

THE MAURITIUS BAR ASSOCIATION ACT 1957

Act 37/1957

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1. Short title

This Act may be cited as the Mauritius Bar Association Act.

2. The Mauritius Bar Association

(1) There is established for the purposes of this Act the Mauritius Bar Association which shall be a body corporate.

(2) Every barrister shall be a member of the Association.

Amended by [\[Act No. 8 of 2008\]](#)

3. Objects of the Association

(1) The objects of the Association shall be -

- (a) the safeguard, maintenance and promotion of the interests of the Mauritius Bar;
- (b) the upholding of the honour, dignity, reputation and independence of the members; and
- (c) the furtherance of the interests of members in connection with the practice of their profession.

(2) In pursuance of its objects, the Association may consider all matters generally affecting the Mauritius Bar and its members and take such measures as it thinks fit in relation thereto and, in particular, concerning-

- (a) the encouragement of the study of jurisprudence and legal education in furtherance thereof;
- (b) the improvement of the administration of justice in Mauritius;
- (c) the promotion and support of law reform;
- (d) the maintenance and observance of professional conduct and etiquette;
- (e) the furtherance of good relations between –
 - (i) the branches of the legal profession;
 - (ii) the Mauritius Bar and members of the public;
 - (iii) the Mauritius Bar and members of the legal profession in other countries;
- (f) the safeguard of the right of access to the courts of Mauritius for members of the public and their representation by counsel before such courts and other tribunals;
- (g) the affiliation of the Association to any similar association or society in the United Kingdom and the delegation of representatives of the Association thereto; and
- (h) any action to be taken against any barrister for breach of professional conduct and etiquette and its notification to the Attorney-General.

4. -

5. Bar Council

- (1) For the purpose of managing the affairs of the Association in the furtherance of its objects and exercising any of the powers conferred on the Association under this Act, there is established a Bar Council, in this Act; referred to as the Council, which shall consist of 7 members elected by the Association, 2 of whom shall be barristers of at least 10 years standing.
- (2) The chairman shall be elected from among members of the Council and shall be the ex officio President of the Association.
- (3) (a) Subject to paragraph (b) and notwithstanding any vacancy occurring in the number of members but subject to that number being not less than 3, the Council shall be deemed to be duly constituted.

- (b) The Council may, where it thinks fit, on the occurrence of any vacancy, appoint another member of the Association to fill the vacancy subject to the appointment being agreed to by all the members of the Council.

Amended by [\[Act No. 14 of 2018\]](#)

6. Election of members to Council

The election of members of -the Council shall take place at the Annual General Meeting of the members of the Association to be held once a year as provided for by rules of the Association to be made under this Act.

7. Tenure of office

- (1) Subject to subsection (2), a member of the Council shall remain in office until the next Annual General Meeting of the members of the Association after his election.
- (2) Tenure of office shall terminate on resignation, cesser of practice at the Bar or removal from the Council as provided in this Act.

8. Office bearers

- (1)
 - (a) Subject to paragraph (b), the Council shall, as soon as may be after its election, appoint from among its members, a secretary and a treasurer of the Association.
 - (b) The Council may, where it thinks fit, appoint the one and same person to hold office as secretary and treasurer of the Association.
- (2) The members of the Council shall hold office until the next Annual General Meeting of the members of the Association.

9. Rules

The Council may make rules -

- (a) regulating the general management and affairs of the Association;
- (b) for the election of members to sit on the Council;
- (c) for the raising of funds for the objects of the Association, the charging of subscription fees for the membership and any incidental matters;
- (d) regulating the proceedings, of the Council;
- (e) for the disposal of any fund or other money of the Association towards the payment of any expense which may have been incurred in promoting any object of the Association and any matter incidental thereto;

- (f) for the holding of meetings of the Association and of the Council and the transaction of business at such meetings; and
- (g) generally for the purposes of this Act.

10. Accounts

The treasurer shall keep the accounts of the Association and all the accounts shall, at all reasonable times, be open to inspection by any person having an interest in the funds of the Association.

11. Audit

- (1) All accounts and books of the Association shall be audited at least once a year as soon as may be after the closing of the financial year on 31 December every year by 2 auditors to be appointed in that behalf by the members of the Association at their Annual General Meeting.
- (2) An auditor appointed under subsection (1) may be removed and replaced on a vote carried by the members of the Association at any general meeting.

12. Professional etiquette

Every barrister shall -

- (a) pending the prescription of a code of ethics for barristers by the Council of Legal Education, observe and practise the code of professional etiquette of barristers of the High Court in England;
- (b) thereafter comply with the code of ethics so prescribed.

Amended by [\[Act No. 29 of 1992\]](#)

13. Breach of etiquette

- (1) The Council may investigate any report made to it regarding an alleged breach of etiquette by a barrister and may, subject to subsections (2) and (3), determine that the barrister shall be reprimanded or severely reprimanded.
- (2) The Council shall -
 - (a) attempt to reach an amicable solution between the parties concerned by a report under subsection (1);
 - (b) afford any barrister who is the subject of a report under subsection (1) an opportunity to be heard.
- (3) Where, upon receipt of a report under subsection (1), it appears to the Council, after such preliminary investigation as it thinks fit, that there is a

prima facie case of a serious breach of etiquette by a barrister, it shall refer the matter for determination by the Supreme Court.

- (4) The Council may determine that any member of the Association who has been sanctioned for a breach of etiquette shall be suspended or removed from membership of the Association.
- (5) Any barrister may, within 21 days from the date on which a decision under subsection (1) or (4) is communicated to him, by written notice addressed to the Secretary of the Association, appeal against the decision to a Special General Meeting of the members of the Association to be convened for that purpose by the Secretary within 21 days.
- (6) For the avoidance of doubt, this section shall, pursuant to section 86 of the Constitution, not apply to a law officer under the Law Officers Act.

Amended by [\[Act No. 29 of 1992\]](#); [\[Act No. 14 of 2018\]](#)

14. Legal proceedings

In any action, suit or prosecution by or against the Association, the Association shall appear by the secretary and service of all judicial or extra judicial process served upon the secretary shall be good and sufficient service upon the Association.

15. Deeds to be signed

Every document relating to the Association shall be signed by the chairman and the secretary.

16. Donations and legacies

Article 910 of the Code Napoléon shall not apply to the Association.

17. Exemption from duty

The Association shall be exempt from payment of any duty on donations and legacies received by it.

SCHEDULE

(Section 9)

1. Short title.

These Rules may be cited as the Mauritius Bar Association Rules, 1957.

2. Interpretation.

In these Rules, unless the context requires-

“Annual meeting” means the annual general meeting of the members of the Association;

“Chairman” means the Chairman of the Council;

“Member” means a member of the Association;

“Secretary” and “Treasurer” mean the Secretary and Treasurer respectively of the Association;

“Special meeting” means a general meeting of the members of the Association other than the annual general meeting;

“Subscription” means the annual subscription fees payable by members;

“Year” means the twelve- months commencing on the first of January and terminating on the 31st December next succeeding and the expression “financial year” shall be construed accordingly.

3. Annual and Special Meetings

(1) (a) Annual meetings shall be held, on such date and at such time and place as the Council shall appoint, once in the month of January every Year.

(b) Special meetings shall be held at such other times and places as the Council may, either when required so to do by not less than ten members or at their discretion, in that behalf appoint.

(2) Annual meetings or special meetings shall be convened by notices addressed by the Secretary to members not less than fifteen clear days prior to the date appointed for the holding of any such meetings:

Provided that no meeting shall be held to be invalid through any member having failed to be posted with such notice.

(3) Any member wishing to raise any matter at any annual meeting may do so by way of motion, notice of which shall be given in writing to the Secretary not less than seven clear days before the date fixed for the holding of such meeting.

On receipt of such notice the Secretary shall, subject to the approval of the Chairman, cause a special notice of such motion to be posted forthwith to members.

(4) No matter other than such as shall have been set out on the convocation notice or special notice, as the case may be, shall be raised or discussed at any such meeting.

- (5) The quorum for any annual or special meeting shall be ten members, three of whom shall be members of the Council.

4. Chairman to preside over meetings

The Chairman or, in his absence, the Vice-Chairman, shall preside over any annual or special meeting:

Provided that in the absence of the Chairman and Vice-Chairman a Chairman shall be elected from among the members of the Council present.

5. Subscriptions shall be payable in advance by barristers on the roll of law practitioners according to the following rates -

	Rs
	Per year
(a) in the case of Queen's Counsel or Senior Counsel	7,500
(b) in the case of barristers other than those specified in paragraph (a) –	
(i) up to the end of the fifth year of their call	2,000
(ii) from the sixth year to the tenth year of their call	3,000
(iii) from the eleventh year of their call and thereafter	4,000

Amended by [\[GN No. 65 of 2009\]](#)

6. Admission of Members -Deleted by [\[Act No. 8 of 2008\]](#)

7. Honorary and temporary members

(1) It shall be lawful for the Council to admit to-

(a) honorary membership of the Association: any barrister considered by the Council to have been a benefactor to the Association;

(b) temporary membership of the Association:

any barrister or advocate of any country outside Mauritius being a visitor to Mauritius, for a period not exceeding six months.

- (2) Honorary or temporary members shall enjoy the settle rights and privileges as are vested in and enjoyed by members:

Provided that no honorary or temporary member may take part in any vote, propose any member for election to the Council or be elected to serve thereon.

- (3) No Subscription shall be paid by honorary and temporary members.

Amended by [\[GN No. 54 of 1968\]](#)

8. Election of Members to serve on Council. Voting papers

The election of members to serve on the Council shall take place at the annual meeting.

9. Voting papers

- (1) Voting papers shall be substantially in the form set out in the Appendix to these rules.
- (2) For the purpose of the ballot the Secretary shall give to each member present at the annual meeting a voting paper.
- (3) Every member shall on receipt of any voting paper mark thereon the name of the member whom he wishes, to be elected as Chairman of Council as well as the names of five other members whom he wishes to be elected to serve on such Council.
- (4) The voting paper shall be folded so as to conceal the votes and shall be handed over to the Secretary.

10. Voting by absent members

- (1) Any member who is unable to attend the annual meeting may apply to the Secretary at least ten days before such meeting.
- (2) The member to whom a voting paper is sent pursuant to the preceding paragraph shall mark it in the manner indicated in paragraph (3) of the preceding rule and forward it to the Secretary under sealed cover by registered post so as to reach him at least one clear day before the annual meeting.
- (3) The election of the Council shall not be invalidated by reason of any voting paper failing to reach any member before the holding of such election.

11. Counting of votes

The Chairman shall appoint two members present at the annual meeting as scrutineers for the purpose of counting the votes and making a return to him of those members who shall have been elected to serve on the Council as Chairman and members respectively.

12. Validity of election

The validity of any election or of any vote given thereat or of any matter connected therewith shall be determined by the Chairman and his decision on the matter shall be final and conclusive:

Provided that in the event of any two or more members polling an equal number of votes at an election the members present at the meeting at which such election shall be held shall determine which of such members shall be deemed to have been elected.

13. Return to be posted

A return of the members elected to serve on the Council as Chairman and members thereof duly signed by the Chairman presiding over the annual Meeting at which such election shall have been held shall, after announcement of the results of the election, be posted up as soon as may be after such election in the Library of the Supreme Court and at such other place as the Chairman shall think fit to appoint for the purpose.

14. Purpose and duties of Office Bearers

- (1) The Secretary shall-
 - (a) keep every book, other than such books as are required to be kept by the Treasurer, register, deed or document relating to the Association and have the custody thereof;
 - (b) record the minutes of proceedings of any meeting of members, annual or special, or of any Council meeting and cause such minutes to be read and confirmed at the next subsequent meeting, annual or special, or Council meeting, as the case may be; and
 - (c) keep a list of members and additions to and alterations in, such list shall be made from time to time as is required.
- (2) In the absence of the Secretary from any meeting, annual or special, or of the Council, the Chairman or other member presiding over such meeting shall appoint any member to act as Secretary for such meeting.
- (3) The Treasurer shall be charged with the control, collection and receipt of monies on behalf of the Association and shall, *inter alia*-
 - (a) collect subscriptions and any debt which may be or become due to the Association and give receipt therefor;
 - (b) keep the accounts of the Association;
 - (c) pay into the account of the Association at any bank any sum of money he may have received on account or on behalf of the Association by cheque or otherwise;

- (d) subject to the approval of the Chairman, pay out such sum as may be due by the Association on presentation of any valid claim in that behalf;
- (e) draw up a quarterly list of such payments and cause it to be laid before the Council;
- (f) keep books showing the assets and liabilities of the Association as well as the expenditure and revenues thereof for the current year;
- (g) draw the accounts of the Association and cause them to be submitted for approval by the members at the annual meeting; and
- (h) on or before the first day of January in every year by notice in writing claim from members such subscriptions as may be due to the Association in respect of that year.

15. Council meetings

- (1) The Council shall meet at such time and place as the Chairman or, in his absence, the Vice-Chairman, shall in that behalf appoint:

Provided that upon receipt of a written request signed by not less than two members of such Council the Secretary shall, subject to the approval of the Chairman, convene a meeting of the Council to be held at such place and time as the Chairman shall appoint.

- (2) Four clear days' notice shall be given to each member of the Council except as otherwise directed by the Chairman.
- (3) In the absence of the Chairman and the Vice-Chairman, the senior member of the Council present shall take the chair at any such meeting.
- (4) The quorum of the Council shall be three.
- (5) No business other than such as shall have been borne by the convocation notice shall be discussed by the Council at any meeting unless otherwise ordered by the majority of the members present at such meeting.
- (6) Where at any meeting of the Council duly convened under this rule there shall be no quorum the meeting shall, after fifteen minutes shall have elapsed from the time appointed for such meeting, stand adjourned to a day to be appointed by the Chairman.

16. Agenda

Any member of the Council wishing to bring any matter for consideration by the Council at any meeting thereof shall give written notice in that behalf to the Secretary not less than four clear days before the holding of such meeting.

17. Resolution of the Council

No resolution passed by the Council at any of their meetings shall be rescinded except by a resolution passed in that behalf by a majority of two-thirds of the members of the Association present and voting at an annual or special meeting.

APPENDIX

THE MAURITIUS BAR ASSOCIATION RULES, 1957

(Rule 9)

VOTING PAPER

*To serve as Chairman of the Council	Mr
*To serve as members of the Council	Mr
	Mr.....
	Mr.....
	Mr

*Two of the six persons to be elected must be Counsel of at least ten years' standing.