

# **"The Comprehensive Bill on Attorneyship and Legal Advice"<sup>1</sup>**

**Draft version—Prepared by the Judiciary of the Islamic Republic of Iran**

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## **General Provisions**

**Article 1** - The structure of Iran Bar Association shall be modified and the association shall be managed in accordance with Article 35 of the Constitution of the Islamic Republic of Iran, as well as Article 13 of the Establishment's General Policies on Judicial Matters.

**Article 2** -Authorized attorneyship includes representation and advocacy of legal affairs of natural or legal persons before judicial bodies within the scope of determined works in order to advocate the client's rights by those who are permitted to hold an attorney's license according to the regulations set forth by this law.

Note - Those who have obtained their law license from [provincial] bar associations or the Judiciary's Center for Legal Advisors', Attorneys', and Experts' Affairs prior to the approval of this law shall be considered authorized attorneys and are subject to the regulations laid out in this law. Furthermore, all trainees and those accepted in the entrance examinations of the Bar Association or the Center are subject to the regulations laid out in this law.

**Article 3** - In addition to practicing law before judicial bodies, authorized attorneys can, following this law, advocate in non-judicial or semi-judicial bodies and arbitration bodies.

**Note 1** - Authorized attorneys are permitted to practice law in disciplinary, administrative and other related bodies to the extent that is customarily required to advocate for a client and his/her rights according to the law.

**Note 2** - Authorized attorneys can also practice law in civil affairs.

## **Chapter 1 - Structure**

### **Section 1 - Provincial Bar Associations**

**Article 4** – A provincial bar association is an institution of independent, non-governmental and non-profit legal personhood organized in a provincial capital, hereinafter called "Association."

**Article 5** – The duties and powers of an Association are as follows:

- 1- Arrange training courses and issue licenses for attorneys and apprentices for participants who meet legal requirements;
- 2- Administer affairs related to the legal profession and supervise trainees' and attorneys' professional actions;
- 3- Request investigations into disciplinary infractions by trainees and attorneys;
- 4- Plan and make the required arrangements for the provision of legal assistance by attorneys;
- 5- Plan for the improvement of trainees' and attorneys' theoretical and practical skills and arrange training courses;
- 6- Publish law journals;
- 7- Perform other actions laid out in the rules and regulations;

**Article 6** - The Association is composed of the following parts:

- 1- The General Assembly;
- 2- The Board of Directors;
- 3- Auditors;
- 4- The Disciplinary Court for Attorneys

**Article 7** - The financial resources of the Association are as follows:

- 1- Attorneys' annual membership fee;
- 2- The amount equivalent to a quarter of the value of the seal attached to letter[s] establishing power of attorney, which should be immediately paid to the account of the related bar association by trainees and attorneys;
- 3- Amounts earned pertaining to the sale of books and journals and provision of scientific, cultural and educational services;
- 4- Gifts and aids presented by individuals and properties and revenues earned through wills and endowments.

**Note** - Court-appointed (public defenders) and legal aid attorneys' salaries, as reflected in the National Budget Plan, shall be paid to them through the Association.

**Article 8** – The financial regulations relating to provincial bar associations, including regulations concerning the fiscal year, draft and endorsement of financial statements and reports, the identification of endorsement bodies, the preparation of the budget plan for the associations and

inspection procedures to be carried out by auditors shall be laid out in a bylaw drafted by the High Council of Attorneyship and approved by the Ministry of Justice.

## **A – The General Assembly**

**Article 9** - The Association's General Assembly is composed of attorney-members whose licenses are valid and not suspended. Responsibilities of the General Assembly are as follows:

- 1- Appoint members of the Board of Directors and the audit(s);
- 2- Review and approve proposals presented by the Board of Directors;
- 3- Select mass-circulation newspapers for the publication of the Association's statements and invitations;
- 4- Review and approve annual reports on activities of the Association and make necessary decisions on the same after hearing auditors' reports;
- 5- Verify and approve the budget plan, financial statements, balance sheet and profit and loss statements of the Association as proposed by the Board of Directors;
- 6- Assess and make decisions on other issues within the scope of responsibilities of the Association as proposed by the Board of Directors;

**Article 10** - The quorum for the first General Assembly session to make decisions shall be presence of more than half of its voting members. In cases of the cancellation of a first session, the quorum for the second session will commence with any number of members attending. The General Assembly resolutions are always valid if more than half of the members present vote in favor. Exceptions shall be considered for the election of the Board of Directors and the auditors, which are based on simple majority of votes.

## **B - Board of Directors**

Article 11 - Attorneys meeting the following criteria in addition to the general criteria required to be eligible for attorneyship are eligible to run for election as auditors or members of the Board of Directors:

- 1- A minimum of ten years of experience as an attorney or judge;
- 2- No record of a definitive disciplinary conviction of Class 3 or higher;
- 3- A minimum of 30 years of age;
- 4- A practical commitment to Islam, and no record of disrepute

Article 12 - The number of members of Boards of Directors of associations having up to 1000 voting members is five main and two alternative members; for associations having between 1000 and 5000 voting members, seven main and two alternative members; and for associations having more than 5000 voting members, nine main and two alternative members.

Article 13 - Members of the Board of Directors of provincial Bar Associations shall be elected for three-year terms through secret ballots casted by simple majority of the members of the General Assembly. Members of the Board of Directors are not permitted to serve more than two successive terms.

Note - Continuation of membership in the Board of Directors is conditional to residency in the same province throughout the membership term.

Article 14 - The Board of Directors elects a chairperson, two deputies, and a secretary from among its members in writing through secret ballots. The deputy receiving the most votes shall serve as the first deputy.

Note - In the case of a tie in the election of the chairperson of the Board of Directors, priority is given to [the candidate] having more years of experience in attorneyship and judgeship.

Article 15 - The quorum for the Associations' Board of Directors having five, seven and nine members is four, five and seven members, respectively. Resolutions shall be approved by affirmative votes of more than half of the members present in the session.

Article 16 - Membership in the Board of Directors and the auditing body will be deemed cancelled in the following cases:

1- Death;

2- Incapacitation;

3- Effective disciplinary conviction and convictions of Class 3 or higher;

4- Eight successive or fourteen single unexcused absences in the sessions of the Board of Directors within one year, at the discretion of the Board of Directors;

5- Resignation after approval of the Board of Directors (for board members) and of the General Assembly (for auditors);

6- Final verdict on disqualification of a member by Disciplinary Court for Attorneys

Note 1 - Absence for more than six month shall deem resignation.

Note 2 - The following cases shall be considered justified absence:

- 1- No invitation received or delayed receipt of such invitation so that it is impossible to attend on time;
- 2- A disease which prevents movement;
- 3- Death of spouse or a relative of third degree kinship from extended family;
- 4- Major incidents such as fire, etc.;
- 5- Impossibility of movement as a result of force majeure including flood and contagious diseases such as cholera and plague;
- 6- Being under arrest.

Article 17 - In cases of cancellation of membership in a Board of Directors or auditing body, the alternate member or audit obtaining maximum votes shall fill the vacant position. Should no alternate member exist, elections shall be held to select the replacement for the rest of the term.

Note - Alternate members shall attend the sessions of the Board of Directors. Should a main member be absent, the alternative member having the highest number of votes shall be entitled to vote.

Article 18 – The duties and powers of the Board of Directors are as follows:

- 1- Implement resolutions of the General Assembly and referrals;
- 2- Review and approve the annual budget and present it to the General Assembly for final approval;
- 3- Review and approve financial statements to be presented to the General Assembly and the legal audit;
- 4- Make decisions on conclusions of any contract including purchase orders, the sale and replacement of the Association's movable and immovable properties and change, modification, termination and rescission of the contracts signed with governmental and non-governmental natural and legal persons, taking into consideration all related rules and regulations;
- 5- Make decisions on opening and blocking accounts with banks or financial and credit institutions and using the accounts under the name of the Association;
- 6- Refer claims and disputes to arbitration bodies and settle disputes after the General Assembly's resolution;
- 7- Make decisions on all matters proposed by the head of the Association within the scope of his/her responsibilities;

8- Discuss and approve annual reports of the Association to be presented to the General Assembly;

9- Approve employment [decisions];

10- Refer [cases of] malpractice to the Disciplinary Court of Claims when notified of such malpractice committed by attorneys or trainees;

11- Perform other duties and powers of the Board of Directors laid out in this law and in other rules and regulations;

12- Perform other duties, powers and responsibilities not explicitly assigned to other functions of the Association in this law and in other rules and regulations.

Article 19 - The Board of Directors can delegate some of its duties and powers to its chairperson or some members of the Board of Directors. This shall not negate responsibilities off the Board of Directors.

Article 20 - The Board's chairperson is also the chairman of the Association, having the following duties and powers:

1- Implement decisions made by the General Assembly and the Board of Directors;

2- Administer the Association's affairs in accordance with related rules and regulations;

3- Employ and fire managers and employees of the Association in accordance with related rules and regulations;

4- Advocate the Association before natural and legal persons such as judicial bodies with power of substitution;

5- Attempt to make peace and refer claims of the Association to arbitration bodies in accordance with related rules and regulations, after approval of the Board of Directors;

6- Compile, draft and present an annual plan and budget, financial statements and reports and the performance report of the Association to the Board of Directors;

7- Collect debts and pay the expenses of the Association;

8- Mediate for settlement of attorneys' and trainees' career disputes;

9- Administer the sessions of the Board of Directors;

10- Perform the chairperson's other duties and powers laid out in this law and related laws.

Note - Should the board's chairperson be absent, deputies shall take charge in order of their ranks.

## **C - Auditors**

Article 21 - The General Assembly elects three main [auditors] and one alternate auditor for a period of three years.

Article 22 - Responsibilities of the auditors are as follows:

- 1- Report to the General Assembly regarding performance of the Board of Directors and the chairperson within the scope of the rules and regulations without any intervention in executive procedures of the Association;
- 2- Discuss and assess financial statements and report to the General Assembly;
- 3- Discuss and assess referrals of the General Assembly in accordance with rules and regulations;
- 4- Assess reports of the Board of Directors and inform the General Assembly.

Note 1 - Auditing reports shall be drafted by three main auditors based on the majority's opinion. However, the minority's opinion shall be also reflected in the report. Should an auditor not be able to attend auditing session for drafting the report, an alternate auditor shall replace him/her.

Article 23 - In performing their duties, auditors shall assess all documents, assets and accounts of the Association, without any intervention in the Association's current affairs. Upon the auditor's written request, the chairperson is obliged to provide him/her with requested information, evidences and documents.

Article 24 - Should auditors observe defaults or receive reports on deviation from rules and regulations or occurrence of failures in the Association, they are obliged to report the issues in writing to the chairperson and the Board of Directors of the Association. Should no action be taken to settle the problem, the auditors shall report the issue to the General Assembly.

Article 25 - Should an auditor observe a disciplinary offense from a member of the Board of Directors, he/she shall report the issue to the Disciplinary Prosecutor for Attorneys.

Article 26 - It is necessary for auditors to meet requirements of membership in the Board of Directors. However, they should not be members of the Board.

Article 27 - The auditors' report on the financial and administrative performance of the chairperson and the Board of Directors should be presented to the members at least one week prior to the session of the General Assembly. The report should be read in session.

## **Section 2 - High Council of Attorneyship**

Article 28 - In order to plan and unify the policies to be used in the executive affairs of Provincial Bar Associations, a High Council of Attorneyship shall be formed by and from members of the Boards of Directors of the Associations for a period of four years in Tehran. Associations having five, seven and nine members in their Board of Directors shall have one, two and three members on the Council, respectively.

Article 29 - Responsibilities of the High Council of Attorneyship are as follows:

- 1- Coordinate and unify the executive procedures of the Provincial Bar Associations, and oversee their good performance;
- 2- Make policies to improve trainees' and attorneys' professional knowledge, and oversee their good performance;
- 3- Make policies and provide macro-level plans to protect the attorneys' right to organize syndicates;
- 4- Plan for expansion and improvement of attorneyship and legal advice services, make attorneyship services accessible for people and enhance the society's attitude toward using attorneyship services in different forms such as family attorneys;
- 5- Suggest fees for attorneyship and legal advice services to the head of Judiciary for approval;
- 6- Determine the annual membership fees for trainees and authorized attorneys;
- 7- Hold the public entrance exam for attorneyship;
- 8- Compile and develop bylaws for the transfer of trainees and authorized attorneys and submit them to the head of Judiciary for approval;
- 9- Compile and approve bylaws for formation of required expert and counseling committees, and prepare reports on the committees' terms of reference;
- 10- Assign a representative to attend regional, national and international conferences on attorneyship;
- 11- Plan for the training of expert attorneys in different fields;
- 12- Perform other duties laid out in rules and regulations;

Note - A committee composed of the head of the Provincial Courthouse, Provincial Public and the Islamic Revolutionary prosecutor and the head of Provincial Bar Association shall hold a meeting at least once a year at the invitation of the Provincial Bar Association chairperson and decide on the rate of trainee intake for each Association.

Article 30 - In the case of the death, resignation or issuance of incapacitation or disqualification paper of a member, another person shall be selected and replaced in accordance with Article 28 [of this law].

Article 31 - Decisions of the High Council of Attorneyship shall be published on the Council's portal and shall come into effect 15 days after publication.

Article 32 - The High Council of Attorneyship shall represent the syndicate affairs of bar associations before national and international bodies.

### **Section 3 – Supervisory Commission**

Article 33 - In order to examine the adherence of applicants for attorneyship licenses and membership in the High Council of Attorneyship and provincial boards of directors with the requirements of this law, a Supervisory Commission composed of five main and two alternative members shall be formed for a period of four years. The members shall be selected from lawyers or attorneys with minimum 15 years of attorneyship or judgeship suggested by the High Council of Attorneyship and approved by the head of Judiciary.

Note 1 – Approvals and decisions made by the High Council of Attorneyship and Provincial Associations, except for “approval set forth in article 29(5) and (8)” if objected by applicants on the basis of inconsistency with rules and regulations and the people’s acquired rights, are subject to revision by the Supervisory Commission.

Note 2 - In case of the death or resignation of members of the Supervisory Commission, or disqualification of members by the High Disciplinary Court for Judges, alternative members shall be selected for the rest of the term in accordance with the regulations set forth in this article.

Article 34 - The chairperson of the Supervisory Commission, who is responsible for chairing the meetings, planning the agenda and communicating the decisions of the Commission, shall be elected by affirmative votes of the majority of the members.

Article 35 - After inquiring about those accepted in exams and on other applicants with regards to the nature of article 33 from the Ministry of Intelligence and the Intelligence Unit of the Judiciary (on judges or judiciary staff members) and other related and required authorities, the Supervisory Commission shall pronounce its decision on qualifications within 45 days after receipt of the names of the individuals.

Note 1 –The inquiry process shall be repeated if the results of initial inquiries are not received after one month, or the results are not clear or sufficient. In any case, the Commission is obliged to announce its decision on qualifications within three months.

Note 2 –If after pronouncing its decision the Supervisory Commission receives evidence from the said bodies which requires reconsideration in the decision, the Commission shall report the issue, along with its initial opinion, to the Disciplinary Court of Attorneyship and the Court shall make the final decision.

Note 3 - It is a disciplinary offense not to make decision by the set dates.

Article 36 - Decisions of the Supervisory Commission on the disqualification of applicants and attorneys can be appealed within one month to the High Disciplinary Court of Judges.

Note –Should the observatory bodies object to [candidates’] qualifications, they can admit their cases to the High Disciplinary Court of Judges.

Article 37 - The Supervisory Commission, subject of article 33, shall supervise the propriety of the elections of the High Council of Attorneyship, the Board of Directors and the auditors of the Provincial Associations. The applicants are entitled to object to results within 10 days. If it detects an infraction with the influence on the final result [of the election], the Committee shall nullify the election in whole or in part with respect to specific ballot boxes or candidates, and order the re-organization of the election within 20 days.

Note 1 - Applicants can take their registered objections to the High Disciplinary Court of Judges within ten days after the Supervisory Commission announced its opinion.

Note 2 - The decision of the High Disciplinary Court of Judges on acceptance or rejection of the Supervisory Commission's opinion shall be deemed final.

Article 38 - The High Council of Attorneyship and the Supervisory Commissions shall have appropriate financial and administrative structures and separate secretariats. The scope of duties and powers and the procedures of the secretariats shall be laid out in the executive bylaw of this law.

## **Chapter 2 - Entrance into Attorneyship**

### **Sections 1 - Requirements and Barriers of Entry to Attorneyship and Traineeship**

Article 39 - Applicants for attorneyship should meet the following criteria:

- 1- Belief in Islam or any other religion recognized in the Constitution of the Islamic Republic of Iran;
- 2- Practical commitment to the Constitution of the Islamic Republic of Iran;
- 3- Iranian citizenship;

4- Physical and mental health;

5- Undergraduate degree or a higher educational diploma in the field of law, jurisprudence and fundamentals of Islamic law or theology in the branch of jurisprudence and law obtained from a university verified by the Ministry of Science, Research and Technology, or a second level degree from seminary; or passing all courses of bachelor's degree approved by the current university for the students studying in a continuous master's degree in the abovementioned fields and branches;

6- A minimum of 22 and maximum of 50 years of age when attending the traineeship exam;

7- A military exemption or completion card (for male applicants only)

Article 40 - Applicants shall become attorneys after being accepted out of the entrance exam, passing the traineeship period and being qualified by the Examination Commission, in accordance with the regulations of this law.

Article 41 - Individuals having the following criteria shall be banned from attorneyship:

1- Effective disciplinary convictions

2- Addiction to narcotics, psychoactive drugs and their derivatives, and drinking alcohol;

3- Financial or ethical/moral corruption

4- Membership in or tendency towards belligerent, dissident or atheist groups, enemies of the Islamic Republic, unless an expression of contrition is approved or receives approval;

5- Dependency or unusual relations with agents, associations or groups of foreign countries;

6- Conviction to a permanent ban from public and governmental services or to a temporary ban from such services, during the period of the ban;

7- Conviction to permanent separation from judicial services or judicial disqualification

Note – “Unusual relations” refers to any relation, exchange of information, collusion or positioning with embassies, agents and representatives, governmental departments and political parties of foreign countries, in any level and to any extent which jeopardizes independence, national unity and interests of the Islamic Republic of Iran.

Article 42 – Thirty percent of the positions on each Provincial Association shall belong to veterans of the Iran-Iraq war who have obtained at least 75 percent of the score earned by the last regular individual [non-veteran] accepted. The veterans include those who voluntarily fought in the war for a minimum of six months, those who have been freed from captivity after a minimum of six months, wounded veterans with level of disability 25 percent or higher and the parents,

children and spouses of martyrs and wounded veterans with a level of disability of 45 percent or higher.

Note - Use of this privilege shall not contradict the acceptance of veterans who have earned the score required for regular acceptance.

Article 43 - Individuals with no attorneyship license who hold at least an undergraduate diploma in the field of law or any other educational diploma acceptable in accordance with this law and are not currently working as judges can represent their affinity and consanguinity relationships of third degree kinship from extended family three times a year after being qualified as casual (temporary) attorneys by the local bar association. Each of these three times of attorneyship shall include all steps of the hearing process in the court of first instance, review and appeal, and also all plaintiff claims including counter claim, joinder or impleader.

## **Section 2 - Administration of Exams, Arrangement of Traineeships, and Issuance and Revocation of Licenses**

Article 44 - Attorneyship entrance exams shall be held publicly on a yearly basis and the results shall be published in a newspaper in mass circulation. The time and procedure of the exam and date of result announcement shall be in accordance with the executive bylaw of this law.

Note - Those who meet the requirements set forth in Article 39(1), (2), (3) and (5) are eligible to attend the exam.

Article 45 – The names of those accepted in the entrance exam shall be sent to the Supervisory Commission. The Commission shall inquire about the qualification requirements from the relevant bodies set forth in Article 35. The authorities are obliged to pronounce the result in an appropriate manner within one month after the inquiry. If no response is received after the designated period, the Supervisory Commission shall be entitled to make decision. If the applicant's competence is accepted by the Commission, the file shall be sent to [relevant] Provincial Bar Associations to issue the Trainee Attorney's License. Disqualified applicants can admit their objections to the High Disciplinary Court of Judges within 20 days after being notified of the disqualification. The Court's decision shall deem final. Traineeship licenses shall be signed by the Association's chairperson.

Article 46 – The traineeship period is two years. In this period, trainees participate in training courses and practice under the supervision of an attorney suggested by them and appointed by the Association. In the first year of traineeship, trainees shall have the right to attend sessions of judicial, semi-judicial and administrative bodies and read the files, without being authorized to practice law. In the second year, under the supervision of an attorney, their authorization to practice law shall be limited to offenses and claims leading to *ta'azir* and preventive punishments including imprisonment for a period of less than 3 years, lash and fines below 500

million Rials, and also legal claims of an amount below 500 million Rials and nonfinancial claims within the scope of the Dispute Resolution Council.

Article 47 - After the traineeship period, an Examination Commission shall examine trainees and decide on their professional qualification both in theory and practice. Members of each Examination Commission, recommended by chairpersons of the Provincial Bar Associations and verified by the Supervisory Commission, shall include three first degree attorneys or judges with minimum 10 years of attorneyship or judgeship record.

Note - Membership terms in Examination Commissions shall be three years with renewable terms.

Article 48 - Should a trainee be deemed professionally qualified by the Examination Commission, the Commission shall communicate the matter to the Association's chairperson for issuance of an attorneyship license. Otherwise, the Commission shall extend the failed applicants' traineeship period for six to 12 months and shall consider required theoretical and practical courses for them. The period can be extended only for two times. If a trainee is still not qualified by the Examination Commission after two extended periods, his/her traineeship license shall be nullified. The decision can be appealed to the Board of Directors. In case of disqualification on a theoretical basis, entry into a career of attorneyship requires the disqualified applicants to attend and pass the entrance exam again.

Article 49 - The following individuals benefit from the exemptions mentioned below:

1- Faculty members of universities and higher-education institutions verified by the Ministry of Science, Research and Technology holding a PhD diploma in the field of law with minimum 10 years record of teaching law courses shall be exempt from passing the entrance exam and half of the traineeship period;

2- Those with a minimum 10 years' record of judgeship without judicial disqualifications shall be exempt from the entrance exam, traineeship period and examination;

3- Those holding a bachelor's degree diploma in the field of law with minimum 10 successive or 15 single years record in law-related positions in legal units of the bodies set forth in Article 5 of the Law on Administration of National Services and Armed Forces, provided that their retirement is not caused by a criminal or administrative offense, shall be exempt from half of the traineeship period as well as the age requirement.

Note 1 - Faculty members subject to this Article shall be granted the exemptions set forth in the Article if they hold a bachelor's degree diploma in the field of law.

Note 2 - Except for the cases set forth in this Article, no applicant shall be exempt from the entrance exam, traineeship and examination.

Note 3 – A work record as a judge in Judicial Organization of the Armed Forces shall be considered a valid work record under this Article.

Article 50 - Attorneys with judgeship record or the ones with work record in judicial sections of the Judiciary and clerks of courts and judicial bodies who obtain an attorneyship license shall not be entitled to practice law in judicial branches of the city in which they have spent the last four years of their service during the five-year period after obtaining such license. The judges working for the Judiciary headquarters and the judges whose location of service alternates throughout the country, such as the judges employed in the State Supreme Court, Disciplinary Court and Court of Claims for Judges, the Court of Administrative Justice and the General Inspection Office, shall not be entitled to practice law in the said period in the province where they work.

Article 51 – Attorneyship licenses are issued by the Provincial Bar Association's chairperson and relevant judiciary authority. The Provincial Bar Associations are obliged to issue attorneyship licenses within one month after announcement of the applicants' examinations, or completion of the file for those exempt from examination. Attorneyship licenses shall be valid for three years. The extension of the licenses is pertinent to the applicants' request. Those who have obtained attorneyship license in accordance with this law shall not be entitled to practice law before the Supreme Court and the provincial criminal courts for five years after issuance of the licenses. This limitation shall not be applicable to those obtained their first-degree attorneyship license in accordance with the relevant rules and regulations prior to the date the current law has come into effect.

Note - If the attorneyship license is not signed or extended within one month, the issue can be appealed to the Supervisory Commission.

Article 52 – Whenever an attorney's qualification is questioned by the head of Judiciary, head of the State Supreme Court, General Prosecutor, head of the General Inspection Office, Disciplinary Prosecutor of Judges, Ministry of Intelligence, Supreme Audit Court, Iranian Bar Association or a member of the Supervisory Commission, the concerned body shall report the issue and the reasons to the Supervisory Commission. The Commission is then obligated to review the case. In case lack of qualification or absolute disqualification of an individual attorney or the Board members are obtained, the Commission shall suspend their licenses instantly and refer the cases to relevant bodies. Criminal cases shall be submitted to judicial bodies, and the other cases influencing disqualification shall be communicated to the High Disciplinary Court of Judges for their final verdict. Additionally, if the criminal court reaches its definitive verdict and convict the attorney of a criminal offense, it will communicate the same to the High Disciplinary Court of Judges for their consideration. In any case, if the latter finds the individual incompetent and contrary to the requirements set forth in Article 39, the court will rule on the revocation of the attorneyship license.

Article 53 - After the attorney's license is issued and before its submission to the applicant at a relevant Board meeting, he/she, in the presence of the Chief Director of the Justice Administration of the Province or his representative and the representative on behalf of the Justice Minister, if introduced, shall take an oath as followed and sign the written oath:

"I hereby, and before starting my attorneyship career, take the oath to almighty God before the Holy Quran that I will always respect rules and regulations, attempt to serve justice, value dignity of the career, respect administrative and judicial authorities and officials and colleagues and fellow attorneys, avoid biased judgment, enmity and revenge, follow the path of morality and honesty in representing my clients and adhere to justice."

Article 54 - Those accepted in entrance exams of the Bar Association or the Counseling Center prior to the date the current law has come into effect, shall start or continue their traineeship or receive their license from the Provincial Bar Association in accordance with the regulations set forth in this law.

### **Chapter 3 - Attorneys' Professional Rights and Responsibilities**

Article 55 - Attorneys shall not be entitled to set up their office in any location other than where they have obtained their license for. They also shall not be entitled to focus their attorneyship activities in such locations.

Article 56 - Attorneys shall supervise the staff working in their offices. In case of insufficient supervision, they shall take civil responsibility for damages done as a result of their staff's offenses or neglects in the offices. The nature of this article shall not prevent the damaged individuals or their attorneys from making a legal case against the faulty staff.

Article 57 - Authorized attorneys' attorneyship and counseling fees and their travel costs shall be calculated based on fees proposed by the High Council of Attorneyship and approved by the head of Judiciary. The head of Judiciary may however delegate this matter to the Justice Minister. The fees shall be proposed based on the type of the claim, the requested amount and the hearing process. The fees shall be modified once every three years based on factors such as change in inflation index which is annually announced by the Central Bank of the Islamic Republic of Iran.

Note 1 - It shall not be allowed to conclude an attorneyship or counseling contract with the fee five times more than the fee. It shall be considered an offense to request attorneyship or counseling fees or travel costs more than the fee or the amount stipulated in the contract. In addition to disciplinary punishments set forth in this law, the offender will receive punishments for obtaining illegal revenues laid out in Article 2 of the Law on Increase of Punishments for Offenders of Bribery, Embezzlement and Fraud.

Note 2 - Attorneys shall be obliged to stipulate the attorneyship fee in the letter of attorney and submit three copies of the letter to the client, the court and the Tax Office of the city from which they have obtained their license. Deviation from the provisions set forth in this note shall be considered offense which not also causes rejection of the letter by the court, but also leads to conviction of the offender to the punishments set forth in Note 1 of this Article.

Note 3 - The fees specified in the letter of attorney for third persons such as the Tax Affairs Organization cannot be less than the approved fee amounts.

Article 58 - All attorneys shall be obliged to submit their annual financial report, in the form of a declaration, to the Ministry of Economic Affairs and Finance at the end of the year and pay their due annual taxes. Extension of their attorneyship license by the Association is pertinent to submission of the tax settlement certificate.

Note - The High Council of Attorneyship, in alignment with the Judiciary and the Ministry of Economic Affairs and Finance, is obliged to design and implement an appropriate system for management of the amounts paid by clients to attorneys and full supervision of the Association on attorneys' revenues and payment of taxes to the Ministry's account within two years after the date this law comes into effect.

Article 59 - Should the attorney or his/her spouse have an affinity or consanguinity relationship of third degree kinship from extended family with the case's judge or members of the Dispute Resolution Council, he/she shall avoid taking or following the case directly or by practicing power of substitution.

Article 60 - Attorneys should not accept attorneyship, counseling or judgeship cases against natural or legal persons whom they are currently representing. They also shall not be allowed to practice law, directly or by practicing power of substitution, in cases in which they have previously provided judgeship, attorneyship or counseling services.

Article 61 - If an attorney stops providing attorneyship or counseling services for natural or legal persons as his/her clients, he/she should not practice law or counsel against them for a period of three years. He/she also should not practice law, counsel or judge in cases against those he/she once had worked for in managerial or administrative capacities or had any other kind of cooperation with, if he/she has information on the cases.

Article 62 – Upon the receipt of verdicts or warnings which require clients to take an action or pay an amount, attorneys must immediately inform their clients or their representatives.

Article 63 - Attorneys are obliged to attend hearing sessions, unless they are invited to attend some criminal or other courts at the same time and it is not possible to attend all of them. In this case, they should give priority to criminal courts and send a plea to the other court(s). In case of having the power of substitution, they should send another attorney on their behalf. If attorneys

are invited to several noncriminal courts and it is not possible to attend all of them, they should attend the one they consider necessary, send pleas to the other courts and send another attorney in case of having the power of substitution. In addition to the above obligations, if it is not possible for attorneys to attend a court, they should send the plea and also inform the clients to attend the court at their discretion.

Note - Attorneys should prioritize provincial criminal courts over local ones. If the attorneys are invited to several courts of the same level, they should attend them in the order of the dates of notification from the courts.

Article 64 – The deposal, resignation or appointment of a new attorney should take place in a time that does not require rehearing. Otherwise, resignation, deposal or appointment of a new attorney shall not take place in the current session and the court shall continue the hearing process.

Article 65 - In cases of resignation, attorneys shall be obliged to communicate the matter to the client and the body in charge of the case in accordance with Article 64. When an attorney with the right to appeal decides to resign after issuance of the verdict against the client or at the time of announcement of the indefinite petition, he/she should communicate the matter to the client, appeal upon the client's request and then submits his/her written resignation to the client and the court.

Article 66 - Attorneys must keep a registry to document all payments made by clients and applicants for counseling services along with detailed information on all deeds received from them. They should provide the clients and applicants with receipts having registration numbers and dates. The registry is to be designed by the High Council of Attorneyship in alignment with the Tax Affairs Organization and communicated to all Provincial Bar Association. The registry shall be numbered and signed by the Provincial Bar Associations' chairpersons.

Article 67 - Attorneys must make a file for every client in which they register all actions taken for him/her. They should keep clients' records until 10 years after closure of the cases. They should also implement organized registration and book-keeping procedures. How to register, organize and keep the books and documents shall be in accordance the executive bylaw of this law.

Note - The High Council of Attorneyship is obliged to design and implement a portal for registration of the books and other documents set forth in this law within one year after the date the current law has come into effect. As of the implementation date, attorneys shall be obliged to register digital information in the portal. In design of the portal, the Council shall be obliged to make arrangements with relevant bodies to allow supervision, meet security requirements, collect information and obtain governmental rights.

Article 68 - Attorneys should inform the Provincial Bar Associations on the address, phone number, fax, postal and contact information, staff's names and information and subsequent changes in information of their offices.

Article 69 - Should their attorneyship licenses be expired and not extended, attorneys shall not be entitled to practice law. Should their license be expired and they have a case in progress, attorneys shall be obliged to take necessary actions to extend the license.

Article 70 - To the extent permitted by the rules and regulations, attorneys should attempt to collect information on cases and take appropriate and timely actions to defend their clients so that the clients' opportunities and possibilities of representation are not wasted.

Article 71 - Issuance of attorneyship licenses shall be prohibited for the following: Members of the Parliament and the Guardian Council, active members of Islamic City and Village Councils and permanent, contract-based and full-time employees of the ministries, organizations, governmental companies and institutions, public non-governmental institutions and foundations and all organizations [whose employees] are required by law to declare their credentials while employed, such as National Iranian Oil Company, Industrial Development and Renovation Organization, Central Bank of the Islamic Republic of Iran and governmental banks and insurance companies, holders of a judicial degree, members of armed forces, notary publics and deputy notaries running official deeds, marital registry offices, and official experts of the Courthouse. These individuals shall not be entitled to obtain attorneyship license at the time they are working in the said organizations. Attorneys working in full-time positions of the abovementioned organizations cannot practice law at the same time. They should deposit their licenses while they are working in the positions. The offenders' licenses shall be nullified.

Article 72 - Should a trainee or an attorney lose a requirement of entry to or continuation of attorneyship or be detected with a barrier of attorneyship after starting traineeship or obtaining attorneyship license, or should it be detected that he/she did not meet the requirements from the beginning, he/she shall be obliged to communicate the matter to the Association, immediately after losing the requirement, detection of the barrier or being informed of such matter, and to surrender his/her traineeship or attorneyship license, if obtained, to the Association. This shall not prevent supervisory authorities from performing their duties and reporting the matter to the Association.

Article 73 - Attorneys should take on court-appointed and legal aid cases and perform duties assigned to them by the relevant Provincial Bar Association. They should work with enthusiasm in such cases and regularly report the progress to relevant Association.

Article 74 - Trainees should attend training courses arranged at the discretion of the Provincial Bar Associations.

Note - Provincial Bar Associations, taking into consideration the applicant's level of education, attorneyship record and age, can make extensions of attorney's or trainees' licenses conditional to passing all or a number of training courses offered. .

Article 75 - Attorneys should conduct all of their correspondence on official letterheads specifying their names, surnames, addresses, phone numbers, registration numbers and the relevant Provincial Bar Associations. They should avoid including their previous job titles, but they can include their educational credential (such as a PhD), if they have any.

Note 1 - Prohibitions set forth in this article should also be applied to attorneys' business cards and office banners.

Note 2 - Provisions set forth in this article shall be also obligatory for trainees. They shall be entitled to print and distribute official letterheads and business cards stating the term "trainee" after passing the first half of their traineeship period. They shall be prohibited from printing and installing banners throughout their traineeship.

Article 76 - In case of suspension, attorneys should, upon request of the Disciplinary Court for Attorneys, immediately surrender their licenses, notebooks and attorneyship ID cards to the Association. The documents shall be kept throughout the suspension period.

Article 77 - Attorneys should pay their financial liabilities to the Association and the Courthouse's Pension Fund in due dates.

Note - The Provincial Bar Associations' Board of Directors shall be obliged to pay financial liabilities of relevant Associations to the Courthouse's Pension Fund. Each member of the Board has a disciplinary responsibility to do so.

Article 78 - Attorneys can deposit their attorneyship licenses with the Provincial Bar Association after verification of the chairperson of the Association's Board of Directors. During this period, their professional rights and responsibilities shall be suspended, taking into account the rights of the third party. Deposited licenses shall be returned to the attorneys upon the approval of the Board of Directors.

Article 79 - Judicial aid is the provision of free legal advice services for needy people and of free or reduced-rate attorneyship services for individuals who cannot afford an attorney and are believed to have rights based on some reasons.

Note 1 - Rightful individuals who cannot afford an attorney shall be identified and detected in accordance with the executive bylaw of this law.

Note 2 – Legal persons of the public law are not subject to this article.

Article 80 - When a judicial authority decides, in accordance with rules and regulations, that an accused in a criminal case is entitled to having a court-appointed attorney, it shall communicate

the matter to the relevant Bar Association. The Association shall appoint and recommend an attorney within one week.

Article 81 - An office called Legal Assistance with the following responsibilities shall be formed in all Associations to:

- 1- Identify and recommend court-appointed attorney for criminal cases to the related court;
- 2- Assess and make decision on requests of legal aid attorney;
- 3- Recommend attorneys for practicing law or providing legal aid services on judicial and criminal matters in the Court of Administrative Justice or before the Association, judicial bodies or other places determined by the Association.

Note 1 - The structure of the office shall be in accordance with the executive bylaw of this law.

Note 2 - The Association shall be obliged to distribute legal aid services responsibilities among all attorneys of the district proportional to its needs.

Article 82 – The chairperson of the Legal Assistance Office shall be the decision-making authority on applications set forth in article 81(2). He/she should decide on acceptance or rejection of applications no later than 15 days after their registration. After this period, the application shall be considered accepted and the Legal Assistance Office shall be obliged to recommend an attorney immediately. In case of rejection of an application, the applicant can admit his/her objection to the Board of Directors within 10 days after being notified of such decision.

Note - In urgent cases which requires decision-making in a shorter period of time, decisions shall be made in accordance with urgency of the matter.

Article 83 - In case of being referred to by Legal Assistance Office of their license-issuing Association, attorneys are obliged to practice law as court-appointed or legal aid attorneys at least four times a year.

Note - Attorneys shall be obliged to provide maximum 50 hours of legal aid services a year.

Article 84 - Should decision be made in favor of the client in a case, attorneyship fee shall be calculated and paid, upon legal aid attorney's request, based on related tariffs. The legal aid attorney shall be exempt from paying cost of annulment of stamp duty and other related costs.

Note 1 - Court-appointed and legal aid attorneys' fees shall be considered in annual budget of the Judiciary and paid in accordance with tariffs.

Note 2 - Legal aid attorneys shall be obliged to draft a letter of power of attorney and submit a copy of it to the Legal Assistance Office.

Note 3 - Payment of attorneyship fees set forth in this article to legal aid attorneys shall be conditional to annulment of stamp duty in accordance with rules and regulations.

Article 85 – If an offender commits a repeated crime for which the offender has already been punished, s/he will be charged with a punishment with minimum of one degree and maximum of two degrees harsher than before.

## **Chapter 4 - Disciplinary Regulations**

### **Section 1 - Disciplinary Punishments**

Article 86 - Disciplinary punishments are as follows:

- 1- Verbal Admonition
- 2- Written reprimand without being registered in the file;
- 3- Written reprimand registered in the file;
- 4- Written reprimand registered in the Association's journal;
- 5- Prohibition from practicing law from three months to one year;
- 6- Prohibition from practicing law from one year to five years;
- 7- Nullification of Attorneyship license and permanent prohibition from practicing law.

Article 87 – Delinquency in performing the following duties shall be convicted with a disciplinary punishment of grade 1 to 5:

- 1- Respect professional dignity of attorneyship career;
- 2- - Involvement in practicing law during first year of traineeship or accept cases other than offenses and claims set forth in article 46 during second year of traineeship
- 3- Sufficient supervision over staff of offices, subject of article 56;
- 4- Simultaneous counter-representation of those who receive their attorneyship or counseling services, or those who have been their clients during the past three years, subject of article 61;
- 5- Compliance with obligations set forth in articles 65;
- 6- Compliance with obligations set forth in articles 68;
- 7- Compliance with obligations set forth in articles 69;
- 8- Act as court-appointed or legal aid attorney or provide legal aid advice in cases referred to by the relevant Association, subject of article 73;

- 9- Attempt in making peace and settlement between parties in any phase of the claim process;
- 10- Compliance with rules and regulations in drafting letters of attorney;
- 11- Receive papers sent by the Association including letters, warnings, petitions and so on submitted through post office or by a courier, and issue receipt of papers;
- 12- Respond to complaints and disciplinary announcements in due dates and attend courts and courts of claims when summoned by relevant authorities without an acceptable excuse;
- 13- Follow orders set by the Provincial Bar Association and the High Council of Attorneyship, within the scope of their authorities, on attorneys' and trainees' responsibilities;
- 14- Not to publish advertisements in newspapers and journals;
- 15- Not to proclaim their credit among judicial, semi-judicial and administrative authorities with the purpose of encouraging attendants to sign attorneyship contracts;
- 16- Have honesty in stating their theoretical and practical abilities in the field of attorneyship and in estimating costs of hearing process and possibility of success in the case;
- 17- Refuse to practice law in cases in which they have previously made decisions in a judicial, administrative or arbitral capacity;
- 18- Interrupt the court's order and disrespect the court's dignity verbally or in writing;
- 19- Not to attempt to disqualify the other party's judge, arbitrator or attorney, or prorogate the procedure in a fraudulent manner;
- 20- Submit detailed and accurate list of the costs occurred in the procedure to the clients upon their request.

Article 88 - Those committed the following offenses shall be convicted to a disciplinary punishment of grade 5 to 7:

- 1- Lack of compliance with obligations set forth in articles 55, 62, 63, 70 and 75;
- 2- Accepting cases during periods of suspension and prohibition from practicing law;
- 3- Use of false names or take advantage of fraudulent means to receive cases or make progress in practicing law;
- 4- Practice of law against previous clients after removal, resignation or expiration of license in the same case or related cases;
- 5- Encouraging witnesses or clients to make false testimony or to lie;

6- Providing false documents or information to judges, experts or other individuals involved in claim or complaint procedures, knowing that they are false;

7- Receiving any official or unofficial money, property or deed in addition to the attorneyship fee and other necessary costs, under any name or title, even in the form of penal clause or votive offering;

8- Make use of the Judiciary's judicial and administrative staff, under any title, in the process of practicing law;

9- Withhold properties, deeds, evidences and amounts paid to clients' accounts after settlement of accounts;

10- Take the client's case from another attorney, pretending to be appointed by him/her;

11- Release information they collect due to their attorney client privilege, unless prescribed by law;

12- Collude with the other party leading to violation of their clients' rights;

13- Guarantee to obtain verdict in favor of the clients, verbally or in writing;

Article 89 – If the attorney is issued a definitive verdict on his conviction to offenses leading to *hadd, qesas* [retribution] for murder, execution or life imprisonment, offences of fraud, breach of trust, theft not punishable by *hadd* and bribery, and also intentional offenses with legal punishments of three or more years of imprisonment, disciplinary punishment of grade 7 will apply to him/her.

Note 1 - Effective disciplinary convictions to other intentional offenses, with any legal punishment, shall result in disciplinary punishment of grade 3 to 5.

Note 2 - In case of the issuance of petitions against an attorney regarding offenses set forth in this article, judicial bodies shall be obliged to communicate the matter along with a copy of the petition and the bill of indictment to the Provincial Bar Association related to the attorney. The Provincial Bar Association shall communicate the matter to the Disciplinary Court for Attorneys. After assessment of the petition and the bill of indictment, if the Disciplinary Court for Attorneys finds evidences for accusations acceptable and decides that practicing law by the attorney contradicts dignity of attorneyship, it shall issue a verdict on suspension of the attorney for six months. Should definitive verdict not be issued after the six-month period, the suspension shall be extendable for another six months.

Article 90 - In cases of deviation of any members of the Associations or their Boards of Directors from obligations set forth in this law or related bylaws, they shall be convicted to disciplinary punishments of grade 3 to 6, or prohibition from membership in Boards of Directors

for one to five years if necessary, by verdict of the Disciplinary Court for Attorneys. Only those members of the Board of Directors shall be punished who are responsible for the deviation.

Article 91 - Multiple offenses shall result in only one disciplinary punishment. If there are different punishments for the committed offenses, the most severe punishment shall be considered. If the punishments are the same, the overall punishment shall be intensified by one or two grades.

Article 92 - If an offense is repeated after being punished, the offender's overall punishment shall be intensified by one or two grades.

## **Section 2 - Disciplinary Courts and Courts of Claims of First Instance and Appeal for Attorneys**

Article 93 - In order to investigate attorneys' and trainees' offenses committed in the Provincial Bar Associations, Disciplinary Courts and Courts of Claims shall be held in accordance with the following articles.

Article 94 - Disciplinary Court of First Instance for Attorneys can be held in different branches at the discretion of the Association's Board of Directors and by the approval of the High Council of Attorneyship. In case of holding different branches, head of the first branch will also preside over the other branches.

Article 95 - Each branch of the Disciplinary Court of First Instance shall have three members nominated by the Association's Board of Directors from first-degree attorneys. Upon approval of the head of Judiciary, the members are appointed by verdict of chairperson of the Board. The Commission is in charge of appointing the Court's chairperson. In addition to the requirements set forth in article 11, members should meet the following requirements:

- 1- Minimum 45 years of age;
- 2- Minimum 15 years of attorneyship or judgeship record;
- 3- No record of definitive disciplinary convictions of grade 4 or higher.

Note 1 - The Court's verdict shall be issued after joint consultation of members based on majority of valid votes cast. The minority opinion should be documented at the bottom of the verdict.

Note 2 - The term for membership in the Disciplinary Court for Attorneys is four years. Reappointment for one successive term is permissible.

Article 96 - A Disciplinary Court of Claims for Attorneys shall be formed along with any Disciplinary Court. The prosecutor shall preside over the Court of Claims. Having received two third of votes among attorneys meeting requirements set forth in article 95, he/she is elected by

the Provincial Bar Association's Board of Directors and appointed upon the order of the head of the Judiciary. The prosecutor is entitled to have sufficient number of assistant prosecutors, selected among attorneys, who shall perform follow-up and assessment under prosecutor's training and supervision.

Note - In addition to the Disciplinary Prosecutor for Attorneys, Provincial Public and the Islamic Revolutionary Prosecutors are also entitled to protest definitive verdicts of the Disciplinary Court of First Instance for Attorneys.

Article 97 - Assistant prosecutors, recommended by the prosecutor and approved by the Board of Directors, shall be appointed by Justice Minister's command among attorneys meeting the following requirements:

- 1- Minimum 30 years of age;
- 2- Minimum five years' record of attorneyship or judgeship;
- 3- No record of definitive disciplinary conviction of grade 3 or higher, or any criminal conviction in effect

Note - If there are several assistant prosecutors, one of them, recommended by the prosecutor and approved by the Board of Directors, shall be appointed as deputy prosecutor.

Article 98 - The Disciplinary Court of Appeal for Attorneys shall be composed of five attorneys meeting the requirements set forth in article 101 appointed by the High Council of Attorneyship and approved by head of the Judiciary. Verdicts of the Disciplinary Court of Appeal for Attorneys shall be valid by affirmative votes of three members. Such verdicts shall be assessable in the High Disciplinary Court for Judges within 20 days after announcement.

Note - The Disciplinary Court of Appeal for Attorneys is based in Tehran and can set up branches at the discretion of the High Council of Attorneyship and by Justice Minister's approval.

Article 99 - Offenses committed by chairperson, members of the Board of Directors and auditors of the Provincial Bar Associations, prosecutor and assistant prosecutors of the Disciplinary Court of Claims and attorney members of all provincial courts of first instance regarding attorneys' professional duties and responsibilities subject of this law shall be assessed in first branch of the Disciplinary Court of First Instance for Attorneys of Tehran Province.

### **Section 3 - Disciplinary Procedures**

Article 100 - Disciplinary procedures for attorneys or trainees may be initiated by private plaintiffs or [based on the] knowledge and discretion of disciplinary prosecutor of attorneys.

Note – The withdrawal of a case by a private plaintiff will not stop a disciplinary prosecution.

Article 101 – The statute of limitations for disciplinary procedure shall be three years after the date of occurrence of the [alleged] violation or last prosecution.

Article 102 - The authority in charge of the case shall decide on the presence of the parties or informed persons during initial assessments performed by the Disciplinary Court. If the Disciplinary Court or Court of Claims decide upon presence of the plaintiff or defendant and deem their explanations necessary in discovering truth, they shall summon the parties.

Article 103 - Complaints and reports on trainees' and attorney's offenses should be registered with the relevant Association's secretariat and be immediately sent to the disciplinary prosecutor. The prosecutor either assess the case himself/herself or refer it to one of his/her assistants.

Note 1 - A copy of the complaints or reports along with related documents and legal reasons shall be communicated to prosecuted trainees or attorneys so that they submit their response to the court of claims within 10 days.

Note 2 – Service of process shall be conducted in accordance with the Civil Procedure Law.

Note 3 - Prosecution schedules of disciplinary courts and courts of claims can be communicated through phone, SMS or email, in accordance with regulations set forth in Criminal Procedure. Papers and summons of courts of claims and verdicts of disciplinary courts can also be notified through email.

Article 104 - Upon receipt of the response to complaints and reports, or if no answer is received from attorneys and trainees by due dates without any justified excuse, prosecution shall continue. Justified excuse requirements are laid out in the Civil Procedure Law.

Note 1 - If during prosecution period, assistant prosecutor becomes aware of the prosecuted attorneys' and trainees' other offenses, he/she shall communicate the matter to the prosecutor. Upon the prosecutor's approval, such attorneys shall be prosecuted in this regard as well.

Note 2 – Justification and requirement for disqualification of prosecutor and his/her assistants are identical to those determined for members of disciplinary courts.

Article 105 - In order to assess complaints and reports received about trainees and attorneys, courts and courts of claims is authorized to request information and copies of necessary documents from ministries, governmental institutions, public non-governmental institutions and foundations, governmental companies and all organizations which are required by law to declare their employees' credentials such as National Iranian Oil Company, Industrial Development and Renovation Organization, Central Bank of the Islamic Republic of Iran, governmental banks and insurance companies, the Registrar of Deeds, judicial bodies and public service institutions. The authorities are obliged to submit requested information and documents to the courts and courts of claims within 10 days, unless the information is classified. In such cases, they shall take appropriate actions in accordance with regulations concerning classified information.

Note 1 – The prosecuting authority can send a representative to make a report on regular documents and the case's information within the scope of regulations.

Note 2 - Refusals to cooperate on the matter shall be considered negligence in performing administrative duties and the offender shall be sentenced to removal from service for a period of three months to one year by the relevant disciplinary and administrative authorities.

Article 106 - Disciplinary procedures for attorneys are not a bar to criminal prosecution or the filing of civil claims against [attorneys]. If the subject of such claims is one of those set forth in Article 89, the court shall make disciplinary procedure conditional to assessment of criminal aspects of the cases by judicial bodies and communicate the matter to the plaintiff in writing. Should the plaintiff take his/her claim to relevant authorities and submit related papers to the Disciplinary Court of Claims within 20 days after being notified, prosecution procedure shall cease until issuance of definitive disciplinary verdict for the criminal case. If the offense is not prosecutable without private plaintiff and the plaintiff does not submit his/her complaint within the time stipulated in this article, the case shall be archived and re-opening of prosecution will be conditional to the plaintiff's attendance before the end of statute of limitations subject of article 101. In this case, court of claims shall prosecute and make decision regardless of the criminal nature of the case. If the offense is prosecutable without private plaintiff, the disciplinary court of claims shall take charge and communicate the indictment to the public court of claims.

Article 107 – Disciplinary procedures will cease and termination of procedure takes effect if the prosecuted attorney or trainee dies or loses sanity, the statute of limitations ends, it is approved that the performed act was not an offense, or the offense is not proven.

Note - If an attorney or trainee [determined to be] insane regains sanity before the end of the statute of limitations, the disciplinary procedure shall continue.

Article 108 - Bills issued by the Disciplinary Court of Claims for Attorneys shall be notified to the parties and the Association's chairperson so that the parties can submit their objections, if any, to the Court of Claims in writing within 10 days. In this case the case shall be sent to the Association's Disciplinary Court. Should the Court find the objections relevant, it shall nullify the issued bill and refer the case to the Court of Claims for drafting a gravamen. Otherwise, the bill shall be verified and the Court's verdict on the verification shall come into effect.

Article 109 – The assistant prosecutor for disciplinary claims is to announce his/her decision after assessment. If he/she decides on disciplinary prosecution and the prosecutor is in agreement, gravamen shall be drafted and the case shall be sent through prosecutor's office to chairperson of the Disciplinary Court for Attorneys for referral to a court branch. If the prosecutor decides that the disciplinary prosecution should be stopped, the disciplinary prosecutor's decision shall be final and obeyed by disciplinary assistant prosecutors.

Article 110 - If an offense punishable by disciplinary punishments up to grade 4 is approved by disciplinary prosecutor and there is no disciplinary plaintiff or such plaintiff has withdrawn his/her complaint and also the offender does not have any disciplinary conviction record, the prosecutor can issue a verdict on suspension of the prosecution for one time. The issued verdict can be protested by the prosecuted attorney or trainee within 10 days after notification and the objection shall be assessed in the Disciplinary Court for Attorneys.

Article 111 - Upon issuance of the complaint, a copy of it shall be communicated to the prosecuted attorney or trainee so that he/she submits his/her written response to the court of claims within 10 days after notification.

Article 112 - Upon receipt of the response or after the due date, the Disciplinary Court shall invite parties to attend a previously-scheduled meeting and explain the matter. The parties' absence shall not stop the procedure or the decision-making process.

Article 113 - Members of the Disciplinary Court for Attorneys should refuse the procedure, and the parties can reject them, in the following cases:

- 1- The member has affinity and consanguinity relationships of third degree kinship from extended family with the prosecuted attorney or trainee, his/her client, or the plaintiff;
- 2- The member has currently or previously been attorney of a case that the prosecuted attorney or trainee or the plaintiff have acted as attorney in it;
- 3- There exists a criminal or disciplinary case in progress between the prosecuted attorney or trainee, his/her client, or the plaintiff and the member or his/her relatives of third degree kinship from extended family;
- 4- The member, due to his/her position in the Disciplinary Court and Court of Claims for Attorneys, has previously made a written decision on the matter as a judicial, arbitrate or expert authority.

Article 114 - The Disciplinary Court for Attorneys shall only assess offenses within the scope of the complaint. In case of approval of the offense, the court shall be responsible for adjusting assigned act with legal provisions. Should the court detect another offense during the assessment, it shall communicate the matter to the Disciplinary Court of Claims for Attorneys for assessment and prosecution.

Article 115 - The Disciplinary Prosecutor for Attorneys or one of his/her assistants representing him/her can attend the prosecution meeting to advocate for the claim and explain the matters requested by the Disciplinary Court for Attorneys.

Article 116 - Verdicts issued by the Disciplinary Court for Attorneys on conviction to definitive punishments of up to Class 3 or non-definitive punishments of Class 4 or higher can be appealed

to the Disciplinary Court of Appeal for Attorneys by the convicted or the disciplinary prosecutor. Appeal deadline shall be within 10 days after in-person notification of the petition or its notification in the manner set forth in Article 103.

Article 117 - If the Minister of Justice, chairman of the relevant provincial courthouse or chairman or disciplinary prosecutor of the relevant Provincial Bar Association decide during the assessment of offenses defined in Article 88 that the prosecuted attorney or trainee should not continue practicing law or traineeship, he/she can request his/her temporary suspension from relevant Association's Disciplinary Court for Attorneys. The Board of Directors can also request the prosecuted attorney's temporary suspension by two third of the main members' approval. In this case, chairman of the Provincial Bar Association shall refer the matter to the Disciplinary Court for Attorneys for assessment. The Court is obliged to immediately assess the case. The suspension verdict is effective immediately.

Note 1 – An attorney or trainee can appeal the suspension verdict of the Disciplinary Court for Attorneys within 10 days after notification. If the suspension request is rejected, the issuing authority can appeal the verdict within 10 days after notification.

Note 2 - The period for attorney's suspension shall be maximum six months, and if needed, extendable for one time only.

Article 118 - If a petition is made against attorney or trainee for one of the offenses set forth in article 89, the issuing public or the Islamic Revolutionary prosecutor should send copies of it to the Disciplinary Prosecutor and chairman of relevant Provincial Bar Association. The Disciplinary Prosecutor or chairman of the Provincial Bar Association sends the copy directly to the Disciplinary Court for Attorneys. If the Disciplinary Court for Attorneys finds the reasons acceptable and decides that continuation of practicing law by attorney or trainee contradicts dignity of attorneyship, it shall issue a verdict on his/her temporary suspension for six months. The verdict can be objected within 20 days after its notification to the attorney or trainee.

Article 119 - If the disciplinary offense has a criminal aspect separable from its disciplinary nature, the Disciplinary Court shall assess and issue a verdict. In order to assess the criminal aspect, or if criminal and disciplinary aspects are not separable, the Court shall send the case to an authorized judiciary body for assessment.

Article 120 - The process of assessment in the Disciplinary Court for Attorneys is identical to that of the Court of First Instance for Attorneys, unless otherwise prescribed by this law.

## **Chapter 5 - Authorized Attorneys' and Trainees' Pension Fund**

Article 121 - Authorized attorneys and trainees, if not a member of other insurance funds, shall receive retirement, disability, death, healthcare and welfare services through compulsory insurance contribution in accordance with regulations of this law.

Note 1 – Recipients of the services set forth in this article and their dependents shall be covered in accordance with a bylaw drafted by the High Council of Attorneyship and adopted by the Justice Minister within six months after approval of this law.

Note 2 - No attorney or trainee can be covered by two insurance funds at the same time. Those currently or previously covered by other funds can select only one of them or transfer their record to the other fund in accordance with related rules and regulations.

Note 3 - Attorneys who are not member of Attorneys' Pension Fund can use its service in accordance with regulations laid out in the executive bylaw that will be included in note 1 of this law.

Article 122 - The name of the Attorneys' and Brokers' Pension Fund shall be changed to Attorneys' and Trainees' Pension Fund, hereinafter called the "Fund". The Fund is of a legal personality and benefits from an administrative and financial independence. It shall be administered in accordance with regulations of this law and the approved Articles of Association. The received insurance fee shall be exempt of any tax and duties.

Article 123 - The Fund's Articles of Association shall be drafted by the High Council of Attorneyship and adopted by the Justice Minister within six months after approval of this law.

Article 124 - The Fund's financial resources are as follows:

- 1- Insurance contributions directly paid to the Fund by members;
- 2- Amounts paid by attorneys of the Association to the Fund;
- 3- Profits and earnings obtained from the Fund's revenues and investments, as stipulated in Articles of Association;
- 4- Amounts subject of articles 125, 126 and 127;
- 5- Contributions and donations received from legal or natural persons.

Note - Receipt of contributions and donations from foreign legal or natural persons shall be conditional to approval from the High Council of Attorneyship and verification by the Justice Minister.

Article 125 - All amounts paid as retirement or insurance contributions by individuals (including the government, employer or applicant) to other funds before issuance of their attorneyship license should be transferred to the Fund upon the applicant's written request. In any case, receiving retirement services from the Fund shall be conditional to acting as attorney and paying insurance contribution for at least 10 years to the Fund.

Note - Military service record shall be also covered by regulations of this law, upon payment of the debited insurance balance to the Fund.

Article 126 - Attorneys, trainees and Associations subject of this law shall be obliged to pay their monthly insurance contributions as follows:

a - The insured individuals' contribution is nine percent (9%);

b - The Associations' contribution is three percent (3%).

The income considered as the basis for calculation of insurance contributions subject of this article for first-year attorneys and trainees shall respectively be 1.5 and 1 times of their minimum wage and regular bonuses stipulated in National Services Management Law. For every year of practicing law, ten percent (10%) will be added to the base salary as annual increase.

Article 127 - The insured individuals' insurance contribution should be directly paid to one of the Fund's announced bank accounts at least once a quarter and the receipt should be submitted to the Fund to be registered in the insured individuals' file. In case of delay in contribution payment, proportional to the period of delay a penalty of up to fifteen percent (15%) per year is calculated and received as a surplus.

Article 128 - The Associations' insurance contribution shall be calculated and announced by the Fund once a quarter. The Associations shall be obliged to pay the amounts to the Fund's bank account within one month. In case of delay in payment, ten percent (10%) shall be annually added to the initial contribution, proportional to the period of delay.

Note 1 - Refusal to pay the contribution to the Fund in a timely manner without any justified excuse shall be subject to disciplinary offenses set forth in article 87 of this law.

Note 2 - Violating individuals subject of this article shall be obliged to personally pay the fine to the Fund.

Article 129 - Attorneys and trainees shall be obliged to pay to the Fund an amount equivalent to the value of the tax stamp attached to their letter of attorneys. Those violating this article shall be deprived of practicing law from four months to one year, in accordance with article 87.

Article 130 - Executive organizations subject of article 5 of the National Service Management Law and other natural and legal persons subject of article 104 of the Direct Tax Law shall be obliged to deduct an amount equivalent to taxes applicable to counseling fees or any other amounts paid to the Fund's attorney members from any contract payment, and deposit the resulted amount onto the Fun's bank account within one month. In case of violation, officials and authorities subject of article 5 of the National Service Management Law shall be convicted to administrative punishments in accordance with the Law on Administrative Offenses, and other natural and legal persons subject of article 104 of the Direct Tax Law shall be convicted to

payment of monetary fines equivalent to 3 to 10 times more than the unpaid amounts. Those refused to pay such fines shall have joint liability with the attorney or trainee.

Article 131 - It shall be prohibited to extend attorneys' and trainees' licenses without receipt of the Fund's settlement certificate and all attorneys and trainees shall be obliged to receive a settlement certificate from the Fund and present it to the Association for extension of their licenses. Not to follow this article shall be considered violation and be subject of disciplinary punishments stipulated in the latter part of article 130.

Article 132 - Contribution records to other insurance funds shall be considered attorneys' pension records if, in addition to transfer of the employer's and the insured individual's contribution, they pay to the Fund the insurance balance subject of article 129 on the transfer year as the pension basis. The balance shall be calculated in accordance with a bylaw drafted by the Fund and approved by the High Council of Attorneyship.

Article 133 - In case of paying insurance contributions of all years, including the applicants' retirement fees paid to the Fund, insurance record of judges and the government employees, duration of serving as a parliament member and duration of compulsory military service shall be included in their pension records.

Article 134 - In case of possession of amounts and properties entrusted to them by the Provincial Bar Associations or the Fund for themselves or their relatives or illegal possession of such amounts and properties, employers and members of the Associations or the Fund shall be convicted to punishments identical to those for offenders of embezzlement or illegal possession of governmental properties.

Article 135 - Pensions subject of this law shall annually increase at least identical to the annual increase in state employers' pension approved by the Cabinet. The increase shall be proposed by the Fund and approved by the Minister of Justice.

Article 136 - After approval of permitted definitive expenses and costs, the Fund's Board of Directors shall be obliged to spend the yearly accumulated income for purposes stipulated in Articles of Association including safety stock, investments, bank settlements and corporate bonds, facilities, loans for attorneys and trainees to purchase or rent an office or a house and other necessary loans.

Note - Amount of loan, inclusion criteria, payment of installments and required guarantees shall be in accordance with a bylaw to be approved by the High Council of Attorneyship. In any case, it is prohibited to give loans without receiving sufficient and valid guarantees.

Article 137 - In case of cease of membership and before using pension, disability and life insurance services, the Fund's attorney or trainee members can request receipt of their

contributions or transfer of such amounts to other funds in accordance with regulations. In this case, they will not be covered by the Fund anymore.

Article 138 - Families of former brokers who receive the Fund services until the date the current law comes into effect shall continue receiving services set forth in this law.

## **Chapter 6 - Other Regulations**

Article 139 - In the case of the death or incapacitation of attorneys or trainees and upon the request of those who have given papers and deeds to them, their legal advocate shall personally return the documents to owners in the presence of the Association's representative. In cases of disputes or a refusal or lack of access to the representative, prosecutor of the township shall return the documents. A copy of the documents shall be submitted to the advocates.

Article 140- Within one year of the date upon which this law comes into effect, the Ministry of Justice should start setting up Provincial Bar Associations.

Article 141 - In addition to the specific bylaws anticipated in this law, other executive regulations should be drafted by the Ministry of Justice and approved by the head of Judiciary within six months of the date this law comes into effect.

Note - Until the approval of the executive regulations pursuant to this law, existing executive bylaws shall be valid.

Article 142 - Within one year of the date upon which this law comes into effect, the Judiciary's Legal Advice Center, attorneys and experts will submit the file of those attorneys with no licenses to the accepting Provincial Bar Association. In cases involving movable and immovable properties and amounts belonging to the Legal Advice Center's attorneys, the authorized representative of the head of the Judiciary will transfer properties obtained from the amounts received from the Legal Advice Center, belonging to the Judiciary, to the Association.

Article 143 - Any entity as a legal or consultant institution or company established for providing attorneyship and legal advice services shall be set up or registered only by two or more attorneys. Existing institutions and companies should adjust themselves to comport with the regulations of this law within one year after approval of the law. Otherwise they shall be considered defunct.

Article 144 - Suspended or dismissed attorneys and those without licenses shall be prohibited from any pretense or intervention in taking cases subject to this law. Those in violation shall be convicted to confiscation as laid out in the Islamic Penal Code.

Article 145 - The Minister of Justice shall be responsible for supervision over satisfactory performance of this law. He/she is also obliged to draft an annual report on activities of the Bar Association and submit it to the head of the Judiciary.

Article 146 - As of the date this law comes into effect, the Attorneyship Law approved on 2/14/1937, the Legal Bill on Authorized Attorneys' Independence approved on 2/24/1955, Article 6 of the Courthouse Amendment Law, a part of the Bill on the Structure of Courthouses and Employment of Judges approved by a joint committee of parliament and the judiciary in 1956, the Law on Establishment of Attorneys' Cooperative Fund and Provision of Bar Association's Expenses approved on 6/21/1971, the Law on Permitting Practice of Law by Judicial Officers Holding Bachelor's Degree Diploma in Law Retired from Armed Forces approved on 7/9/1972, the Law on Formation of Attorneys' and Brokers' Pension Fund approved on 4/18/1976, Articles 31 and 34 of the Law on Amending some Courthouse Regulations approved on 6/15/1977, the Law on Obtaining Attorneyship Licenses approved on 4/6/1997 and Article 187 of the Third Development Plan shall be nullified regarding the issuance of attorneyship licenses and related matters.

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<sup>1</sup> The draft attorneyship bill proposed by Rouhani's cabinet includes the following:

**Preamble:**

In order to fulfill the obligations laid out in Article 212 of the Fifth Development Plan of the Islamic Republic of Iran, to consolidate numerous and disaggregated rules in the field of attorneyship and organize these rules; taking into consideration the necessity of making fundamental modifications in organization and structure of Iranian Bar Association, the proposed bill is hereby presented for legal proceedings: