

THE ADVOCATES (AMENDMENT) BILL, 2003

A

Bill

Further to amend the Advocates Act, 1961 and the University Grants Commission Act, 1956;

Be it enacted in the Fifty-fourth Year of the Republic of India as follows:-

Short title and commencement

1. (1) This Act shall be called The Advocates (Amendment) Act, 2003.
- (2) It shall come into force on such date the Central Government may, by notification, in the official Gazette appoint.

Amendment of section 2.

2. In section 2 of the Advocates Act, 1961 (hereinafter referred to as the principal Act), in sub-section (1)-

(i) after clause (d), the following clause shall be inserted, namely:-

“(da) ‘Bar Council Legal Education Committee’ means, the ‘Legal Education Committee of the Bar Council of India’ constituted under clause (b) of sub-section (2) of section 10;”

(ii) after clause (n), the following clauses shall be inserted, namely:-

(o) ‘University Grants Commission’ means, the University Grants Commission, constituted under sub-section (1) of section 4 of the University Grants Commission Act, 1956;

(p) ‘University Grants Commission Legal Education Committee’ means, the Legal Education Committee, constituted under section 5A of the University Grants Commission Act, 1956”.

Amendment of section 6

3. In section 6 of the principal Act, in sub-section (1), for clause (gg),the following clause shall be substituted, namely:-

“(gg) to visit and inspect any University which confers a degree in law or a Department of law of a University or a law college affiliated to a University, in accordance with the directions given under sub-section(2) of section7B;”

Amendment of section 7

4. In section 7 of the principal Act, in sub-section (1) –

(a) for clause (h), the following clauses shall be substituted, namely:-

“(h) to promote *legal education* and lay down standards of such education in accordance with the recommendations of the Bar Council Legal Education Committee arrived at in the manner specified in section 10AA , including in the matter of-

- (i) the prescription of standards relating to curriculum, admission of students, appointment and qualification of teachers;
- (ii) the appointment of adjunct teachers from the Bar and from among the retired judges;
- (iii) the prescription of conditions of service of the law teachers;
- (iv) the prescription of student-teacher ratio;
- (v) the laying down of guidelines for adopting different teaching methods;
- (vi) specifying the conditions as to the location of law colleges, infrastructure, library and management;
- (vii) promoting excellence in legal education for the purposes of the accreditation scheme if any, introduced by the University Grants Commission;
- (viii) promoting alternative dispute resolution as a subject of academic study in the law schools for students;
- (ix) promoting continuing education on alternative dispute resolution for legal practitioners;

(ha) to ensure that sufficient practical training is imparted to candidates seeking to enroll at the Bar, by way of attachment to legal practitioners and also to prescribe for matters relating to the conduct of Bar examination for such candidates in accordance with the provisions of clause (d) of subsection (1) of section 24”;

(b) for clause (i), the following clause shall be substituted, namely,

“(i) to recognize universities whose degree in law shall be a qualification for enrolment as an advocate or to de-recognise such University or to issue direction to any University to disaffiliate a law college in consultation with the Bar Council Legal Education Committee ”

(c) after clause (ic), the following clauses shall be inserted, namely:-

“(id) to grant permission to a law department of a University or a law college for imparting instruction in course of study in law for enrolment as an advocate, or to withdraw such permission in consultation with the Bar Council Legal Education Committee.

(ie) to take such measures to facilitate the establishment of institutions by the Central Government for continuing legal education for law teachers;

(if) to take measures for raising the standards of teaching in law in consultation with the Central Government, the State Governments and the University Grants Commission;

(ig) to create awareness of the latest trends in legal education by establishing legal education libraries at the offices of the Bar Council of India and all State Bar Councils and Universities and in law colleges;”

Insertion of new sections 7A to 7C

5. Section 7A of the principal Act, shall be renumbered as section 7D thereof and before section 7D as so renumbered the following sections shall be inserted, namely:-

Prior permission of Bar Council of India.

“7A. (1) No law college or a law department of a university or any other institution, after the commencement of the Advocates (Amendment) Act, 2003, shall offer or impart instruction in a course of study in law which will lead to enrolment as an advocate, and no student shall be admitted to any such course unless prior permission for starting such course has been granted by the Bar Council of India.

Provided that any permission or approval for its affiliation given by the Bar Council of India under the Bar Council of India Rules, prior to the commencement of the Advocates(Amendment) Act, 2003, shall be deemed to be a permission granted under this sub-section.

- (2) No law college or a law department of a University or any other institution shall continue to impart instruction in a course of study in law leading to enrolment as an Advocate, and no student shall be admitted thereto if the permission granted under sub-section (1) has been withdrawn by the Bar Council of India.
- (3) Any fees or amount by whatever named called collected from any person towards admission in violation of the provision of sub-section (1) and (2) shall be refunded.
- (4) Any violation of provision of sub-sections (1) and (2) shall be an offence punishable under section 45A.

Inspection of Law Colleges and Universities

7B. (1) The Bar Council of India may, for the purpose of granting recognition, permission or for ascertaining whether standards of legal education are maintained, visit or inspect any-

- (i) University which confers a degree in law;
- (ii) Department of law in a University;
- (iii) Law college affiliated to a University.

(2) Without prejudice to the provisions of sub-section (1), the Bar Council of India may also direct the State Bar Councils to visit or inspect any such University, Department or Law College referred to in that sub-section for the purposes specified in that sub-section and submit a report.

Task Force

7C. (1) Where there is a difference of a substantial nature in the reports submitted by the Bar Council under section 7B and the report submitted by the University Grants Commission and the reports relate to a University or Department of a University, a further inspection shall be done by a Task Force comprising of –

- (i) two members nominated by the Bar Council of India;
- (ii) two members nominated by the University Grants Commission;
- (iii) one Judicial Officer in the service of the State to be nominated by the Chief Justice of the State concerned.

(2) Where there is a difference of substantial nature in the reports submitted by the Bar Council under section 7B and the report submitted by the University and the reports relate to a law college which is affiliated to it , a further inspection shall be done by a Task Force comprising of –

- (i) two members nominated by the State Bar Council;
- (ii) two members nominated by the University concerned;
- (iii) one Judicial officer in the service of the State, to be nominated by the Chief Justice of the State concerned.

(3) The Bar Council of India shall consider the other reports in the light of the Report of the Task Force and take a decision in accordance with the provisions of this Act.”

Amendment of section 10

6. In section 10 of the principal Act,

(A) in sub-section (2), for clause (b), the following clause shall be substituted, namely:

“(b) a Legal Education Committee of the Bar Council of India consisting of-

- (i) five members, to be elected by the Bar Council of India from among its members;
- (ii) one retired Judge of the Supreme Court, to be nominated by the Chief Justice of India, who shall be the Chairperson;
- (iii) one member to be nominated by the Chief Justice of India from amongst a retired Chief Justice of a High Court or a retired Judge of a High Court;

(iv) three members of the Legal Education Committee of the University Grants Commission to be nominated by the University Grants Commission;

(v) the Attorney General of India, who may, at his option or at the invitation of the Chairman of the Legal Education Committee of the Bar Council of India, attend any meeting of the Committee and when he attends, he shall be entitled to vote.”

(B) after sub-section (2), the following sub-sections shall be inserted, namely:-

“(2A) All questions which come up before any meeting of the Bar Council Legal Education Committee shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes ,the Chairman shall have and exercise a second or casting vote.

(2B) The Bar Council Legal Education Committee shall meet atleast once in every three months.”

Amendment of section 10A

7. In section 10A of the principal Act, in sub-section (4), for the words, “every committee thereof except the Disciplinary Committees ”, the words “every committee thereof except the Bar Council Legal Education Committee and the Disciplinary Committees”, shall be substituted.

Insertion of new section 10 AA

8. After section 10A of the principal Act, the following section shall be inserted, namely:-

Consultation procedure by the Legal Education Committee of the Bar Council of India:

“ 10AA. The procedure for consultation under clause (h) of sub-section (1) of section 7, shall be as follows, namely:-

- (a) in respect of proposals relating to standards of professional legal education, the Bar Council Legal Education Committee, shall first consult the State Bar Councils and arrive at provisional proposals and the same shall be communicated to the University Grants Commission Legal Education Committee for its views on such proposals.

- (b) after receiving the views of the University Grants Commission Legal Education Committee, the Bar Council Legal Education Committee , shall consider the same and arrive at its final decision.
- (c) the final decision of the Bar Council Legal Education Committee, arrived at under clause (b) shall be enforced by the Bar Council of India and shall be binding on all universities and all law colleges affiliated to universities, in so far as they relate to standards of legal education necessary for students to get enrolled at the Bar for practicing the profession of law;
- (d) the University Grants Commission Legal Education Committee may send any proposal in regard to the matters referred to in clause (a) for consideration of the Bar Council Legal Education Committee;
- (e) if any proposal is received under clause (d) from the University Grants Commission Legal Education Committee, the procedure specified in clauses (a) to (c) shall be followed by the Bar Council Legal Education Committee.
- (f) the standards of legal education as may be finalized under this section shall be the minimum standards necessary for students to get enrolled at the Bar for practicing the profession of law in Courts.”

Amendment of section 24

9. In section 24 of the principal Act, in sub-section (1), after clause (c), the following clause shall be inserted, namely:

“(d) after obtaining a degree in law recognized under clause (i) of sub-section (1) of section 7, he has undergone a course of training by way of attachment to a legal practitioner of more than ten years’ standing, for such duration not less than one year and has qualified at the Bar Examination in such manner as may be prescribed by the Bar Council of India”.

Amendment of section 24A

10. In section 24A of the principal Act, in sub-section (1),in clause (c)-

(a) for the words, “employment or office under the State”, the words “employment or office”, shall be substituted;

(b) the Explanation and the proviso shall be omitted.

Insertion of new section 45A

11. After section 45 of the principal Act, the following section shall be inserted namely:-

Penalty for imparting instruction without prior permission from the Bar Council of India.

“45A (1) After the commencement of the Advocates (Amendment) Act, 2003, if any person, including any institution, company, society, trust or body contravenes the provisions of sub-sections (1) and (2) of section 7A, he shall be punished with simple imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both.

(2) The offence mentioned under sub-section (1) shall be tried by the Metropolitan Magistrate or Judicial Magistrate of first class, as the case may be.

(3) Where an offence mentioned under sub-section(1) is committed by any institution, company, society, trust or body , every person who at the time the offence was committed, was in charge of and was responsible for the conduct of the affairs of such institution, company, society, trust or body as well as the institution, company, society, trust or body shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.”

Amendment of section 49

12. In section 49 of the principal Act, in sub-section (1)-

(i) after clause (ah), the following clauses shall be inserted, namely:-

“(ai) the period of training and conduct of Bar examination and matters relating thereto under clause (ha) of sub-section (1) of section 7 and clause (d) of sub-section (1) of section 24;

(aj) the procedure regarding recognition and de-recognition of such universities as referred to in clause (i) of sub-

section(1) of section 7 and the procedure regarding the issuing of direction to a university to disaffiliate a Law college;

(ak) the procedure regarding granting permission to impart instruction to law colleges, law department of university or any other institution and the procedure regarding withdrawal of such permission as referred to in clause (id) of sub-section (1) of section 7.”

(ii) for clause (d), the following clause shall be substituted, namely:-

“ (d) the standards of legal education as referred to in clause (h) of sub-section (1) of section 7 to be observed by the universities and the Law Colleges affiliated to the universities and the manner of inspection of such universities and Law Colleges, as referred to in section 7B and section 7C.”

Amendment of Act 3 of 1956

13. In the University Grants Commission Act, 1956, after section 5, the following section shall be inserted, namely:-

Legal Education Committee of the University Grants Commission

“5A (1). The Commission shall constitute a Legal Education Committee of the University Grants Commission consisting of ten members of whom-

- (a) six shall be law teachers of the rank of Professor, Dean or Principal holding office as such or others of equal rank;
- (b) two shall be retired law teachers of the rank of Professor, Dean or Principal or others of equal rank;
- (c) two shall be Vice-Chancellors or Directors of law universities established by statute.

(2) The University Grants Commission Legal Education Committee shall represent all the universities and law colleges for purpose of clause (h) of sub-section (1) of section 7 of the Advocates Act, 1961.

(3) The University Grants Commission shall nominate-

- (a) two law teachers in office from among the six members referred to in clause (a) of sub-section(1);

(b) one member from among the category referred to in clause (c) of sub-section (1),

to be members of the Bar Council Legal Education Committee for the purpose of sub-clause (iv) of clause (b) of sub-section (2) of section 10 of the Advocates Act, 1961 (Act 25 of 1961).”