, in his discretion, permits him to do so.

4. The minutes of the previous meeting shall ordinarily be read and recorded at the subsequent meeting.

5. The quorum for the meeting of the Council shall be seven and for all other Committees except the Executive Committee and the Legal Education Committee, the quorum shall be two. The quorum for the Executive Committee and the Legal Education Committee shall be four.

6. If urgent action by the Council or by any Committee of the Council other than a Disciplinary Committee becomes necessary, the Chairman of the Council or of such Committee as the case may be may permit the business to be transacted by circulation of papers to the members of the Council or the Committee as the case may be. The action proposed to be taken shall not be taken unless agreed to by a majority of the members of the Council or the Committee as the case may be. The action so taken shall be forthwith intimated to all the members of the Council or the Committee concerned. The papers shall be placed before the next meeting of the Council or the Committee concerned for confirmation.

7. The Council or any Committee may adjourn from day to day or any particular day, without further notice.

8. A member shall address the chair when speaking at a meeting of the Council and he shall be entitled to speak only once on each subject, unless otherwise required or permitted by the Chairman to do so.

9. Save as otherwise provided in these rules, the decision on any matter shall be by majority and in the case of equality of votes, the Chairman of the meeting shall have a second or casting vote.

10. No matter once decided shall be reconsidered for a period of three months unless the Council by a two-third majority of the members present so permits.

11. Any Committee may refer for advice any matter to the Council.

12. In the absence of the Chairman and the Vice-Chairman at any meeting, a member chosen by members present shall preside at the meeting.

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CHAPTER-III

Constitution, functions and procedure of Committees of the Bar Council of India

(Rules under Sections 9, 9A, 10 and 15 (2) (i) and (j) of the Act)

1. The Council may appoint from amongst its members, one or more Committees as it may deem necessary, in addition to those specified in the Act and delegate such powers, duties, and functions to such Committees as it deems fit.

2. Any casual vacancy in the above Committees shall be filled up by the Council.

3. Save where the Chairman or the Vice-Chairman is a member of the Committee or the Sub-Committee, the Committee or the Sub-Committee shall choose its Chairman for the meeting, unless at the time of the constitution thereof the name of the Chairman has been specified.

4. Unless otherwise determined at the time of election, the term of the members of the Committees of the Council shall be as follows :-

(a) Executive Committee —2 years

(b) Disciplinary Committee — 3 years

(c) Legal Education Committee — 4 years

(d)	Legal Aid Committee	— 2 years
(e)	Advocates Fund Committee	— 2 years
(f)	Any other Committee not falling under the above clauses	— 2 years

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The Executive Committee

5. (1) The procedure for the election of the Members of the Executive Committee shall be by secret ballot and in accordance with the rules in so far as they are applicable, laid down in Rule 12, Chapter I, Part II.

(2) A causal vacancy in the Committee shall be filled up by election by the Council.

(3) The Committee shall elect its own Chairman and Vice-Chairman. The Chairman shall preside over the deliberations of the Committee and in his absence the Vice-Chairman shall preside*.

(4) The Committee shall be the executive authority of the Council and shall be responsible for giving effect to the resolutions of the Council. It shall have powers :-

(a) to manage the funds of the Council;

(b) invest the funds of the Council in the manner directed by the Council from time to time;

(c) to grant leave to members of the staff, other than casual leave;

(d) to prescribe books of account, registers and files for the proper management of the affairs of the Council;

(e) to appoint and supervise the work of the members of the staff and prescribe their conditions of service;

(f) to appoint auditors and fix their remuneration;

(g) to consider the annual audit report and place it before the Council with its comments for its consideration;

(h) to maintain a library and under the directions of the Council publish any journal, treatise or pamphlets on legal subjects;

(i) to prepare and place before the Council the annual administration report and the statement of account;

(j) to provide for proper annual inspection of the office and its registers;

*Sub-Rule amended w.e.f. 18-6-1977

(k) to authorise the Secretary to incur expenditure within prescribed limits;

(l) to fix travelling and other allowances to members of the Committees of the Council, and to members of the staff;

(m) to delegate to the Chairman and/or the Vice-Chairman any of its aforementioned powers;

(n) to do all other things necessary for discharging the aforesaid functions.

The Legal Education Committee

6. (1) The procedure for the election of the Members of the Legal Education Committee shall be by secret ballot, and in accordance with the rules, in so far as they are applicable, laid down in Rule 12, Chapter I, Part II.

(2) The names of the remaining five members of the Committee to be co-opted shall be proposed and seconded by the members of the Council. In case more than five persons are proposed they shall be chosen by a show of hands. If there is equality of votes, the Chairman of the meeting shall have a casting vote.

7. A casual vacancy in the Committee shall be filled in by the Council from amongst its members or non-members as the case may be, in the manner specified in Rule 6 above.

8. The Committee shall have the following powers and duties:

(a) to make its recommendations to the Council for laying down the standards of legal education for the Universities;

(b) to visit and inspect Universities and report the results to the Council;

(c) to recommend to the Council the conditions, if any, subject to which foreign qualification in law obtained by persons other than citizens of India may be recognised for admission as Advocates under the Act;

(d) (i) to recommend to the Council for recognition of any degree in law of any University in the territory of India under Section 24 (1) (c) (iii) of the Act, and

(ii) to recommend the discontinuance of any recognition already made by the Council.

The Disciplinary Committee

9. (1) The procedure for the election or co-option of the members of the Disciplinary Committee shall be by secret ballot and in accordance with the rules, in so far as they are applicable, as laid down in Rule 12,
Chapter I, Part II.

(2) Any causal vacancy shall be filled in by Council by election or
co-option from amongst its members or non-members as the case may be.

(3) The Chairman or the Vice-Chairman of the Executive Committee shall assign and allocate all matters relating to the Disciplinary Committees amongst them if more than one such Committee is constituted or is in existence.

(4) In case of the absence of a Bar Council of India's member during the sitting of the Disciplinary Committee of the Bar Council of India, the remaining two members of the said Committee may request any available Bar Council of India member to fill the vacancy caused by such absence and in case of the absence of a co-opted member of a Disciplinary Committee of the Bar Council of India, the other two members may make similar request to any other available co-opted member of a Diciplinary Committee of the Bar Council of India and the Committee so constituted shall be deemed to be a Committee constituted under this rule for the purpose of that meeting and shall have all the powers of a Disciplinary Committee of the Bar Council of India*.

10. For the purpose of determining the senior most member of a Disciplinary Committee under Section 9 of the Advocates Act, 1961, the seniority :

(i) of a Senior Advocate, and

(ii) of an Advocate of the Supreme Court enrolled before 1-12-1961, shall be determined in accordance with the date of his enrolment under the Bar Councils Act, 1926.

11. **Election of Representatives :** The Procedure for electing its representative to the Press Council of India under the Press Council Act, 1965, or for electing any other representative or representatives

* Rule 9(4) came into force w.e.f. 2-6-1996 vide Resolution No. 54/1996.

by or from amongst its members to any other statutory body by virtue of any special power conferred under any other enactment or for any other election by the Council provided that any member so requires, shall be in accordance with the same procedure and shall in so far as it may be applicable, be as laid down in Rule 12, Chapter I, Part II.

CHAPTER-V

Rules relating to Finance

(Rules under Section 15 (2) (l), (m) and (n) of the Act)

1. All monies received on behalf of the Council shall be acknowledge by a receipt signed by the Secretary or any other person authorised by the Executive Committee. Amounts received shall be credited into the account of the Council in the Bank on the next working day of the Bank.

2. The books of the account and registers shall be strongly bound and paged. On the 1st or title page, the number of pages of the book or the register shall be entered and the entry shall be signed by the Secretary. Corrections in the entries shall be made in red ink and attested by the Accountant. Erasures shall on no account be permitted.

3. Receipt forms shall be numbered consecutively and bound into books of 50 or 100 forms each. On the front page of each book shall be entered the first and the last number of the receipts in that book be so certified by the Secretary. Receipts shall be in triplicate. The third part shall remain in the book and the second part shall be kept for the record. And the 1st part shall be given to the payee. All receipts shall be signed by the Secretary or by such person as the Council may direct.

4. Payments of Rs. 50/- and over shall ordinarily be by cheque.

5. Bills presented for payment shall be examined by the Accountant and on his being satisfied that the claim is admissible, and the payment is duly authorised by the Secretary, the Accountant shall pay the amount against a receipt. The entry in the account book shall show if the payment is made by cash or by cheque. The bill and the relevant receipt shall be pasted together and shall be numbered consecutively in the year as payment voucher and shall be pasted in the bound book.

6. Salary bills shall be in such form as the Executive Committee may direct.

7. A bill presented for payment three months after the money becomes due shall not be paid without the sanction of the Executive Committee.

8. The Executive Committee may fix the amount of a permanent advance to be made to the Secretary and the Accountant as the case may be.

9. The Accountant shall maintain an acquittance register in the following from/or in such other form as the auditor may direct :

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1	2	3	4	5	6	7
Name	Designation	Pay	Dearness Allowance etc.	Total Salary (add. Cols. 3 and 4)	Contri- bution towards provident fund	Net Salary payable (Col.5 minus 6)

8	9	10	11
Instalment amount towards provident fund loan taken	Amount of interest payable on the principal loan amount outstanding	Total	Signature with date

10. All monies received and spent shall be immediately brought into account in the cash book and ledger. The cash book shall be balanced at the close of every month and signed by the Secretary and the Accountant.

10 A. The Bar Council of India shall have power to borrow money from any Bank or other financial institution or others for the purposes of acquiring or construction of any property or building on a specific authorisation of the Bar Council of India[1].

10 B. That for the purpose of borrowing, the Bar Council of India may authorise any officer or office bearer to sign necessary documents[1].

10 C. The Bar Council of India shall have power to mortgage property belonging to the Council for the purpose of taking loans from Banks and other Financial Institutions[2].

11. (1) (i) The Chairman (ii) the Vice-Chairman or (iii) any other person authorised by the Council, shall be entitled to incur expenditure sanctioned in the budget without any further authority.

(2) The Chairman and/or the Vice-Chairman or any other person authorised by the Council, shall have authority to spend or incur expenditure of an emergent nature not provided for in the budget not exceeding Rs. 3000/-[3] a month for the purpose of the Council.

12. The Chairman and/or the Vice-Chairman shall be the authority to sanction travelling allowance and daily allowance bills of the members.

13. The accounts of the Council shall be audited once a year.

[1]. Rule 10A and 10B came into force from 11th Feb. 1990.

[2]. Rule 10C came into force from 22nd April 1990.

[3]. W.e.f. 21-5-2000 (EC)

14. The annual statement of income and expenditure of the year so audited shall be laid before the Executive Committee not later than the 31st July each year.

15. The funds of the Council may be invested as follows :-

(i) in the State Bank of India or such other nationalised bank as the Council may decide ;

(ii) in any of the securities specified in Section 20 of the Indian Trusts Act, 1882, as the Council may decide;

(iii) in Fixed Deposits with Government Companies as defined in the Companies Act, 1956.[1]

16. Budget estimates of Income and Expenditure for the coming year shall be made by Executive Committee and laid before the Council for approval before the 31st March every year.

17. (1) All cheques other than those mentioned in sub-rule (2) shall be signed or endorsed and all bills, notes or other negotiable instruments shall be drawn, accepted or made on behalf of the Council by two persons. viz., (i) by the Chairman or the Vice-Chairman of the Council and in their absence by such other members as may be authorised by the Council in that behalf, and (ii) the Secretary, and in his absence the Joint or Assistant Secretary, if any, authorised by the Council.

(2) Notwithstanding anything contained in Rule 11, Chapter V, Part II of the Council, the Council may by resolution open a separate Savings Bank Account in any Bank specified by it or in a Post Office to be operated by the Secretary of the Council.

18. All monies and securities belonging to the Council shall stand in the name of the Council.

19. The Council shall open a Provident Fund account in a Bank authorised by the Council in accordance with the Provident Fund Rules.

CHAPTER-VI

A. Miscellaneous : Publication of rules and other information and date of coming into force of the rules

(Rules u/s 7(m) and 49(j) of the Act)

[1]. Sub-clause (iii) of Rule 15 added w.e.f. 23-1-1982.

1. Unless the Council otherwise directs, all rules of the Council shall come into force on the date of their publication in the Gazatte of India.

2. Information, inter alia, on the following matters shall, unless the Council determines otherwise, be communicated to all the State Councils :-

(i) Election of Chairman, Vice-Chairman,

(ii) Order of the Council under proviso to Section 26 (1) of the Act, removal of name under Section 26A of the Act and orders on matters dealt with under Section 48A and 48B of the Act as are approved by the Council for communication.

(iii) Consent expressed under Section 27 of the Act to the enrolment of a person whose application on a former occasion had been refused by a State Council.

(iv) Decisions of the Council relating to recognition of degrees referred to in Section 24 (1((c) (iii) (iiia) or (iv) of the Act.

(v) Decision of the Council or its Committees on election disputes under rules 10 of the rules in Chapter I, Part II of these rules.

3. Subject to such directions, specific or general as may be given by the Council, the Secretary shall send to all the State Bar Councils copies of all final orders of the Disciplinary Committees of the Bar Council of India made under Sections 36, 36B and 37 of the Act.

4. Subject to such directions, specific or general, as may be given by the Council, the Secretary of the Council may furnish certified copies of the orders mentioned in Rule 3 on payment of the charge after deleting the name of the advocate against whom the enquiry is made for publication in any legal journal or to any Bar Association as may apply therefor.

Provided that copies of the orders mentioned in this rule shall not be issued (a) where an appeal has been filed in the Supreme Court, before the disposal of the appeal, and (b) where no such appeal has been preferred to the Supreme Court, before the expiry of the period of limitation for filing the appeal.

5. Whenever any disciplinary action is taken or confirmed by the Disciplinary Committee or the Council as the case may be against an advocate, information thereof shall be communicated by reference to

the name and number of the roll of the advocates and the date of the enrolment to the following :-

All the State Bar Councils, through the State Bar Council where the advocate was practising, the High Court, the District Courts, and such Bar Association as the said State Bar Council may deem fit.

B. Inspection of Records and Copies

6. (1) Save as otherwise directed by the Chairman or the Vice-Chairman of the Council or the Chairman of the Committee concerned as the case may be, inspection of any of the records in any proceedings of a judicial nature of the Council or of its Committees other than those of a Disciplinary Committee may be permitted to the parties or their counsel, on any working day except during the summer or other vacations of the Supreme Court on presentation to the Secretary of an application duly signed by the applicant or his counsel.

(2) An application for inspection shall be accompanied by the fees prescribed therefor in cash. The Secretary may permit the inspection in his presence or in the presence of any member of the staff authorised by him. The person inspecting shall not be entitled to make copies of the records of which inspection is permitted. He shall however be permitted to make short notes in pencil.

(3) Save as otherwise directed by the Chairman or Vice-Chairman of the Council or the Chairman of the Committee concerned as the case may be, certified copies of the records of a proceedings of a judicial nature of the Council or of its Committees as the case may be, may be granted to the parties or to their counsel on an application made in that behalf and on payment in cash of the prescribed fees.

CHAPTER-VII

Proceedings for removal of name from roll under proviso to Section 26 (1) of the Act

1. Whenever a State Council, or any Committee duly authorised by the State Council has credible information from any source whatever that an advocate on the roll of the State Council has obtained his enrolment under circumstances which, if established, will render his name liable to be removed by the Council under the

proviso to Section 26 (1) of the Act, it shall be the duty of the State Council or the said Committee to enquire into the matter and report its findings to the Council.

In holding such enquiry the Council or the Committee shall hear the advocate concerned and otherwise follow the principles of natural justice.

2. In disposing of any proceedings under the said proviso, whether instituted on a report under Rule 1 or otherwise, the Council may, if it considers it just and expedient, cause an enquiry into disputed questions of fact to be made by any State Council or Committee thereof or any other Committee consisting of one or more persons as it may deem fit. The State Council or the Committee, as the case may be, shall follow the procedure mentioned in Rule 1.

CHAPTER-VIII

Additional qualification for enrolment as advocates

Any person who has held office as a Judge of any High Court in India may on retirement be admitted as an advocate on the roll of any State Council where he is eligible to practise.

CHAPTER-IX

Revision under Section 48 A of the Act

1. (1) An application for revision shall be in the form of a petition duly signed setting out the necessary facts, and shall be accompanied by the copy of the order in respect of which the revision is filed, giving the address of the petitioner and the respondent or respondents. It shall be supported by affidavit and shall be accompanied by the prescribed fee which is payable in cash or could be sent by M.O. The applicant shall file at least 5 more copies of the petition and affidavit, and if there is more than one respondent as many additional copies as are necessary to serve the other respondents.

He shall file translations in English of such of the papers as may be necessary for reference at the time of hearing.

(2) No application for revision shall ordinarily be entertained after 90 days from the date of the order complained of.

2. (1) If the revision petition is in order, the papers shall be called for and the Council, or a Committee of the Council constituted or authorised in this behalf, may direct notice to the respondent. The

papers shall not however be called for unless so directed by the Council for revision petition against an order of the Disciplinary Committee.

(2) If the Council or the Committee considers that there are no merits in the revision petition, opportunity shall be given to the petitioner to appear before the Council in support of the petition.

3. The Council may, after hearing the petitioner, direct notice to the respondent or dismiss the petition, as it may consider fit.

4. Upon notice being issued under the above rules after giving reasonable opportunity of hearing to the parties, the Council may pass such orders on the revision petition as it deems proper.

5. Unless the Council otherwise specially directs, the petitioner and the respondent may appear by advocates, who shall file a vakalatnama signed by the party.

6. A copy of the order on the revision shall be sent to the parties.

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FORM-A

Subject to necessary modifications

(Under Rule 3, Chapter IX, Part II of the Rules of the Bar Council of India).

For Revision under Section 48A

BAR COUNCIL OF INDIA

Notice under Section 48A of the Advocates Act, 1961, read with the rules in Chapter IX, Part II of the Rules of the Bar Council of India.

BCI REVISION CASE NO. ...../19.....

In the matter of .....

.....Petitioner

.....Respondent

WHEREAS on the application above referred to/suo motu/the Bar Council of India having come to the conclusion that in exercise of the powers conferred upon it under Section 48A of the Advocates Act, 1961, it should satisfy itself as to the legality or propriety of such disposal/of the Bar Council or/of the committee of the Bar Council of/dated ..... (set out the necessary gist of the order).

The respondent is hereby informed that the said application will be heard by the Bar Council of India on ..... at (time) ..... at (place) ..... and if the respondent does not appear in person or through his advocate on the said date or on such other date to which the hearing may be adjourned, the matter will be heard and disposed of in his absence.

Secretary
Bar Council of India

Date.....

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CHAPTER-X

Application for review under Section 48 AA of the Act

1. (1) An application for review made under Section 48AA of the Act shall set out the necessary facts and the grounds for review and be accompanied by an affidavit and the fee prescribed under these rules.

(2) A true copy of the order shall be filed along with the application.

(3) If the application for review received is in order, the Council may direct the issue of notice to the petitioner and such other person as it may consider necessary.

(4) A copy of the order on the review application shall be sent free of charge to the petitioner and the other party if any.

(5) Save as otherwise directed, the parties to whom notice has been issued may appear in person or by advocate or through authorised agent and if any of the parties fail to appear pursuant to the notice issued on any date of hearing, the Council may dispose of the application in such manner as it may think fit.

2. The procedure prescribed in the above rules in this chapter shall apply to the extent to which they are applicable when the Council acts of its own motion.

CHAPTER-XI

Orders of the Bar Council of India

1. Every decision of the Council under the proviso to Section 26 (1) or under Section 48 A or under any other provisions of the Act shall be signed by the Chairman of the meeting at which the said decision was taken or if so authorised by any other member or the Secretary on behalf of the Council.

2. The Secretary shall send to the party or parties concerned a copy of the order free of charges.

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PART-III
CERTAIN MATTERS RELATING TO STATE COUNCIL

CHAPTER-I
Electoral roll, disqualification of membership and vacation of office

(Rules under Sections 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 practising 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 ;

(h) if he has not paid the subscription under Rule 40 Chapter-II, Part VI of the Rules and obtained receipt from the State Bar Council ;

(i) he has incurred any disqualification mentioned in the Act or the rules made thereunder*.

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 35(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).

* Sub-clause (h)(i) of Rule 2 came into force w.e.f. August 1997 vide Resolution No. 10/97.

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 his 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 Association 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 the 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 on 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 these 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 insolvent, or

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

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

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Form of notice under rule 4

It is hereby notified that for the purpose of preparing final electoral roll in accordance with rules 2 and 3 of chapter I, Part III of the rules framed by the Bar Council of India under Sections 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 (i) 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 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)

* The rule added w.e.f. 2-5-1981.

(b) Present address :

3. (a) Have you incurred any of the disqualifications 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 of 10 years' standing

[*Rules under Section 3 (2) (b) and proviso, Sections 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 Councils, these rules shall prevail and 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 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 of 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 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 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 name has 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 as 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 gets 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 to 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 than 10 years gets 100.

Only 12 candidates whose names have been on a 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, 13 candidates whose names have been on a State roll of 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 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.

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(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

(C) (1) When at the end of any count the number of continuing 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 Sate roll for at least 10 years at the relevant date is less than :-

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

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

(iii) 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 elected from amongst advocates 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 particular thereof.

(c) indicate on the voting paper which of the candidates have been on a 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.

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