

MAURITIUS BAR ASSOCIATION ACT

Act 37 of 1957 – 23 December 1957

ARRANGEMENT OF SECTIONS

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MAURITIUS BAR ASSOCIATION ACT

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, referred to as “the Association” in this Act, which shall be a body corporate.

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

[S. 2 amended by s. 11 (1) of Act 8 of 2008 w.e.f. 15 December 2008.]

3. Objects of 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; and
 - (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 the Attorney-General and 5 other members elected by the Association, 2 of whom shall be barristers of at least 10 years’ standing.

(2) The Chairperson 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.

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, ceasing to practise 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; and
- (b) thereafter comply with the code of ethics so prescribed.

[S. 12 amended by Act 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); and
- (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.

[S. 13 amended by Act 29 of 1992.]

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 extrajudicial 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 Chairperson and the Secretary.

16. Donations and legacies

Article 910 of the Code Civil Mauricien 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.
