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भारतीय विधिज्ञ परिषद्
BAR COUNCIL OF INDIA

(Statutory Body Constituted under the Advocates Act, 1961)
21, Rouse Avenue Institutional Area, New Delhi - 110 002

BCI:D:1:2017(LE/Circular No. 1)

2nd January, 2017
New Delhi

TO

All the Vice Chancellors and
All the Registrars of the Universities
Imparting legal education

Sub: Rules of Legal Education (First Amendment) Rules, 2016 including the issue of granting of equivalence to postgraduate and other higher qualification/s in Law from foreign Universities including one year LL.M degree.

Sir/Madam

Kindly go through the attached draft of the Rules of Legal Education (First Amendment) Rules, 2016. It is also contains rules relating to the issue of granting of equivalence to postgraduate and other higher qualification/s in Law from foreign Universities including one year LL.M degree so that they can be considered equivalent to the corresponding degree (s) awarded by Universities in India, for the purposes of further higher studies and employment.

The office of the Bar Council of India is directed to send the attached draft rules to the Universities for their views and comments. After receiving the views and comments from your end, the matter may be placed for consideration before the Bar Council of India.

Therefore you are requested to send your comments and views to the Bar Council of India positively within a period of 15 days of receipt of this letter in order of enable of the Bar Council of India to take a final decision in this matter.

Yours sincerely

Srimanto Sen

(Srimanto Sen)
SECRETARY

BAR COUNCIL OF INDIA
Rules of Legal Education (First Amendment) Rules, 2016

These Rules of Legal Education(First Amendment)Rules, 2016 are inserted as Chapter VII to XI as notified under Section 7(1)(h) and Section 49 (1)(d) of the Advocates Act, 1961, to stipulate minimum standard qualification of the faculty to be appointed by any Centre for Legal Education comprising University Law Schools, Affiliated Law Schools, or any Law College run privately or as public institution to teach in any Unitary or Double degree Law course or both, and also rules to determine equivalence of degrees awarded by any foreign University, which is recognized by the Bar Council of India for the purpose of studying as a requisite condition for enrolment and on matters incidental thereto.

CHAPTER VII

General provision

[Rule 48] Name of the amending Rules and date of application: These Amending Rules shall be known as Bar Council of India Legal Education Rules, 2008 (First Amendment), 2016.

These First Amendment Rules shall come into force as and when notified by the Bar Council of India.

These Rules shall be inserted as Rule 48 to Rule 53 in Chapter VII of the Legal Education Rules, 2008.

[Rule 49] Insert the following terms in the Rule 2 on Definition in the main body of the Rules:

(iia) Assistant Professor shall mean an Assistant Professor appointed as such with such prescribed qualification in the subject concerned and in such appropriate scale of pay as prescribed by the University Grants Commission from time to time.

(iib) Associate Professor shall mean an Associate professor appointed as such with appropriate qualification and experience in the appropriate subject and in such a scale of pay as prescribed by the University Grants Commission from time to time.

(va) Core Faculty shall mean and include as stipulated in Rule 50.

(viia) Faculty staff shall mean and include all faculty members with teaching assignment in whatever capacity;

(xva) Lecturer appointed as such for temporary, term, full time or part time assignment but cannot be considered as regular assignment in the absence of any such regular position in the teaching faculty under UGC/MHRD rules, by the authority on such pay and allowances as may be agreed upon.

(xxia) Professional (Teaching) assistant/associate appointed as such on full time basis upon such term, pay and allowances as may be agreed upon.

(xxib) Professor shall mean a Professor appointed as such with such qualification and experience in the appropriate subject and placed in such appropriate scale of pay as prescribed by the University Grants Commission from time to time.

CHAPTER VIII

Core & Total Faculty strength

Rule 50: Core Faculty strength: Notwithstanding whatever has been stipulated in any provision of the Legal Education Rules, 2008 and Schedules thereunder Core Faculty shall comprise the essential strength at any given time, but for which the Bar Council of India may not permit the sanction of the Legal Education Centre affiliated to any University and the core faculty shall comprise essential full time faculty members based on the following calculation as laid down below and on the basis of at least one whole time faculty member qualified and competent to teach all subjects/papers taught in the current semester/year in each section of the course:

(1) English Language: 1 post
(2) BA subjects: (There has to be at least 3 subjects to be offered)
Political Science: 1 post
Economics: 1 post
History: 1 post
Philosophy & Logic: 1 post
Psychology: 1 post
Sociology: 1 post
(3) B.Sc. Subjects: (At least three subjects to be offered)

Chemistry: 1 post
Life Science: 1 post
Mathematics: 1 post
Physics: 1 post
Psychology: 1 post

(4) B.Com/BBA Subjects (At least three subjects to be offered in each approved branch))
Accounts/Finance: 1 post
Behavioural Science including HR: 1 post
Business Economics: 1 post
Business Organizations: 1 post
Marketing: 1 post
Principles of Management: 1 Post

(5) Law Subjects: (all of the following as an when introduced at the initial years)
Constitutional & Administrative: I post
Contract & Commercial: 1 post
Corporate and Market regulatory: 1 post
Crime & Criminality: 1 post
International Laws: 1 Post
Labour & Industrial Law: 1 post
Other Public Laws & Family Laws: 1 post
Taxation laws including land-tax: 1 post
Clinical program: 1 post

However core in a three years' LL.B. course shall only have faculties for law subjects as mentioned in the above list. However Legal Education Centres in their initial years may not possess any faculty until the subject/paper is introduced.

Illustration: Suppose in case of new recognition a Legal Education Centre/College/University Faculty has only papers in Constitutional Law, Contract, Tort, and Law of Crime. It may not recruit any faculty staff for Corporate Law, Labour Law, International Law, and Taxation. Faculty for these subjects could be appointed when the subject/paper is introduced.

Provided that the appointment of core faculty shall not be calculated on the basis of any work-load as stipulated by the UGC from time to time and one

faculty is not to be shown for teaching more than one subject as per the above list.

Illustration: A faculty member appointed in Constitutional Law cannot be shown against Commercial Law or International Law or Criminal Law. Suppose in Constitution law subject there are only 12 periods are allotted in a week, his name cannot be put to teach Criminal Law for 6 hours.

Provided further that the core faculty shall not be based on the ratio of teacher-students as may be prescribed by the Bar Council of India, from time to time

Illustration 2: Suppose in a Legal Education Centre/college/Faculty of a University there are total 600 students, and suppose the ratio of faculty-students is stipulated as 1:20 Core Faculty shall not be calculated based on 600 to be divided with 20, giving the number of 30.

Rule 51: Total strength of the Faculty: Total faculty strength shall be calculated on the basis of:

(a)Core faculty;

(b)Work load per faculty member as may be prescribed by the UGC from time to time in case of full time faculty members including core faculty members and work-load of Part time/Visiting faculty members as may be agreed from time to time under the terms of agreement; and

(c)If an application is made for introducing Specialization/Honours course in any of the subject-area as stated above or any other subject-area not included in the above list of undergraduate course component, if required and Law Subjects enlisted above, there must be at least 3 posts in that subject/subject-area but for which, permission for introducing specialization/honours shall not be given.

Illustration: Suppose, honours is proposed in one LEC/Law College/Law School/Law Faculty/Law Department in Business Law, there has to be at least 3 full time faculty members (to meet the teaching load of 45-54 class hours per week) which may be supplemented by supporting teaching staff like, Teaching Assistant/ Part Time /Visiting Faculty, as the case may be.

Rule 52: Faculty-students ratio: It shall be endeavour of the University to maintain a faculty-student ratio in each of its affiliated/constituent colleges as

well as in its Faculty/School or Department not exceeding 1:20 on a continuous process and any failure over a period of three months shall be considered as a regulatory breach on which penalty may be imposed.

CHAPTER IX

Minimum Qualification of the Faculty staff

Rule 53: Minimum Qualifications required for teaching assignments:

For the purpose of appointing faculties in all Law Schools teaching Arts, Social Sciences, Humanities, Science, Commerce, languages, Law, Management, Engineering and Technology courses shall generally follow the minimum qualification for the recruitment of faculty at various stages, as prescribed by the University Grants Commission and in specific follow the following conditions:

(1)**For Assistant Professor** in Arts, Social Sciences, Humanities, Science, Commerce, languages, Law, Management, Engineering and Technology: **Essential qualification:** (i) at least 55% marks in the aggregate or equivalent Grade (such as, B+) or Cumulative Grade Point Average (CGPA) in a defined scale, ***Provided that*** LL.M. course with one year duration introduced by the UGC in [ ] and are allowed to be one of the minimum essential qualification for Assistant Professorship as at present, shall not be considered as one of the essential qualification unless supported by and supplemented with M.Phil. degree.

This proviso shall come into effect only after the same is notified and shall not apply to those who have completed the one year LL.M. course or entered into the course before the date of notification.

Provided that in case of Management Sciences, Engineering or Technology the minimum qualification shall be Master Degree in Management Science (with any abbreviation MBA, MCA, MMA, M.Sc. etc.) or in the Engineering or Technology(with any abbreviation of ME or M.Tech.) with First Class (at least 60% marks) or equivalent Grade (such as, 'A') or CGPA (such as 5 in 7 point scale or 6 in 10 point scale).

(ii) Good academic record in all public examinations throughout academic career having similar percentage of marks or Grade or Cumulative Grade Point Average in a given scale; and

(iii) Clearance of National Eligibility Test (NET) conducted by the UGC, CSIR or similar test accredited body by the UGC like SET/SLET, ***Provided that*** in case of Law, such a Test conducted by Bar Council of India for the purpose, if any, shall prevail.

However, in case a qualified faculty is not available or found suitable for a position of Assistant Professor in any subject, a Lecturer/Teaching Assistant with at least 3 years' experience may be considered if found suitable for the assignment, Provided that such an incumbent has to complete his/her research work and submit the thesis for his/her Ph.D. degree within 3 years during which period increment may not be given.

In case a qualified faculty is not available or found suitable for a position of Assistant Professor, an applicant may be offered the position of ***Lecturer/teaching Assistant*** for a period on such terms and conditions as may be mutually agreed upon.

(2) For an Associate professor

Essential qualification and experience: (i) Consistently good academic record leading to Ph.D. Degree in the concerned subject/specialization; (ii) a Consistently good academic record shall mean that in all public examination starting from School leaving Certificate till the Master degree in the subject with not less than 55% marks or with equivalent Grade or CGPA, in case of Management Science 60% or its equivalent Grade; (iii)A minimum of eight years teaching and/research experience in a position of Assistant Professor or equivalent, which shall not include years of research leading to Ph.D. degree; (iv) publication of at least five papers in peer group reviewed National and International journals and publishing books as evidence of academic contribution or creativity; and (v) a minimum score as stipulated in the Academic Performance Indicator (API) based on Performance based Appraisal System (PBAS) set out in UGC Regulations, 2010 in its annexure and put here in the Annexure [ ].

(3) For a Professor/Principal/Dean:

Essential qualification and experience: (i) same as in case of in case of Associate Officer; (ii)same as in case of Associate Professor; (iii) a minimum of 15 years of experience in teaching/research/academic administration in a University or/and in any of its affiliated College or/and Research Institute or

research Centre, wholly or in parts (iv) guided successfully at least two scholars for Ph.D. , and published at least eight papers in singular or as joint authorship in peer group reviewed national or international journals; (v) same as in the case of Associate Professor.

[Rule 54] Pay and allowances:

(a)Pay and allowances of regular faculty positions shall be as laid down by UGC for the time being in force.

(b) Pay and allowance for non-regular faculty positions appointment by way of contract shall be as mutually agreed upon.

Example: An Assistant Professor may be appointed in regular scale on the initial pay or with increments and allowances as allowed to State Government Staff or may be appointed on contractual terms for a contract period on such fixed pay as may be mutually agreed upon with or without allowances. A Lecturer/Professional Teaching/Research Assistant/Associate may be appointment at a fixed sum per month. A Lecturer may be appointed on contractual basis on a fixed sum as may be stipulated with or without allowances. A Visiting Professor is appointed as a lump-sum pay based on number of visits per month required. An adjunct Professor who has wide practical experience may be paid on monthly lump-sum, such as the initial pay of an Associate Professor without allowances. Part Time assignments may be paid per lecture basis. These illustrations are suggestive and not binding on the authority. The package may be fixed based on the requirement and policy adopted.

Explanation: regular faculty would mean the faculty comprising the regular whole time positions including core faculty. Other appointments on contract basis, whole time or part time, shall also increase the Faculty strength.

[Rule 55]Nature of appointment: (a) Composition of faculty shall comprise with various cadre positions as required under Rules. Appointment may be made on the basis of permanent on tenure track or contractual basis on terms and conditions as may be determined by the competent authority. Permanent cadre positions shall have UGC scale of pay.

(b) Centre for Legal Education may also invite senior academicians and retired Judge or District Judge to accept the assignment of Visiting Professorship on

such terms and conditions as may be mutually determined under the contract for service.

(c) Senior Legal Practitioners having at least 15 years' experience in the District Court or at the High Court may be invited to join as Part time lecturer/Professor as the case may be, on the basis of payment of honorarium per lecture or otherwise as may be prescribed by the competent authority and mutually agreed upon.

[Rule 56] Composition of the Selection Committee: The Selection Committee for faculty positions in law in each University and its centres for legal studies (affiliated institutions) shall comprise one expert member to be nominated by the Bar Council of India. The Bar Council of India may nominate one or more expert members, one of whom shall be invited by the University to attend to such selection committee meetings.

[Rule 57] Conditions of service or Service Rules: Whereas the University concerned including the affiliating University shall follow within its own Schools and affiliated institutions its own service rules, *inter alia,* including appointment/engagement of faculty positions, terms and conditions of service, retirement, probation and permanency, disciplinary proceedings, dispute resolution, proceedings against sex violation in working place, provident fund and superannuation benefit, discharge and removal from service, demotion, penalties to be imposed when and how etc. In the absence of any clear provision on any issue the University concerned shall recourse to the UGC Regulations on the issue or the Central Government Service Rules. There shall be one or more ***internal dispute resolution body*** in each University for any service disputes to be resolved within its own body as well as disputes arising in all its affiliated Institutions.

[Rule 58] Appointment of Principal: Whereas University shall appoint Dean, Head of the Department as per University Act, Statutes, Regulations and Ordinance, other Centres of Legal Educational Institutions including colleges shall have a Principal who shall be the Chief Executive of the Institution and who shall have the qualification and experience of a Professor of Law and to be appointed in the scale of pay as prescribed or as mutually agreed upon.

[Rule 59] Dispute Resolution Body: The University/Centre for Legal Education may appoint a Dispute Resolution Body for settling any dispute between the administration and the faculty. However, the Vice Chancellor or

any of his authorized body shall be the highest appellate body in case the Dispute Resolution Body's decision is not acceptable to a disputant.

[Rule 60] Annual Return on faculty position: All Centres of legal Education including University Faculty/School/Department shall annually submit a list of names of all faculty members with full particulars regarding the faculty positions held and other relevant particulars in the pro-forma provided in Schedule XIV.

[Rule 61] Senior Legal Practitioners intending to take academic assignments:

(1)The Bar Council of India shall invite particulars of Senior (Designated or non-designated) Advocates practising in District Courts and High Courts to submit their particulars in the pro-forma given in Schedule XV, having at least fifteen years of professional experience and intending to offer lectures in nearby Centre of Legal Education (Including University School/Department/Faculty; Government College; Affiliated Law Schools privately run) on regular monthly basis as a Part Time Lecturer and /or taking internship of the law students for 4 weeks at a time when the Centre for Legal Education is on winter or summer vacation in between two semesters break.

(2)The Bar Council of India in cooperation with the Bar Council of States may publish a Directory comprising such names and particulars district-wise and circulate the same to the Universities for necessary action.

(3) The Bar Council shall also request all retired District Judges and High Court Judges who may intend to consider invitation to become visiting Professor or Adjunct Professor, to provide their name and other necessary particulars which shall also be published in the Directory.

CHAPTER X

RULES OF EQUIVALENCE

[Rule 62] Determination of Equivalence: The Legal Education Committee (LEC) may lay down standard conditions to determining equivalence of (a) Qualifications for applying to a Centre for Legal Education for admission into the unitary or double degree Law course for the purpose of enrolment as an

advocate; (b) Bachelor Degree in Law obtained from a Foreign country for the purpose of applying for enrolment into the profession subject to fulfilment of other conditions, if any; and (c) Master Degree in Law obtained from a Foreign University for the purpose of applying for any legal professional assignments including teaching Law in a Law School and/or legal research work conducted in any University.

[Rule 63].Conditions necessary to be examined for determining equivalence: (1) In order to determine the equivalence of

(i) Entry level qualification into a degree, Bachelor or Post Graduate, course in Law, as the case may be;

(ii) Pre-enrolment degree in law to entitle the recipient of such degree in law as equivalent to the Bachelor Degree in Law of an Indian University, to apply for enrolment as an advocates; and

(iii) Master Degree in Law obtained from a Foreign University to be equivalent to Master degree in law obtained from Indian Universities,

the Legal Education Committee shall prepare standard practices to provide for guidelines to apply for equivalence of any such the qualification/degree, for the purpose of admission into a Law program or applying for enrolment or applying for teaching and /or research in law in any University, or College or Institution, in India, as the case may be.

(2) The following yardstick/norms shall be applied to determine the equivalence of a High School leaving Certificate Examination/Bachelor / Master/doctoral Degree in Law obtained from a Foreign University, recognized in that country:

1.Number of year required for School/University education to enter into a Law School or obtain Ph.D/LL.M/LL.B.to be compared with that of India in usual course of business in Bachelor Degree in Law [one requires in India in usual course (3+3) or 6 years or 5 years in an integrated course]; or in a Master Degree in law [one requires (6+2) or 8 years or (5+2) or 7 years if an integrated LL.B. course is taken] or in a Ph.D. degree [one requires in India minimum 7 or 8 years + 3 years or 10 years in total] as the case may be;

[Illustration: LL.B./JD degree in US requires 4+3=7 years' University Education compared to India's 5 or 6 years'. For Master degree in Law in US time taken in the usual course is 7+1 or 8 years compared to 5+2 i.e. 7 or 6+2

i.e.8 years. Ph.D. in US requires 4 years regular studies compared to 3 years in India in regular course of business.

In UK LL.B. degree requires 3 years and LL.M. requires 4 years and Ph.D. requires 4+4 or 8 or 9 years.]

2. Subjects/papers studied (to be compared with that of India) with contents of each.

[Illustration: In LL.B./JD course students studies by and large, [ ] compulsory papers plus [ ] including clinical courses, optional papers in three years' time (in six semesters). This can be compared with that of LL.B Course design in India [24 compulsory papers including clinical papers + 6 optional courses. One can take honours with additional 8 courses].

3. History of the University awarding the Degree and its national and international accreditation.

4. Status of reciprocal arrangements of India with the foreign country on the legal education and the legal profession especially when a lawyer of a Foreign Country seeks to be enrolled in India under the provision of Section 24 (1)(a) of the Advocates Act.

[Rule 64].Only regular courses in Professional Legal Education can seek equivalence: An individual/University/Law School of a Foreign country may apply for equivalence of a degree/Certificate only when such a degree/Certificate conferred on successful completion of a regular course of study, for the purpose of admission or enrolment into the Bar or for applying for teaching assignment in any Law School in India, as the case may be.

Explanation 1: No course conducted by an open University, or conducted on-line or through distance mode by any Institution having recognition from a competent authority of a Foreign country or not, is equivalent to Higher Secondary School leaving certificate, or P.U. or A level Examination equivalent to +2 standard for the purpose getting admission into the LL.B. course in Law School of India, whose degree is recognized for the purpose of enrolment into the Bar.

Explanation 2: No Law degree of any Foreign University conducted at the undergraduate first degree level is equivalent to the LL.B. degree of an Indian University for the purpose of enrolment into the Bar.

Explanation 3: No Master degree in Law conferred by any Foreign or without requiring an LL.B. degree or equivalent Bachelor Degree in Law as a precondition to study LL.M. course is equivalent to LL.M. Degree of an Indian University, as notified by Bar Council of India or by UGC, as the case may be.

[Rule 65].Curative courses: (1) If an Indian Student obtains a degree in Law after studying in a regular course in a Foreign University recognized by the Bar Council of India but the said course being found to be not equivalent to LL.B. degree of an Indian University, he/she may be allowed to take the Bar Test conducted by the Bar Council of India for Indian Students obtaining Degree in Law from a Foreign University, only after he/she completes any enabling 'Bridge course' on Indian Laws for such duration and conducted by such Institutions as may be stipulated by the Bar Council of India on the advice of the Legal Education Committee from time to time.

(2) If any person obtains a degree of Master in Law from a Foreign University but the same has been found to be not equivalent for reason specified for non-fulfilment of terms and conditions required for obtaining a Master Degree in Law as required by Indian Universities but not because of having no precondition to possess Bachelor Degree in Law, as to study Master degree course in Law, such a person may be allowed to take an M.Phil. course in Law with an Indian or Foreign University offering the course.

Illustration: A person studying LL.B. degree course in United Kingdom at the undergraduate level and then taking one year LL.M. degree from the University of London, now applies for research or teaching assignment in a Law School in India, his Master Degree in Law is not recognized because a Master Degree in Law in India has a regular study period for at least 6 years, whereas the aforesaid Master Degree in Law from London University has a study period of 4 years in all. Such a latch may be cured by attending a bridge course as required by the Bar Council of India at the graduate level (which shall cure the LL.B. degree for the purpose of enrolment) or with M.Phil. at the Post Graduate Level for any research and/or teaching law in a Centre of Legal Education.

CHAPTER XI

Non-compliance & Penalty

[Rule 66] Commencing a Law Course without approval: If a University Faculty/Department/affiliated College/School of Law started a LL.B. course without approval of the Bar Council of India, the BCI may by serving a notice forth with declare it as an unauthorized institution and suspend the institution for such period as may be deemed fit and can also impose penalty on the institution and all others who were connected with such an act.

[Rule 67] Approval with pre-condition: In the event of an Inspection Committee recommending a University Department/Faculty/College or affiliated College, with pre-condition, and an affidavit is submitted by any authority of the Institution suggesting wrongfully that the condition has been fulfilled, The BCI on the advice of the LEC may revoke the approval and impose penalty on the institution as well as all those who are responsible for such wrong statement which may extend to three times the financial benefit derived on such misstatement.

[Rule 68] Approval with post-condition: If the Inspection Committee recommending a Centre for Legal Education with certain subsequent condition with a time limit and a false affidavit is submitted on compliance, any officer of the Institution responsible for submission of such wrong affidavit shall be liable to pay a penalty which may extend to three times of the financial advantage gained due to such false statement and direct stopping of future admission into the institution until the conditions are implemented to the satisfaction of the BCI.

[Rule 69] Non-compliance of conditions necessary Schedule III of the Rules: On the report of the Inspection Committee on non-compliance of conditions required to be implemented under Schedule III of the Bar Council of India (Education) Rules, 2008, The BCI on the advice of the Legal Education Committee, serve a notice to comply with those condition within a time-frame, failing which may suspend the Institution until those conditions were implemented.

[Rule 70] Deliberate non-observance of Education Rules: If a University or any other Institution awarding LL.B. degree indulge in violation of Education Rules, 2008, The Bar Council of India on the advice of the Legal Education Committee may declare that the degree in law of such University/Institution shall be recognized for the purpose of enrolment with effect from a declared date.

[Rule 71] Procedure to be followed: The Legal Education Committee shall advice the Bar Council of India to take any action on any Institution on any non-compliance, misstatement, suppression of fact etc. may do so by providing an opportunity of hearing and following the principles of natural justice. While doing so the interest of the students shall be kept.