



LAWS OF MALAYSIA

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Act 166

LEGAL PROFESSION ACT 1976

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LAWS OF MALAYSIA

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LAWS OF MALAYSIA**Act 166****LEGAL PROFESSION ACT 1976**

An Act to consolidate the law relating to the legal profession in Malaysia.

[*Peninsular Malaysia—1 June 1977, P.U. (B) 327/77*]

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I**PRELIMINARY****Short title and commencement**

1. (1) This Act may be cited as the Legal Profession Act 1976.

(2) The Minister may appoint different dates for the coming into operation of the different parts or provisions of this Act and different dates may be appointed for the coming into operation of this Act in Peninsular Malaysia, Sabah and Sarawak.

Application

2. This Act shall apply throughout Malaysia but shall only be made applicable to Sabah and Sarawak with such modifications as the Yang di-Pertuan Agong may by order make; and such Order shall be published in the *Gazette*.

Interpretation**3.** In this Act unless the context otherwise requires—

“advocate and solicitor”, and “solicitor” where the context requires means an advocate and solicitor of the High Court admitted and enrolled under this Act or under any written law prior to the coming into operation of this Act;

“articled clerk” has the meaning assigned to it in section 20;

“Bahasa Malaysia Qualifying Examination” means an examination conducted by the Board or other persons appointed by the Board for that purpose;

“Bar Council” and “Council” mean the central council of the Malaysian Bar established under section 47;

“Bar Committee” means a Bar Committee elected under section 70;

“the Board” means the Qualifying Board established under section 4;

“client” includes—

- (a) in relation to contentious business, any person who as a principal or on behalf of another person retains or employs, an advocate and solicitor, and any person who is or may be liable to pay a solicitor’s costs;
- (b) in relation to non-contentious business, any person, who as a principal or on behalf of another, or as a trustee, executor or administrator, or in any other capacity, has power, express or implied, to retain or employ, and retains or employs, an advocate and solicitor, and any person for the time being liable to pay an advocate and solicitor for his service and costs;

“Compensation Fund” and “the Fund” mean the fund maintained and administered in accordance with section 80;

“contentious business” means business done by an advocate and solicitor, in or for the purpose of proceedings begun before a Court of justice, tribunal, board, commission, council, statutory body or an arbitrator;

“costs” includes fees, charges, disbursements, expenses and remuneration;

“Court” means the High Court or a Judge thereof when sitting in open Court, and “Judge” means a Judge of the High Court sitting in Chambers;

“legal officer” means a qualified person in the judicial and legal service;

“Malaysian Bar” and “Bar” means the body corporate established under section 41;

“the Ordinance” means the Advocates and Solicitors Ordinance, 1947 [*M.U. 4 of 1947*];

“pleader” means a pleader entitled to practise at the date of coming into operation of this Act;

“practising certificate” means a certificate issued by the Registrar under section 29;

“qualified person” means any person who—

- (a) has passed the final examination leading to the degree of Bachelor of Laws of the University of Malaya, the University of Malaya in Singapore, the University of Singapore or the National University of Singapore;
- (b) is a barrister-at-law of England; or
- (c) is in possession of such other qualification as may by notification in the *Gazette* be declared by the Board to be sufficient to make a person a qualified person for the purposes of this Act;

“Register of Practitioners” means the annual register kept by the Registrar under section 31;

“Registrar” means the Registrar of the High Court and includes a Deputy Registrar, Senior Assistant Registrar and an Assistant Registrar;

“Roll” means the Roll of advocates and solicitors of the High Court kept by the Registrar under section 28;

“Rules Committee” means the Rules Committee constituted under any written law and empowered to make rules regulating the procedure in the High Court;

“Sijil Annual” means the certificate issued by the Council under section 32;

“Solicitors Costs Committee” means the Solicitors Costs Committee constituted under section 113.

PART II

QUALIFYING BOARD

Qualifying Board

4. There is established a body to be called the Qualifying Board.

Functions of Board

5. The Board shall have the following functions:

- (a) to prescribe the qualifications required for the entry of any person into articles with a view to his admission as an advocate and solicitor;
- (b) to provide courses of instruction for, and to regulate the training and instruction of, articled clerks;
- (c) to provide for the examination of articled clerks wishing to become qualified persons;
- (d) to decide on the qualifications, if any, other than those set out in paragraphs (a) and (b) of the definition of “qualified person” in section 3, which may entitle a person to become a qualified person for the purposes of this Act;
- (e) to provide courses of instruction for, and for the examination of, persons whose qualifications are not sufficient to make them qualified persons for the purposes of this Act except after undergoing the courses and passing the examination;

- (f) to provide for the management and conduct of the Bahasa Malaysia Qualifying Examination.

General power of Board and power to make rules

6. (1) In addition to any other powers conferred by this Act the Board may make rules and do all things which are necessary and incidental in order to carry out into effect the objects of this Part and the functions of the Board.

(2) Without prejudice to the generality of subsection (1) but subject to this Part, the Board may in particular make rules—

- (a) for regulating the meetings and proceedings of the Board;
- (b) for the taking and retaining of articled clerks by principals and for the conduct, duties and responsibilities of the parties;
- (c) for regulating the manner in which articled clerks serve their period of articleship;
- (d) specifying the subjects in which articled clerks are required to be proficient in;
- (e) for the examination from time to time of articled clerks;
- (f) for the exemption of articled clerks from courses of instruction or from examination;
- (g) for the appointment of lecturers and examiners and for the payment of fees to them;
- (h) for the management and conduct of, and the exemption of certain categories of qualified persons and articled clerks from, the Bahasa Malaysia Qualifying Examination;
- (i) for prescribing the forms to be used and the fees to be paid under this Part.

Membership of Board

7. The Board shall consist of—

- (a) the Attorney General who shall be the Chairman;
- (b) two Judges nominated by the Chief Justice;

- (c) the Chairman of the Bar Council; and
- (d) a Dean of a Faculty of Law nominated by the Minister of Education.

Election of acting Chairman

8. (1) The Chairman shall preside at meetings of the Board; and in the absence of the Chairman, the members of the Board present at the meeting shall elect an acting Chairman who shall have and exercise all the powers of the Chairman.

(2) The Chief Registrar shall be the Secretary of the Board.

(3) The Board shall appoint such officers as it considers necessary and shall have power to pay remuneration to its employees.

Meetings of Board and quorum

9. (1) The Board shall meet at such times and such places as the Chairman may appoint.

(2) The Board shall have power to fix a quorum for its meetings.

(3) Each member of the Board shall have one vote and the Chairman of the meeting shall have a casting vote.

Qualified Persons

Admission of advocates and solicitors

10. The High Court may at its discretion and subject to this Act admit as an advocate and solicitor of the High Court—

- (a) any qualified person; and
- (b) any articled clerk who has complied with section 25:

Provided that no person who is a qualified person by reason of his having passed the final examination for the degree or other qualification which makes him a qualified person under paragraph (a), (b) or (c) of the definition of “qualified person” in section 3 shall be admitted as an advocate and solicitor before the degree or other qualification has been conferred upon him.

Qualifications for admission

11. (1) Subject to section 14, a qualified person may be admitted as an advocate and solicitor if he—

- (a) has attained the age of eighteen years;
- (b) is of good character; and
 - (i) has not been convicted in Malaysia or elsewhere of a criminal offence as would render him unfit to be a member of his profession, and in particular, but not limited to, an offence involving fraud or dishonesty;
 - (ii) has not been adjudicated bankrupt and has not been found guilty of any of the acts or omissions mentioned in paragraph 33(6)(a), (b), (c), (e), (f), (h), (k) or (l) of the Bankruptcy Act 1967 [Act 360];
 - (iii) has not done any other act which, if being a barrister or solicitor in England, would render him liable to be disbarred, disqualified or suspended from practice; or
 - (iv) has not been, or is not liable to be, disbarred, disqualified or suspended in his capacity as a legal practitioner in any other country;
- (c) is either a Federal citizen or a permanent resident of Malaysia;
- (d) has satisfactorily served in Malaysia the prescribed period of pupillage for qualified persons.

(2) As from the 1 January 1984, no qualified person shall be admitted as an advocate and solicitor unless, in addition to satisfying the requirements of subsection (1), he has passed or is exempted from the Bahasa Malaysia Qualifying Examination.

Period of pupillage of qualified person

12. (1) For the purposes of this Part, a qualified person shall during his period of pupillage be known as a “pupil”, and a person with whom a pupil serves his period of pupillage or any part thereof shall be known as a “master”.

(2) A qualified person shall, before he is admitted as an advocate and solicitor, serve a period of pupillage and, subject to this section and section 13, the prescribed period of pupillage shall be nine months.

(3) No qualified person shall, without the special leave in writing of the Bar Council, hold any office or engage in any employment of any kind, whether full-time or otherwise, during his period of pupillage, but nothing in this subsection shall preclude a pupil from receiving remuneration from his master.

Exemption from period and qualification for pupillage

13. (1) Subject to subsection (4) a pupil shall serve his period of pupillage with an advocate and solicitor who is and has been in active practice in Malaysia for a total period of not less than seven years immediately preceding the date of commencement of his pupillage:

Provided that the Bar Council may on special grounds allow a pupil to serve his period of pupillage with an advocate and solicitor of less than seven years' standing.

(2) The Bar Council may allow a qualified person to serve different parts of his period of pupillage with different masters.

(3) The Bar Council may, in its sole discretion, exempt a qualified person from any period up to six months' pupillage upon application made to it supported by satisfactory evidence that—

- (a) there are special circumstances justifying a shortening of the period of pupillage; or
- (b) the applicant has for a period of not less than six months been a pupil or read in the chambers of a legal practitioner in active private practice, in the Commonwealth, of more than seven years' standing; or
- (c) the applicant is an articled clerk in Malaysia; or
- (d) the applicant has been engaged in active practice as a legal practitioner by whatever name called in any part of the Commonwealth for a period of not less than six months.

(4) A qualified person who has served in the Judicial and Legal Service for seven years shall be exempted from serving any period of pupillage provided his application for admission as an advocate and solicitor is supported by a certificate from the Attorney General to the effect that he is a fit and proper person to be admitted as an advocate and solicitor.

(5) The Bar Council may, in its sole discretion, upon an application made to it supported by satisfactory evidence in writing given by the Attorney General, exempt a qualified person who has served in the Judicial and Legal Service for at least three years from any period up to a maximum of six months' pupillage.

Filing of admission petition and enquiries, etc.

14. (1) Upon any petition for admission and enrolment as an advocate and solicitor being filed, the Bar Council shall make or cause to be made full inquiries into the character of the petitioner and, upon such petition being set down for hearing, to forward to the Chief Justice a confidential report of the result of such inquiries.

(2) All the State Bar Committees (if more than one) in the States in which a person applying to be admitted pursuant to section 15 has served his pupillage, shall upon the person's petition being set down for hearing make or cause to be made full inquiries into the character of the petitioner and the confidential report of the result of the inquiries shall be forwarded to the Chief Justice with such comments upon it as the Bar Council may consider necessary.

(3) If any of the reports referred to in subsection (1) or subsection (2) is unfavourable to the petitioner the Chief Justice may, if he thinks fit, direct such report to be filed in Court and a copy thereof to be served on the petitioner and, subject to such directions as the Court may give, such report shall be taken into consideration on the hearing of the petition.

(4) All reports and communications under this section shall be absolutely privileged.

Petition for admission with affidavit

15. (1) This section shall apply to every person who proposes to apply to be admitted and enrolled as an advocate and solicitor.

(2) An application for admission under this section shall be by a petition to the Court and verified by affidavit.

(3) Every petitioner shall, not less than fourteen days before his petition is to be heard or such shorter period as the Court may allow, file an affidavit exhibiting—

- (a) where applicable, true copies of any documentary evidence showing that he is a qualified person;
- (b) two recent certificates as to his good character;
- (c) a certificate of diligence from his master with whom he served his pupillage in cases where he is required to serve a period of pupillage, or in the absence of such certificate any other evidence as the Court may require showing that he has served such pupillage with diligence;
- (d) where applicable, a certificate signed by the Secretary of the Board that the petitioner has attended the courses of instruction and passed the examinations, if any, required in his case under this Act;
- (e) where applicable, a certificate from his principal that he has satisfactorily served the appropriate period as an articulated clerk;
- (f) true copies of any documentary evidence showing that he is either a Federal citizen or a permanent resident of Malaysia; and
- (g) true copies of any documentary evidence that he has passed or is exempted from the Bahasa Malaysia Qualifying Examination.

(4) The petition, notice, affidavit and certificates referred to in this section shall be in the forms prescribed by the Board.

(5) The petitioner shall file his petition at the Registrar's Office at the Central Registry accompanied by notices intimating that he has so petitioned; such notices shall be posted and continue to be posted at all the High Courts for three months before the petitioner is admitted and enrolled as an advocate and solicitor.

Filing of petition and objection

16. (1) A copy each of the petition and the affidavit required to be filed under section 15 together with the true copies of each document exhibited pursuant to that section shall, within seven days of the filing thereof in the Registrar's Office, and not less than ten days or such shorter period as the Court may allow before the date fixed for hearing the petition, be served on the Attorney General, the Bar Council and the State Bar Committee of the State in which the pupil has served any part of his period of pupillage.

(2) If the Attorney General, the Bar Council or any State Bar Committee intends to object to any petition, there shall be served on the petitioner and filed in the Registrar's Office, not less than three clear days or any shorter period as the Court may allow before the date fixed for hearing the petition, a notice of objection which shall set out in brief terms the grounds of objection.

(3) On a notice of objection being filed the petition shall be fixed for hearing within one month or as soon as may be before a Judge of the High Court.

(4) The Attorney General, the Bar Council or the State Committee need not be represented at the hearing of any petition unless the Attorney General, the Bar Council or the State Bar Committee, as the case may be, intends to object to that petition, but no order shall be made upon any petition unless the Court is satisfied that the petition, affidavit and true copies of each document have been duly served as required by subsection (1).

Entering of caveat against admission

17. (1) Any person may enter a caveat against the admission of any petitioner and upon such caveat being entered no application for the admission of the petitioner shall be heard unless a notice of hearing of not less than 3 clear days has been served on the person entering the caveat.

(2) Every caveat under this section shall be entered in the Registrar's Office and shall contain the full name, occupation and address of the caveator, a brief statement of the grounds of his objection and an address for service.

(3) If at any time after the admission and enrolment of any petitioner as an advocate and solicitor, it is shown to the satisfaction of the Court that any petition, affidavit, certificate or other document filed by a petitioner contains any statement which is false or misleading in substance or a suppression of any material fact the name of the petitioner may be removed from the Roll.

(4) Where an advocate and solicitor has been removed from the Roll pursuant to subsection (3), the Registrar shall upon any further petition for admission made by the same person bring this fact to the notice of the Court and the Court shall, in the absence of special circumstances refuse to grant such further petition.

Admission in special cases

18. (1) Notwithstanding anything contained in this Act, the Court may, for the purpose of any one case and subject to the following subsections, admit to practise as an advocate and solicitor any person who, if he was a citizen of, or a permanent resident in, Malaysia, would be eligible to be admitted as an advocate and solicitor of the High Court and no person shall be admitted to practise as an advocate and solicitor under this subsection unless—

- (a) for the purpose of that particular case he has, in the opinion of the Court, special qualifications or experience of a nature not available amongst advocates and solicitors in Malaysia; and
- (b) he has been instructed by an advocate and solicitor in Malaysia.

(2) Any person applying to be admitted under this section shall do so by originating motion verified by his own affidavit, or that of the advocate and solicitor instructing him, stating the names of the parties and the brief particulars of the cause or matter in which the applicant intends to appear, and exhibiting in the affidavit the consent of the applicant to appear in the cause or matter; the originating motion and affidavit shall be served on the Attorney General, the Secretary of the Bar Council and of the State Bar Committee in the State where such cause or matter is to be heard and the other party to the cause or matter; at the time of such service the applicant shall pay one hundred ringgit each to the Secretary of the Bar Council and of the State Bar Committee to cover their costs incurred in the application.

(3) Before admitting a person under this section the Court shall have regard to the views of each of the persons served with the application.

(4) The Registrar shall on payment of the prescribed fee, issue to every person admitted under this section a certificate to practice specifying in it the causes or matters in which he is permitted to appear; and any person to whom a certificate to practise has been issued under this subsection shall for the purpose of his employment in such causes or matters be deemed to be a person to whom a certificate to practise has been issued under section 29.

(5) The Registrar shall not enter upon the Roll but shall keep a separate roll for the names of persons admitted under this section.

(6) In this section the words “cause or matter” include any interlocutory or appeal proceedings connected with any cause or matter.

Right of appeal by objectors

19. The petitioner under section 15 and the applicant under section 18 and any one or more of the following namely—the Attorney General, the Board, the Secretary of the Bar Council or the Secretary of any State Bar Committee objecting to any petition or to the making of any order on an originating motion pursuant to section 18 shall have a right of appeal to the Supreme Court:

Provided that a Judge who have made the order appealed from shall not be a member of the Federal Court.

Articled Clerks

Qualification for articled clerks

20. (1) Except as authorized by this Act and any rules made by the Board no person shall enter into articles with a view to his admission as an advocate and solicitor unless he—

(a) has attained the age of seventeen years;

(b) is of good character; and

(c) has the necessary educational qualifications as may be prescribed by the Board.

(2) For the purposes of this Part, a person who has entered into articles with an advocate and solicitor shall be known as an “articled clerk” and an advocate and solicitor who takes an articled clerk shall be known as a “principal”.

Conditions to be a principal and discharge of clerk

21. (1) No advocate and solicitor shall, without the special leave in writing of the Board, qualify as a principal unless he has been in active practice as an advocate and solicitor in Malaysia for a period of not less than seven years immediately preceding the commencement of the articles and is in active practice.

(2) No principal shall have more than two articled clerks at the same time.

(3) No principal shall take or retain any articled clerk after he has ceased from active practice as an advocate and solicitor in Malaysia or while the articled clerk is employed by another advocate and solicitor.

(4) If any advocate and solicitor takes an articled clerk in contravention of this section the Board may of its own motion discharge the articles of the articled clerk upon such terms, including terms as to return of any premium, as the Board thinks fair and reasonable.

Discharge of clerk for unfitness

22. If any allegation is made to the Board as to the unfitness of an articled clerk to be an advocate and solicitor, and the Board, after inquiring into that allegation is satisfied that the articled clerk is unfit to be an advocate and solicitor, the Board may of its own motion discharge the articles of that articled clerk upon such terms, including terms as to return of any premium, as the Board thinks fair and reasonable.

Discharge of clerk generally

23. If the Board is satisfied on application made either by a principal or an articled clerk that the articles ought to be discharged, the Board may discharge the articles upon such terms, including terms as to return of any premium, as the Board thinks fair and reasonable.

Period of articles and condition of articles

24. (1) The period of articles for an articled clerk who is a graduate of a University recognized by the Board for the purpose of this section shall be three years.

(2) The period of articles for every other person shall be five years.

(3) No articled clerk shall, without the special leave in writing of the Bar Council, hold any office or engage in any employment of any kind, whether full time or otherwise, during his articles but nothing in this subsection shall preclude an articled clerk from receiving remuneration from his principal.

Condition of admission of articled clerk

25. (1) Subject to sections 22 and 23 and any rules made by the Board no articled clerk shall be admitted and enrolled as an advocate and solicitor unless he—

(a) has satisfactorily served the prescribed period of articles;

(b) has attended such courses of instruction as may generally or specially be prescribed by the Board; and

(c) has passed such examination as may be prescribed by the Board.

(2) As from the 1 January 1984, no articled clerk shall be admitted and enrolled as an advocate and solicitor unless, in addition to satisfying the requirements of subsection (1), he has passed or is exempted from the Bahasa Malaysia Qualifying Examination.

Reviews

Appeal from the decision of Board to Judge

26. (1) Any person dissatisfied with any decision of the Board may apply to a Judge for a review of the decision.

(2) If the Board fails to determine any request within six weeks after it has been first submitted to it, the applicant may apply under this section as if the request had been determined adversely to him.

(3) Every application under this section shall be made by summons in chambers on the petition of the appellant if he has filed a petition, otherwise by originating summons; the Judge hearing the application may in his discretion adjourn the application into open Court.

(4) Every summons in chambers or originating summons, as the case may be, shall be supported by evidence on affidavit and shall be served together with the affidavit on the Board; such summons in chambers or originating summons shall not be heard before the expiry of twelve days after the date of service on the Board.

(5) At or before the hearing of the application the Board may submit to the Judge a confidential report on the applicant; such report shall not be filed in Court but a copy thereof shall be furnished to the applicant.

(6) A confidential report under this section shall be privileged.

(7) At the hearing the Judge may dismiss the application or make any order under this Act as he considers fair and reasonable.

(8) A Judge who is a member of the Board shall not hear any application under this section.

Hearing of Petitions and the Roll

Hearing by Judge, a member of Board

27. A Judge who is a member of the Board shall not hear any petition for admission.

Roll of advocates and solicitors

28. (1) The Registrar shall keep a Roll of advocates and solicitors with the dates of their respective admission.

(2) The name, with the date of admission, of every person admitted shall be entered upon the Roll in the order of admission.

(3) Every person admitted as an advocate and solicitor shall pay the prescribed fee and the Registrar shall deliver to him an instrument of admission signed by the Chief Justice or the Judge who admitted the petitioner.

(4) This section shall not apply to persons admitted under section 18.

(5) The Roll shall be open to inspection without payment by any person during office hours.

*PART IIA

SPECIAL PROVISIONS RELATING TO ADMISSION OF
ADVOCATES AND SOLICITORS

Attorney General's power to issue Special Admission Certificates

28A. (1) The Attorney General may issue a special certificate for admission as an advocate and solicitor of the High Court (hereinafter referred to as a "Special Admission Certificate") to any person who, in his opinion, satisfies the following requirements:

- (a) (i) is a qualified person; or
- (ii) is not a qualified person, but is in possession of a qualification which renders him eligible to practise as a barrister, or as a solicitor, or as an advocate and solicitor, or otherwise as a legal practitioner by whatever name called, or to be employed in a legal or judicial capacity in the service of any government, in any country, or in a part or division of any country, or in any territory or place, outside Malaysia; and
- (b) has been practising as a barrister, or as a solicitor, or as an advocate and solicitor, or otherwise as a legal practitioner by whatever name called, or has been employed in a legal or judicial capacity by any government or by any authority, organization or body, constituted under any law, or has been sometimes so practising or sometimes so employed, wholly or partly within Malaysia or wholly or partly outside Malaysia, for a period of, or for periods which amount in the aggregate to, not less than seven years.

(2) Where the Attorney General issues a Special Admission Certificate he shall specify therein the period for which the person issued with such Certificate shall be admitted as an advocate and solicitor.

*NOTE—This Part come into force on 1 February 1999—see P.U. (B) 33/1999.

(3) A Special Admission Certificate shall be conclusive evidence that the requirements of paragraphs (1)(a) and (b) have been satisfied, and the validity of such Certificate shall not be reviewed or called in question in any court.

(4) In subsection (1)—

“government” includes—

- (i) the Government of Malaysia;
- (ii) the Government of any State in Malaysia; and
- (iii) the government of any country, or of a part or division of any country, or of any territory or place, outside Malaysia; and

“law” includes—

- (i) written law as defined in section 3 of the Interpretation Acts 1948 and 1967 [*Act 388*]; and
- (ii) the law of any country, or of a part or division of any country, or of any territory or place, outside Malaysia.

Admission and enrolment as an advocate and solicitor of a person issued with a Special Admission Certificate

28B. (1) A person issued with a Special Admission Certificate may apply by *ex-parte* originating summons to a Judge of the High Court in Chambers to be admitted as an advocate and solicitor of the High Court.

(2) A Judge hearing an application under subsection (1) shall, upon being satisfied as to the genuineness of the Special Admission Certificate and the identity of the applicant, admit the applicant as an advocate and solicitor of the High Court for the period specified in the Certificate; and a person so admitted as an advocate and solicitor shall be enrolled and given an instrument of admission under section 28.

(3) The admission and enrolment of a person as an advocate and solicitor under subsection (2) shall not be reviewed or called in question in any court.

(4) An advocate and solicitor admitted under subsection (2) shall be entitled to renew his admission from time to time upon presenting to the Registrar within a period of two months before the expiry of the period of admission or renewed admission, as the case may be, a Certificate of Renewal issued by the Attorney General at the discretion of the Attorney General:

Provided that, with the leave of the Attorney General in writing, the Certificate of Renewal may be presented to the Registrar at any time after the expiry of the period of admission or renewed admission, as the case may be.

(5) A Certificate of Renewal issued under subsection (4) shall be for renewal of the admission or the renewed admission, as the case may be, for such period as may be specified in such Certificate, and the renewal under subsection (4) shall accordingly be for the period so specified.

(6) The validity of a Certificate of Renewal issued under subsection (4) shall not be reviewed or called in question in any court.

(7) Sections 10 to 19, both inclusive, shall not apply to the admission of a person as an advocate and solicitor under this Part, or to the renewal of the admission or the renewed admission, as the case may be, of such advocate and solicitor.

Provisions as to Sijil Annual not to apply to an advocate and solicitor admitted under this Part

28c. Sections 32 and 33, or any other provision of this Act relating to a Sijil Annual, shall not apply to an advocate and solicitor admitted under this Part.

Power of Attorney General to make orders

28d. The Attorney General may, by order published in the *Gazette*, make such provision as he may deem necessary or expedient for giving effect to this Part or carrying out its purposes, and without prejudice to the generality of the foregoing, an order made under this section may provide for—

- (a) any supplemental, incidental or consequential matters in relation to this Part; and

- (b) the removal of any difficulty or anomaly whatsoever in any provision of this Act or in any other written law, or otherwise, that may be occasioned by any provision or provisions in this Part.

Provisions of this Part to prevail

28E. This Part or of any order made under this Part shall have effect notwithstanding anything to the contrary or inconsistent therewith contained in any provision of this Act other than this Part, or in any other written law, and this Act (other than this Part) or of any other written law shall be read—

- (a) *mutatis mutandis* with this Part and of any order made under this Part; and
- (b) with all such modifications, adaptations, alterations or changes whatsoever as may be necessary to have the same to accord with this Part and of any order made under this Part.

PART III

PRACTISING CERTIFICATES

Advocate and solicitor to make declaration yearly

29. (1) Every advocate and solicitor shall in each year before he does any act in the capacity of an advocate and solicitor deliver or cause to be delivered to the Registrar:

- (a) a declaration in writing stating—
- (i) his full name;
 - (ii) the name under which he practises or the name of the advocates and solicitors or firm of advocates and solicitors employing him; and
 - (iii) the principal and any other address or addresses at which he practises in Malaysia;
- (b) the last Sijil Annual or a true copy thereof, if any, issued to him by the Bar Council; and
- (c) the prescribed fee,

and the Registrar shall on being satisfied that all the necessary documents are in order and that the firm name under which the

advocate and solicitor is practising is on the register maintained under section 85 (1) issue to the advocate and solicitor a practising certificate.

(2) Subject to subsection (3), every practising certificate shall be signed by the Registrar and shall be valid from the date of issue to the end of the year:

Provided that—

- (a) where the name of an advocate and solicitor is removed from, or struck off, the Roll the practising certificate, if any, of that advocate and solicitor shall expire forthwith and the date of such expiration shall be entered by the Registrar on the Register of Practitioners;
- (b) where an advocate and solicitor is adjudicated bankrupt or a receiving order is made against him, the practising certificate, if any, of that advocate and solicitor shall be suspended forthwith, until the consent of the Bar Council to reinstate it is obtained.

(3) Where an advocate and solicitor has duly complied with subsection (1) in the month of January of any year, the practising certificate issued to him in respect of that year shall be deemed to have been in operation from the 1st day of January of that year.

(4) In this section the word “year” shall mean the period from the 1 January in any calendar year to the 31 December in the same calendar year.

Disqualification for practising certificate

30. (1) No advocate and solicitor shall apply for a practising certificate—

- (a) unless he is practising or intends to practice either on his own account or in partnership in Malaysia; or
- (b) unless he is or is about to be employed full time in his practice in Malaysia by an advocate and solicitor or a firm of advocates and solicitors in practice in Malaysia;
or

(c) if he is gainfully employed by any other person, firm or body in a capacity other than as an advocate and solicitor.

(2) For the purpose of this section a qualified person shall not be construed as being gainfully employed if he is serving in the Judicial and Legal Service.

(3) Any qualified person who is gainfully employed in accordance with paragraph (1)(c) shall surrender his practising certificate to the Registrar.

Register of Practitioners

31. (1) Upon the issue of every practising certificate the Registrar shall cause to be entered in an annual register known as the Register of Practitioners, the particulars contained in the declaration delivered under paragraph 29(1)(a), and any person may inspect the Register of Practitioners during office hours without payment.

(2) If there is any change with respect to any advocate and solicitor in the particulars referred to in subsection (1) that advocate and solicitor shall within one month thereafter notify the Registrar and the Bar Council, and the Registrar shall thereupon cause the entry to be made in respect of that advocate and solicitor in the Register of Practitioners.

Issue of Sijil Annual

32. (1) Subject to this section and sections 33 and 34, the Bar Council shall at any time after the month of June in the preceding year issue a Sijil Annual to an advocate and solicitor within twenty-one days of the receipt of an application under subsection (2) if—

- (a) the Bar Council is satisfied that the application complies with that subsection and any rules made under this section;
- (b) the Bar Council is satisfied that the applicant is not prohibited from holding a practising certificate under section 30;
- (c) the advocate and solicitor has delivered or is exempted from delivering an accountant's report in accordance with section 79;

- (d) the advocate and solicitor is not in arrears in respect of any contribution to the Compensation Fund, or of any subscription or levy lawfully due to the Bar Council or his State Bar Committee under this Act; and
- (e) the advocate and solicitor intends to practise under an approved name.

(2) An application by an advocate and solicitor for a Sijil Annual shall be made in such form or forms as may be prescribed by and in accordance with rules made under this section and shall be accompanied by appropriate certificates showing that paragraph (1)(d) has been complied with.

(3) Disciplinary proceedings may be taken against any advocate and solicitor if in, or in relation to, an application under this section he makes a false statement material to the application.

(4) Subject to this Act, the Bar Council may make rules regulating the issue of Sijil Annual.

(5) Any rules made by the Bar Council under this section shall be signed by the Chairman of the Bar Council.

Issue of Sijil Annual in certain conditions

33. (1) Subsection (2) shall have effect with respect to an application for a Sijil Annual made by an advocate and a solicitor—

- (a) after more than twelve months have elapsed since his admission and where he has held no valid practising certificate during that period;
- (b) who has held a practising certificate subject to terms and conditions at any time in the three years immediately preceding his application;
- (c) after more than twelve months have elapsed since he held a valid practising certificate;
- (d) after the *Disciplinary Committee has ordered a penalty or costs to be paid by him;

*NOTE—Any reference to the term of “Disciplinary Committee” or “Inquiry Committee” in this Act before it is amended in 1992 by Act A812 must be construed as a reference to the term “Disciplinary Board” pursuant to the amendment—see *Legal Profession (Amendment) Act 1992 [Act A812] s.2(2)*.

- (e) when having been suspended from practice or having had his name removed from the Roll or struck off the Roll the period of suspension has expired or his name has been restored to the Roll, as the case may be;
- (f) whilst he is an undischarged bankrupt or a receiving order in bankruptcy is in force against him;
- (g) after having been adjudicated a bankrupt and obtained his discharge or after having entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors;
- (h) after having had an order of committal or an order for the issue of a writ of attachment made against him.

(2) In any of the circumstances mentioned in subsection (1), the applicant shall, unless a Judge or the Bar Council otherwise orders, give to the Bar Council not less than four weeks before his application for a Sijil Annual notice of his intention to apply there for and the Bar Council may in its discretion—

- (a) issue a Sijil Annual; or
- (b) notify the applicant that he is required to make an application under section 34.

Applicant to apply to Court

34. (1) An advocate and solicitor who is required to make an application under this section or any advocate and solicitor who is dissatisfied with the refusal, neglect or delay in the issue to him of a Sijil Annual may apply to a Judge by originating summons for an order directing the Bar Council to issue him with a Sijil Annual.

(2) A Judge hearing an application under this section may make an order for the payment of costs by or to either the Bar Council or the applicant as he considers fair and reasonable.

PART IV

PRIVILEGES OF ADVOCATES AND SOLICITORS

Right of advocate and solicitor

35. (1) Any advocate and solicitor shall, subject to this Act and any other written law, have the exclusive right to appear and plead in all Courts of Justice in Malaysia according to the law in force in those Courts; and as between themselves shall have the same rights and privileges without differentiation.

(2) Nothing herein contained shall affect the right which is hereby declared of—

- (a) legal officers, whose duties so require them to do, and qualified persons appointed temporarily to perform the duties of legal officers to appear and plead on behalf of the Government in the Courts;
- (b) the *Public Trustee, Director General of Insolvency, *Assistant Public Trustees and †Insolvency Officers to appear and plead in the Courts under any written law relating to such offices; and
- (c) existing pleaders.

Advocate and solicitor to have name on the Roll before practice

36. (1) Subject to this section, no person shall practise as an advocate and solicitor or do any act as an advocate and solicitor unless his name is on the Roll and he has a valid practising certificate authorizing him to do the act; a person who is not so qualified is in this Act referred to as an “unauthorized person”.

(2) A Judge may, upon application made in Chambers by a Master at the commencement of the pupillage of the Master’s pupil, make an order that the pupil be permitted to appear on behalf of the Master or of the firm in which the Master is practising—

- (a) during the period of three months from the date of the order—
 - (i) before a Judge or a Registrar of the High Court, in Chambers;

*NOTE—Any references to the Public Trustee be constructed as the references to the Corporation—see subsection 43(3) of Public Trust Corporation Act [Act 532].

†NOTE—see section 70 Act A1197 which come into force on 1.10.2003.

- (ii) before a Sessions Court Judge or a Magistrate, in Chambers;
- (iii) before a Registrar of the Subordinate Courts,

to mention a case, including entering judgment in default, or to apply for bail or to take a consent judgment or order; and

- (b) at the expiration of the said period of three months in chambers in the High Court and in the Subordinate Courts and before any Magistrate, to conduct any cause or matter.

(3) The Judge shall make the order referred to in subsection (2) if he thinks it fair and reasonable to do so provided always that both the Bar Council and the State Bar Committee have been served with the application and have had an opportunity to be heard on the application.

(4) The period of pupillage shall commence on the date of the filing of the petition referred to in subsection 15(5).

(5) The Master of the pupil, the Bar Council or the State Bar Committee may apply at any time during the pupillage of any pupil to any Judge in Chambers for a variation or rescission of the order referred to in subsection (2) and the Judge shall make such order on such application as in all the circumstances seems to be in the best interest of the profession.

(6) Nothing in this section shall be construed to prevent a legal officer from performing any of his duties without holding a practising certificate or make a legal officer who has no valid practising certificate an unauthorized person.

No unauthorized person to act as advocate and solicitor

37. (1) Any unauthorized person who—

- (a) acts as an advocate and solicitor or an agent for any party to proceedings or in any capacity, other than as a party to an action in which he is himself a party, sues out any writ, summons or process, or commences, carries on, solicits or defends any action, suit or other proceedings in the name of any other person in any of the Courts in Malaysia or draws or prepares any instrument relating to any proceedings in any such Courts; or

- (b) wilfully or falsely pretends to be, or takes or uses any name, title, addition or description implying that he is duly qualified or authorized to act as an advocate and solicitor, or that he is recognized by law as so qualified or authorized,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two thousand five hundred ringgit or to imprisonment for a term not exceeding six months or to both.

(2) Without prejudice to the generality of subsection (1), any unauthorized person who either directly or indirectly—

- (a) draws or prepares any document or instrument relating to any immovable property or to any legal proceedings or to any trust; or
- (b) takes instructions for or draws or prepares any document on which to found or oppose a grant of probate or letters of administration; or
- (c) draws or prepares any document or instrument relating to the incorporation or formation of a limited company; or
- (d) on behalf of a claimant or person alleging himself to have a claim to a legal right writes, publishes or sends a letter or notice threatening legal proceedings other than a letter or notice that the matter will be handed to an advocate and solicitor for legal proceedings; or
- (e) solicits the right to negotiate, or negotiate in any way for the settlement of, or settles, any claim arising out of personal injury or death and founded upon a legal right or otherwise,

shall, unless he proves that the act was not done for or in expectation of any fee, gain or reward, be guilty of an offence under this subsection.

(3) Any unauthorized person who offers or agrees to place at the disposal of any other person the services of an advocate and solicitor shall be guilty of an offence under this subsection:

Provided that this subsection shall not apply to any person who offers or agrees to place at the disposal of any other person the services of an advocate and solicitor pursuant to a lawful contract of indemnity or insurance.

(4) Every person who is convicted of an offence under subsection (2) or (3) shall, on conviction, be liable for the first to a fine not exceeding five hundred ringgit or in default of payment to imprisonment for a term not exceeding three months and for the second or subsequent offence to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(5) Any act done by a body corporate which if done by a person would be an offence under subsection (1), (2) or (3) or is of the nature or in the manner as to be calculated to imply that the body corporate is qualified, or recognized by law as qualified, to act as an advocate and solicitor shall be an offence under this section and the body corporate shall, on conviction, be liable for the first offence to a fine not exceeding one thousand ringgit and for the second or subsequent offence to a fine not exceeding three thousand ringgit and where the act is done by a director, officer or servant thereof the director, officer or servant shall, without prejudice to the liability of the body corporate, be liable to the punishment provided in subsection (4).

(6) Where any firm does an act which if done by a person would be an offence under subsection (1), (2) or (3) every member of the firm shall be deemed to have committed the offence unless he proves that he was unaware of its commission.

(7) Any person who does any act in relating to a contemplated or instituted proceeding in the High Court which act is an offence under this section shall also be guilty of a contempt of the Court in which the proceeding is contemplated or instituted and may be punished accordingly irrespective of whether he is prosecuted for the offence or not.

Certain persons can act as advocate and solicitor

38. (1) Section 37 shall not apply to—

- (a) the Attorney-General or the Solicitor-General or any other person acting under the authority of either of them;
- (b) the *Public Trustee, Director General of Insolvency, *Assistant Public Trustee and †Insolvency Officers acting in the course of their duties under any law relating to their offices;

*NOTE—Any references to the Public Trustee be constructed as the references to the Corporation—see subsection 43(3) of Public Trust Corporation Act [Act 532].

†NOTE—see section 70 Act A1197 which come into force on 1.10.2003.

- (c) any other public officer drawing or preparing instruments in the course of his duty;
- (d) any person acting personally for himself only in any matter or proceeding to which he is a party or acting solely for a company or organization which he serves as a full time paid employee in any matter or proceeding in which the company or organization is a party, but such person shall have no right to represent the company or organization in Court or in Chambers or attest documents for the company or organization which are required to be attested by an advocate and solicitor;
- (e) any *bona fide* and full-time employee of an insurance company negotiating for the settlement of or settling a claim made or contemplated against any person or body corporate in cases where the claim arising out of personal injury or death relates to a risk insured by that insurance company;
- (f) any arbitrator or umpire lawfully acting under any written law relating to arbitration, settling or attempting to settle the dispute between the parties to the arbitration;
- (g) any full-time member of the academic staff of the Faculty of Law of the University of Malaya acting solely in an advisory capacity upon instructions from a practising advocate and solicitor;
- (h) any accountant drawing or preparing documents in the exercise of his profession;
- (i) any proceeding before the Industrial Arbitration Court or the Syariah Court;
- (j) any person merely employed to engross any instrument or proceeding;
- (k) any approved company auditor drawing or preparing any instrument referred to in paragraph 37(2) (c) or which he is empowered to do under any written law relating to companies;

- (l) any agent duly authorized to the satisfaction of the Registrar of Trade Marks drawing or preparing documents in any matter relating to trade marks;
- (m) any full-time employee of an advocate and solicitor drawing or preparing any document under the authority of a practising advocate and solicitor and for the purposes of his employer.

(2) The words “document” and “instrument” in section 37 do not include a will or other testamentary documents.

Instrument and document to be endorsed

39. Every person who draws or prepares any instrument or document referred to in section 37 shall endorse or cause to be endorsed thereon his name and address or the name and address of his firm or the firm employing him and any such person omitting so to do or falsely endorsing or causing to be endorsed any of the instruments shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit.

No cost payable to unauthorized person

40. (1) No costs in respect of anything done by an unauthorized person as an advocate and solicitor or in respect of any act which is an offence under section 37 or 39 shall be recoverable by any person in any action, suit or matter.

(2) Any payment to an unauthorized person for anything done which is an offence under section 37 or 39 may be recovered in a Court of competent jurisdiction by the person who has paid the money.

PART V

MALAYSIAN BAR

Establishment of Malaysian Bar

41. (1) There is established a body corporate to be called the “Malaysian Bar”.

(2) The Malaysian Bar shall be a body corporate with perpetual succession and a common seal, and with power subject to this Act to sue and be sued in its corporate name and to acquire and dispose of property both movable and immovable and to do and to perform such other acts as bodies corporate may by law perform.

Object and powers of the Bar

42. (1) The purpose of the Malaysian Bar shall be—

- (a) to uphold the cause of justice without regard to its own interests or that of its members, uninfluenced by fear or favour;
- (b) to maintain and improve the standards of conduct and learning of the legal profession in Malaysia;
- (c) to facilitate the acquisition of legal knowledge by members of the legal profession and others;
- (d) where requested so to do, to express its view on matters affecting legislation and the administration and practice of the law in Malaysia;
- (e) to represent, protect and assist members or of the legal profession in Malaysia and to promote in any proper manner the interests of the legal profession in Malaysia;
- (f) to establish libraries and to acquire or rent premises to house the libraries and offices of the Malaysian Bar or amenities for the use of members either alone or in conjunction with any other body or society;
- (g) to protect and assist the public in all matters touching ancillary or incidental to the law;
- (h) to make provision for or assist in the promotion of a scheme whereby impecunious persons may be represented by advocates and solicitors;
- (i) to award prizes and scholarships and to establish and subsidise lecturership in educational institutions in subjects of study relating to law;
- (j) to grant pecuniary or other assistance to any association, institute, board or society in Malaysia in the interest of the legal profession or of the law students;

- (k) to afford pecuniary and other assistance to members or former members of the Malaysian Bar and to the wives, widows, children and other dependants, whether of members, former members or deceased members who are in need of any such assistance;
 - (l) to promote good relations and social intercourse amongst members and between members and other persons concerned in the administration of law and justice in Malaysia;
 - (m) to encourage, establish and maintain good relations with professional bodies of the legal profession in other countries and to participate in the activities of any local or international association and become a member thereof; and
 - (n) to establish a Compensation Fund.
- (2) In addition to any other powers given by this Act, the Malaysian Bar may—
- (a) purchase or lease any land or building required for any of the purpose of the Malaysian Bar;
 - (b) sell, surrender, grant, lease, exchange or alter any land or building as may be found most convenient or advantageous;
 - (c) borrow money whether by way of bank overdraft or otherwise for such of the purposes of the Malaysian Bar as the Malaysian Bar may from time to time consider desirable;
 - (d) make rules governing the manner of convening general meetings of the Malaysian Bar and the procedure thereat which rules shall be approved and may be amended by ordinary resolution at a general meeting of the Malaysian Bar; and
 - (e) do all such other things as are incidental or conducive to the achievement or betterment of the purposes of the Malaysian Bar.
- (3) In addition to any other rules that it may make under this Act the Malaysian Bar may make rules for giving effect to this Part.

Members of the Malaysian Bar and Subscriptions

Advocate and solicitors members of the Bar

43. Every advocate and solicitor shall without election, admission or appointment become a member of the Malaysian Bar and shall remain a member under this section so long as he has a valid practising certificate.

Eligibility of a member

44. All members who are not in arrears with their subscription under section 46 shall be eligible—

- (a) to attend and vote at any general meeting;
- (b) subject to section 46A, to be elected to the Bar Council; and
- (c) to vote on the election of members to the Bar Council.

Disqualification of a member

45. Any member of the Malaysian Bar on ceasing to be qualified for membership shall thereupon cease to be a member.

Annual subscription

46. (1) The amount of the annual subscription to be paid by members of the Malaysian Bar shall, subject to subsections (4) and (5), be fixed from time to time by the Bar Council.

(2) In fixing the amount of its subscription, the Bar Council shall be at liberty to divide members into classes, and to provide that different amounts shall be paid by different classes and for different periods and generally to regulate and to vary from time to time the subscriptions payable by members or by different classes of members, as the Bar Council may think fair and reasonable.

(3) The Bar Council may from time to time fix levies payable by members for any of the purposes of the Malaysian Bar.

(4) The total of the subscriptions payable under subsection (1), the levies payable under subsection (3) and the annual contribution

payable under section 80 shall not in any calendar year exceed three hundred ringgit for each member without the approval of two-thirds of the members present and voting in person at a general meeting of the Malaysian Bar.

(5) Liability to pay any annual subscription to the Malaysian Bar shall arise when the subscription has been fixed by the Bar Council. All annual subscriptions to the Malaysian Bar shall be paid by the 30 day of June of each year.

(6) An advocate and solicitor shall, if he pays his annual subscription after the date mentioned in subsection (5), pay to the Bar Council, in addition to the subscription due, an amount equivalent to the subscription so due.

*Disqualification for Membership of Bar Council,
Bar Committee, etc.*

Disqualification for membership of the Bar Council, a Bar Committee, or of any committee thereof

46A. (1) A person shall be disqualified for being a member of the Bar Council or a Bar Committee, or of any committee of the Bar Council or a Bar Committee—

- (a) unless he is and has been an advocate and solicitor for a period of not less than seven years, or for periods which in the aggregate amount to not less than seven years; or
- (b) if he is a member of either House of Parliament, or of a State Legislative Assembly, or of any local authority; or
- (c) if he holds any office in—
 - (i) any trade union; or
 - (ii) any political party; or
 - (iii) any other organization, body or group of persons whatsoever, whether or not it is established under any law, whether it is in Malaysia or outside Malaysia, which has objectives or carries on activities which can be construed as being political in nature, character

or effect, or which is declared by the Attorney General by order published in the *Gazette*, to be an organization, body or group of person which has such objectives or carries on such activities.

(2) An order made by the Attorney General under subparagraph 1(c) (iii) shall not be reviewed or called in question in any Court.

(3) Where a member of the Bar Council or a Bar Committee, or of any committee of the Bar Council or a Bar Committee, becomes disqualified under subsection (1), he shall immediately thereupon be deemed to have vacated his membership thereof and any office that he may hold therein.

The Bar Council

Establishment of Bar Council

47. (1) For the proper management of the affairs of the Malaysian Bar and for the proper performance of its functions under this Act there shall be a Council to be known as the Bar Council.

(2) The Bar Council shall consist of the following—

- (a) the immediate past President and Vice-President of the Malaysian Bar;
- (b) the chairman of each State Bar Committee and the members elected to represent each State Bar Committee pursuant to section 70(7);
- (c) members elected pursuant to section 50.

Period of holding office

48. Subject to this Act, every member of the Bar Council shall hold office for one year but shall be eligible for re-election.

Election of Members of the Bar Council Members

Election of Bar Council Members

49. (1) Every year at least one week before the month of October the Bar Council shall inform all members of the Malaysian Bar

that nominations for the election of the members of the Bar Council referred to in section 47(2)(c) may be made and must reach the office of the Malaysian Bar during the month of October.

- (2) Every nomination of a candidate for election—
- (a) shall be of a person qualified to be a candidate under this Act;
 - (b) shall be in writing signed by not less than three members;
 - (c) shall name only one candidate and his consent shall be endorsed thereon.

(3) The names of candidates for election nominated in accordance with subsection (1) shall be sent to or deposited at the office of the Malaysian Bar in the month of October in each year.

Annual election of Bar Council

50. (1) The annual election of members of the Bar Council referred to in section 47(2)(c) shall, subject to section 51, be by postal ballot.

(2) The Bar Council shall fix and publish during the first week of November in every year and notify every member of the Malaysian Bar by letter of—

- (a) the names of the candidates nominated for election in accordance with section 49;
- (b) the number of persons for whom each member is entitled to vote;
- (c) the last day for the return of the postal ballot which shall be the last day of November;
- (d) the address to which the postal ballot shall be returned;
- (e) the names of three scrutineers.

(3) The Bar Council shall at the same time also forward to every member a ballot paper containing the names of all the candidates nominated under section 49.

(4) All envelopes containing ballot papers received by the Bar Council shall be kept unopened and shall be delivered to the scrutineers on the first working day after the last day of November.

(5) The scrutineers shall count the ballots and declare to the Secretary of the Bar Council the persons elected not later than the end of the first week of December of each year and thereupon the Secretary of the Bar Council shall forthwith advise each State Bar Committee of the persons so elected.

(6) Any accidental failure on the part of the Bar Council to comply with this section or of any rules made with respect to elections to the Bar Council shall not invalidate an election.

When election deemed to be election

51. (1) If only so many candidates are nominated for election to the Bar Council as are required to be elected, those candidates shall be deemed to be elected; if fewer, the candidates nominated shall be deemed to have been elected and they together with the other members of the Council shall appoint such further members as may be necessary to satisfy the requirements of paragraph 47(2)(c).

(2) If no nominations are made for the election of members of the Bar Council the other members of the Bar Council shall appoint as members of the Council twelve persons qualified to be candidates under this Act.

(3) Members of the Council appointed under subsections (1) and (2) shall, for the purposes of this Act, be deemed to be elected members.

Bar Council when constituted

52. Every incoming Bar Council constituted under this Part shall take office on the conclusion of the annual general meeting next following and shall hold office until the conclusion of the annual general meeting in the following year.

Casual vacancy to be filled by qualified person

53. (1) Any casual vacancy arising amongst the elected members of the Bar Council shall be filled by the Bar Council by the

appointment of a person qualified under this Act, and the new member shall hold office for the remainder of the term of office of the member he replaces.

(2) Notwithstanding any vacancy in the Council the continuing members of the Council may act if there is a quorum; and no act done by or under the authority of the Bar Council shall be invalid in consequence of any defect subsequently discovered in the election or qualification of the members or any of them.

Officers

President, Vice-President and Secretary of the Bar

54. (1) There shall be a President, a Vice-President and a Secretary of the Malaysian Bar to be elected by the Bar Council from amongst its members; but no President, Vice-President or Secretary shall hold office for more than two consecutive years, and in the event of any casual vacancy arising in respect of the office of the President, the Vice-President or the Secretary of the Malaysian Bar, the Bar Council shall at its next meeting or as soon as may be thereafter elect one of its members to fill the vacancy.

(2) The President or in his absence the Vice-President shall be the Chairman of the Bar Council and shall preside at all meetings of the Bar Council and of the Malaysian Bar.

(3) In the absence of both the President and the Vice-President, the Bar Council shall elect a Chairman from amongst its members.

When a member of the Council to vacate office

55. A member of the Bar Council shall vacate his office if—

- (a) he is struck off the Roll or is suspended from practising as an advocate and solicitor; or
- (b) he becomes bankrupt or insolvent or enters into composition with any creditor or takes or attempts to take the benefit of any written law to liquidate his assets or affairs; or
- (c) he becomes of unsound mind; or
- (d) he resigns his seat on the Council; or