

# Act on Advocates [*Advocatenwet*]

## Preamble

We JULIANA, by the grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc.

Greetings to all who shall see or hear these presents! Be it known:

Whereas We have considered that it is desirable to set up the Netherlands Bar, as well as to review the regulations with regard to order and discipline for advocates and local counsels;

We, therefore, having heard the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

## § 1 Of the registration and swearing-in of the advocates; of the bar registration

### Section 1

1

The advocates are entered in the bar registration of the Netherlands Bar [*Nederlandse orde van advocaten*].

2

Registration as an advocate is conditional or unconditional.

3

Registration is conditional when the applicant who, by virtue of [Section 9b](#) must practise law under the supervision of a principal, does not hold the accreditation presented for the professional qualifications referred to in Section 5 of the General Recognition of EC Professional Qualifications Act [*Algemene wet erkenning EG-beroepskwalificaties*]. In all other cases, as well as in the case referred to in [Section 2a, subsection 1](#), registration is unconditional. When a certificate or accreditation referred to in the first sentence is subsequently presented, the conditional nature of the registration is removed by operation of law.

### Section 2

1

The following persons are authorised to apply for registration as an advocate:

- a.

anyone who, by virtue of the successful completion of a final examination for a scientific study programme in the field of law has been awarded the degree of Bachelor of Laws as well as the degree of Master of law by a university or the Open University referred to in the Higher Education and Research Act [*Wet op het hoger onderwijs en wetenschappelijk onderzoek*];

- b.

anyone who, by virtue of the successful completion of a final examination for a scientific study programme in the field of law at a university or the Open University referred to in the Higher Education and Research Act [*Wet op het hoger onderwijs en wetenschappelijk onderzoek*],

has been awarded the doctorate in law or has been granted the right to hold the title of LLM [meester];

- c.

anyone who holds the accreditation presented for the professional qualifications with regard to the profession of advocate referred to in Section 5 of the General Recognition of EC Professional Qualifications Act [*Algemene wet erkenning EG-beroepskwalificaties*].

2

By governmental decree, further regulations may be stipulated with regard to the professional requirements.

3

By governmental decree, degrees, awarded by a university, the Open University or a university of applied sciences referred to in the Higher Education and Research Act [*Wet op het hoger onderwijs en wetenschappelijk onderzoek*], or degree certificates equal to that can be awarded which, for the applicability of Subsection 1.a are considered equivalent to the Bachelor law degree referred to in that section.

4

Also entitled to apply for registration are those who have successfully completed a final examination for a study programme in the field of law at a university or a study programme considered equivalent to that in a different EU Member State, or in another state that is party to the Agreement on the European Economic Area or in Switzerland. In that case, the general council shall find out to what extent the final examination and the professional experience gained by the applicant in this other Member State are equal to the professional requirements stipulated under Subsection 2. If it emerges that the final examination and the professional experience are not equal to the professional requirements stipulated under Subsection 2, the general council may demand the applicant completes an aptitude test or additional examinations. The general council provides the opportunity to complete an aptitude test or additional examinations.

5

A request to be registered as an advocate is submitted to the Council of the Local Bar in the district where the applicant wishes to practise.

6

At the same time as submitting the request referred to in Subsections 1 and 2, the applicant submits a certificate of good conduct, issued in accordance with the Judicial Data and Criminal Records Act [*Wet justitiële en strafvorderlijke gegevens*]. If the applicant was registered as an advocate previously, he shall also submit a document issued by the Council of the Local Bar of the district where he practised law most recently, which documents demonstrates whether or not he has received a disciplinary conviction, if he was ever bankrupt, or if he was ever the subject of a debt management scheme. When an advocate wishes to practise law in a different district, he shall submit the document referred to in the previous sentence to the Council of the Local Bar in that district.

7

Unless the council declares [Section 4, subsection 1](#) applicable, he shall send a copy of the application and the statements and documents submitted along with that to the district court in the district where the applicant wishes to practise law, for the purposes of the applicant being sworn in.

8

For the purpose of processing in the bar registration, the advocate shall notify the secretary of the general council of each office relocation. From the moment the notification of an office relocation to a different district has been processed, the advocate is expected to practise law in this other district.

9

If a decision by the council refusing to process the registration referred to in [Section 4, subsection 1](#) has become irrevocable, any new application submitted within one year of the application being denied shall be ignored. If a change in circumstances or the fact that the application is submitted to a different council justifies it, the council in the district where the applicant wishes to practise law may decide to process the application for registration after all. In that case, the council shall declare Subsection 7 applicable.

10

Under application of Section 28, subsection 1, final sentence of the Services Act [*Dienstenwet*], Subsection 4.1.3.3 of the General Administrative Law Act [*Algemene wet bestuursrecht*] does not apply to an application for registration referred to in subsection 1 or 4.

## **Section 2a**

1

In derogation from [Section 2, subsection 1](#) a person who, in another Member State of the European Union, in another state that is a party to the Agreement on the European Economic Area or in Switzerland, hereinafter referred to as the state of origin, is entitled to undertake his professional activity under the title of advocate or a similar name in the language or languages of the state of origin, is entitled to ask to be registered as an advocate, if he submits a document that proves that he has effectively and regularly been practising as an advocate in the Netherlands in Dutch law, including Community law, for a period of at least three years. Effectively and regularly practising is taken to mean the effective undertaking of the activity without interruptions other than those deemed normal in day-to-day life.

2

The advocate submits an application for the issue of a document referred to in Subsection 1 to the Council of the Local Bar in the district where the advocate can practise law.

3

The application does at least include information or documents about the number and nature of the files processed by the applicant.

4

The council can verify if the activities undertaken can be considered effective and regular and, if necessary, it can ask the advocate to provide additional explanations or specifications, verbally or in writing, about information and documents referred to in Subsection 3.

5

Instead of the certificate of good conduct or the other documents referred to in [Section 2, subsection 6](#), the advocate, referred to in Subsection 1, may submit documents considered the equivalent of that certificate or those documents, issued by the competent authority in the state of origin.

## Section 2b

1

If the advocate has effectively and regularly been practising as an advocate in the Netherlands for at least three years, yet for a shorter period in Dutch law, the Council of the Local Bar in the district where the advocate can practise law can issue the document referred to in [Section 2a, subsection 1](#), when the advocate is sufficiently skilled to continue the activities in Dutch law, including Community law. The council shall take the following into account:

- a.  
  
the period during which the advocate in question effectively and regularly undertook activities in the Netherlands,
- b.  
  
the knowledge and professional experience in the field of Dutch law,
- c.  
  
participation in courses or seminars with regard to Dutch law and
- d.  
  
the knowledge and professional experience of, as well as participation in courses or seminars about the Dutch rules of professional conduct and practice.

2

The assessment of the effective and regular activities in the Netherlands, as well as the assessment of the competency of the advocate to continue the activities undertaken in the Netherlands, take place within the framework of a meeting that serves to verify the effective and regular nature of the activity undertaken.

## Section 2c

1

The advocate who is registered in accordance with [Section 2a](#), is authorised to use his original professional title in the official language or in one of the official languages of the state of origin, in addition to the title of advocate, if he is registered in the state of origin under that professional title.

2

If the competent authority of the Member State of origin or the disciplinary court in that state has temporarily or permanently disqualified the advocate from practising the profession of advocate, that advocate is, by operation of law, no longer authorised to practise his profession in the Netherlands using his original professional title.

## Section 3

1

After receiving the copy of the application and the statements and documents submitted with that, referred to in [Section 2, subsection 6](#), advocates are, at the demand of the public prosecutor, sworn in

by the district court in the district where they wish to practise law. For the purpose of processing in the bar registration, the court registrar shall notify the secretary of the general council of the swearing-in.

2

They swear or affirm as follows:

*“Ik zweer (beloof) getrouwheid aan de Koning, gehoorzaamheid aan de Grondwet, eerbied voor de rechterlijke autoriteiten, en dat ik geen zaak zal aanraden of verdedigen, die ik in gemoede niet gelove rechtvaardig te zijn.”* (“I swear (affirm) that I shall be faithful to the King, obey the Constitution and respect the judiciary, and that I shall not put forward or defend any case I do not in conscience believe to be just, and that I shall discharge my duties as local counsel faithfully.”)

3

When the oath or affirmation referred to in Subsection 2 is made in the Frisian language, the text of the oath or affirmation reads as follows:

*«Ik swar (ûnthjit) trou oan de Kening, it neilibjen fan 'e Grûnwet, eerbied foar de rjochterlike autoriteiten, en dat ik gjin saak oanrikkemandearje of ferdigenje sil, dêr't ik ynderlik fan oertsjûge bin dat dy net rjochtfeardich is.»*

#### **Section 4**

1

The Council of the Local Bar where the application referred to in [Section 2, subsection 5](#) has been submitted may refuse to process the application if:

- a.  
the applicant fails to comply with the application requirements stipulated in [Sections 2](#) and [2a](#) or if he has failed to submit the statements and documents referred to in those sections.
- b.  
there is good reason to believe that the applicant, in his capacity of advocate, shall violate the laws, regulations and orders that apply to advocates or that he shall otherwise be guilty of any acts or omissions that do not befit a respectable advocate; or
- c.  
the applicant is disbarred by virtue of Section 8c, subsection 3, without the statement referred to in that section being submitted later, and the application is made within a term, to be set by the general council, after the advocate is disbarred.

2

If the application referred to in [Section 2, subsection 5](#) is made by an applicant who was registered as an advocate before, the council can also refuse to process the application if the council is of the opinion that the applicant fails to comply with the requirements for qualification of renewed registration, stipulated under or pursuant to a regulation.

3

The decision to refuse to process the application is made within six weeks of the application being submitted.

4

The swearing-in referred to in [Section 3](#) can take place when the council has not, within the term referred to in Subsection 3, decided to refuse to process the application, or if the council has declared to process the application.

5

Under or pursuant to a regulation, it is determined to what extent, after disbarment by virtue of Section 8c, subsection 3, an examination can still be taken for elements of the study programme and under which conditions this examination can be taken.

## **Section 5**

1

The secretary of the council notifies the applicant of the decision to refuse to process the application, referred to in [Section 4, subsection 1](#), without delay.

2

For a period of six weeks after the notification, the applicant can lodge a complaint with the disciplinary court, referred to in [Section 51](#).

3

The complaint is submitted by means of a petition, which includes a copy of the decision that is the subject of the complaint. The court registrar immediately sends a copy of the petition to the council that took the decision. The processing of the complaint is not subject to Chapters 6 and 7 of the General Administrative Law Act [*Algemene wet bestuursrecht*].

## **Section 6**

1

The disciplinary court does not make a decision before the applicant and council have been heard or duly summoned. The hearing of the case is subject to [Section 56, subsection 6](#), and [Section 57, subsection](#) by analogy.

2

The council may be represented by its President or one of its members; the applicant can be assisted by an advocate.

## **Section 7**

The court registrar immediately sends a copy of the decision to the applicant and the council.

## **Section 8**

1

With a view to determining the capacity of the advocate in the interest of proper administration of justice, the secretary of the general council enters the following information in the bar registration of each advocate:

- a.  
the name;
- b.  
the place and date of birth;
- c.  
the date on which the advocate was sworn in;
- d.  
the address where the advocate practises law, as well as other contact details and the name of the office;
- e.  
to the extent applicable: the name of the principal, the address where he practises law, as well as the name of the office;
- f.  
the Council of the Local Bar which the advocate is a member of;
- g.  
to the extent applicable: the membership of professional associations specialising in a specific legal field, as well as the indication that it concerns an advocate as referred to in [Section 16h](#) or an advocate with the Supreme Court [*Hoge Raad*] as referred to in [Section 9j, subsection 1](#);
- h.  
decisions by virtue of [Section 48, subsection 1](#);
- i.  
decisions by virtue of [Section 48, subsection 3](#);
- j.  
decisions by virtue of [Section 48, subsection 5](#);
- k.  
decisions by virtue of [Section 48a, subsection 1](#), and [Section 48b](#), stating the special conditions stipulated;
- l.

decisions by virtue of [Section 60ab, subsections 1 and 2](#), and [Section 60b, subsection 1](#), to the extent applicable and stating the provision made; and

- m.

other decisions under which suspension is ordered;

- n.

decisions to impose an administrative penalty or an order subject to a penalty as referred to in [Section 45g, subsection 1](#), and Section 26, subsection 2 and Section 27, subsection 2 of the Money Laundering and Terrorist Financing (Prevention) Act [*Wet ter voorkoming van witwassen en financieren van terrorisme*].

2

Along with the details referred to in Subsection 1.h to 1.n inclusive, the bar registration also states the date and reference of the relevant decision or decisions, as well as the body that took that decision or those decisions.

## Section 8a

1

The advocate whom the details relate to, the general council, the secretary of the general council, the members of the bars in the district courts, the supervisory board as well as the court registrars, chairmen, deputy chairmen, members and deputy members of a disciplinary board and the disciplinary court can consult the details entered in the bar registration by virtue of [Section 8](#) free of charge.

2

Everyone can, free of charge, consult the details entered in the bar registration, referred to in:

- a.

[Section 8, subsection 1.a, 1.c to 1.g inclusive, 1.j and 1.m](#);

- b.

[Section 8, subsection 1.h](#), insofar as it concerns an irrevocable decision to unconditionally impose an order as referred to in [Section 48, subsection 2.d or 2.e](#);

- c.

[Section 8, subsection 1.h](#), insofar as it concerns an irrevocable decision with regard to an order as referred to in [Section 48, subsection 2.c](#), and insofar as this is imposed at the same time as an order as referred to in Section 48, subsection 2.d or 2.e;

- d.

[Section 8, subsection 1.k](#), insofar as it concerns an irrevocable decision with regard to an order as referred to in [Section 48, subsection 2.d or 2.e](#);

- e.



[Section 8, subsection 1.k](#), insofar as it concerns an irrevocable decision with regard to an order as referred to in [Section 48, subsection 2.c](#), and insofar as this is imposed at the same time as an order as referred to in Section 48, subsection 2.d or 2.e; and

- f.

[Section 8, subsection 2.i](#), insofar as it concerns an irrevocable decision with regard to suspension or taking a measure and for as long as the suspension imposed or the measure taken is in force.

3

With the exception of the details relating to the imposition of an order of disbarment, the details referred to in Subsection 2.b to 2.e inclusive, cannot be inspected by persons and bodies other than those referred to in Subsection 1, after 10 years have passed since the decision which the details relate to becoming irrevocable. The disciplinary board or the disciplinary court can in its decision stipulate that the term referred to in the first sentence is reduced, on the understanding that the term shall not be less than the term of the suspension.

### **Section 8b**

The secretary of the general council publishes a written list of details about advocates with regard to whom a decision for unconditionally imposing an order as referred to in [Section 48, subsection 2.d or 2.e](#) has become irrevocable. This list contains:

- a.  
the name of the advocate and the legal firm at which the advocate is employed;
- b.  
the location where the advocate practises law;
- c.  
the name of the Council of the Local Bar which the advocate is a member of;
- d.  
the order imposed on the advocate, stating the term of the order, insofar as applicable; and
- e.  
the date of the decision under which the order is imposed, as well as the date on which the order takes effect.

### **Section 8c**

1

Those who no longer wish to be included in the bar registration or who take up a position that is incompatible with that of advocate, are disbarred by the secretary of the general council at their request. In the latter case, the district court in the district where the advocate practises law can also decide to disbar the advocate, at the demand of the public prosecutor, after hearing the advice of the Council of the Local Bar. For the purpose of processing in the bar registration, the court registrar shall notify the secretary of the general council of the decision to disbar the advocate.

2

In case of death, the advocate is disbarred by the secretary of the general council.

3.

Also disbarred are those who, with or without interruption, for a period of three years have been unconditionally registered as an advocate:

- a.

without being able to submit the statement that the traineeship referred to in [Section 9b](#) has been successfully completed; or

- b.

without being able to submit the proof that the examination referred to in [Section 9c](#) has been passed.

4

If the term referred to in Subsection 3 is interrupted and the proof referred to in Subsections 3.a and 3.b cannot be submitted, the person involved may ask to be conditionally registered as an advocate for another three-year term. This application can be submitted within three years of the term being interrupted.

5

For conditionally registered advocates who work part-time, the term referred to in Subsection 3 is proportionally extended, on the understanding that this extension can be no more than three years. If, by virtue of [Section 9b, subsection 2](#), the council has extended the traineeship, the term referred to in Subsection 3 is extended by the term under the decision, on the understanding that this extension can be no more than three years.

6

The disbarment referred to in Subsection 3 takes place after notification from the general council, starting on a date that lies at least two months and no more than six months after the notification date. The notification is simultaneously sent to the advocate in question, his principal, the Council of the Local Bar in the district where the advocate practises law and the Public Prosecution Service.

7

The secretary of the general council notifies the general council, the Council of the Local Bar and the supervisory board of the registration or disbarment within eight days.

### **Section 8d**

[Sections 8, subsection 1, preamble and 1.a, 1.b, 1.d and 1.f to 1.m inclusive and subsection 2, 8a, 8b, and 8c, subsection 1](#), apply by analogy to advocates who undertake their activities under their original professional title as referred to in [Section 16h](#), on the understanding that:

- –

in [Section 8, subsection 1.h](#), «Section 48, subsection 1,» reads as: [Section 48, subsection 1](#), and [Section 60aa, subsection 2](#); and

• –

in [Section 8a, subsection 2.b to 2.e inclusive](#), and [Section 8b](#) «Section 48, subsection 2.d or 2.e» always reads as: [Section 48, subsection 2.e](#), or [Section 60aa, subsection 2](#).

### **Section 8e**

1

The Council of the Local Bar can ask the disciplinary board to order that an advocate who does not permanently and structurally practise law, is disbarred.

2

The processing of the request is subject to [Sections 47, 49](#) and [50](#) by analogy, on the understanding that in Sections 49 and 50 «the complainant» reads as: the Council of the Local Bar.

3

The advocate in question and the Council of the Local Bar can object to the disciplinary board's order at the disciplinary court within six weeks of the copy referred to in [Section 50](#) having been sent.

4

[Section 9, subsections 5 and 6](#) applies by analogy.

### **Section 8f**

When an advocate is disbarred, it constitutes a loss of the positions for which the capacity of advocate is required for electability or eligibility for appointment.

### **Section 9**

1

The Council of the Local Bar can, one year after an advocate is sworn in, decide that he is disbarred, when either the advocate has provided the council or the disciplinary court with such incorrect or incomplete information that, if the council of the disciplinary court had been aware of the actual circumstances, he would not have been sworn in, or the advocate has been guilty of such serious misconduct in the period between the application for registration and the swearing-in, that, if he would have been guilty of this after having been sworn in, the order to disbar him would have been imposed on him.

2

The hearing of the case is subject to [Sections 47](#) and [49, subsection 2 to 11 inclusive](#) by analogy.

3

The secretary of the state announces a decision as referred to in Subsection 1 without delay.

4

The advocate can lodge an objection to such a decision with the disciplinary court within six weeks of the announcement. [Section 5, subsection 3](#), and [Section 6](#) apply by analogy.

5

The registrar of the disciplinary court sends a copy of the decision to the advocate in question and to the council without delay.

6

For the purpose of processing in the bar registration, the secretary of the council shall notify the secretary of the general council as soon as the decision to disbar the advocate has become final.

### **Section 9a**

Only those registered as advocate by virtue of [Section 1, subsection 1](#), or [Section 2a, subsection 2](#) are entitled to use the title of advocate.

### **Section 9aa**

1

If the competent authority of the receiving Member State or the disciplinary court in that state has temporarily or permanently disqualified the advocate who was registered by virtue of the national law of that Member State of the European Union or the relevant state that is a party to the Agreement on the European Economic Area that implements Section 3 of EC Directive 98/5 of the European Parliament and the Council of the European Union of 16 February 1998 to facilitate the permanent practising of law, from practising the profession of advocate, the Council of the Local Bar in the district where the advocate in question practises law shall officially decide to suspend the advocate or disbar him, if there is good reason to believe that the person involved, in his capacity of advocate, shall violate the laws, regulations and orders that apply to advocates or that he shall otherwise be guilty of any acts or omissions that do not befit a respectable advocate. The decision comes into effect six weeks after having been announced.

2

Sections 5 to 7 inclusive, 8c.7 and [8f](#) apply by analogy.

3

The secretary of the general council processes the decision of the council in the bar registration after it has become irrevocable.

4

The complaint suspends the effect of the council's decision.

5

The disciplinary court can stipulate a term for the council to take a new decision.

6

The council notifies the competent authority of the receiving Member State of the suspension or disbarment.

7

At the request of the council, the advocate organises the certified translation of the details and documents required for the decision. If the advocate refuses to comply with this request, the council shall organise the certified translation and it shall recover the relevant costs from the advocate in question.

8

The disciplinary court may demand that the documents it has designated are translated by a certified translator who has been permitted to the Netherlands. The advocate bears the costs of the translation.

9

If the advocate is registered in Switzerland with due observance of the Agreement concluded on 21 June 1999 between the European Community and its Member States on the one hand and the Swiss Confederation on the other about the free movement of persons, the previous subsections apply by analogy.

## **§ 1a Of the training and traineeship of advocates**

### **Section 9b**

1

Every advocate, with the exception of an advocate who holds an accreditation presented for the professional qualifications with regard to the profession of advocate referred to in Section 5 General Recognition of EC Professional Qualifications Act [*Algemene wet erkenning EG-beroepskwalificaties*] as well as with the exception of an attorney who is registered in accordance with [Section 2a](#), is obliged, during the first three years in which he is registered as such, to practise law as a trainee under the supervision of another advocate - hereinafter referred to as the principal - and to practise law at the latter.

2

For trainees who are in part-time employment, the term of the traineeship is extended proportionally. Furthermore, the term of the traineeship can be extended by a maximum of three years if the Council of the Local Bar is of the opinion that the trainee does not yet have enough practical experience. The council can reduce the term of the traineeship at the request of the trainee and with the approval from the general council.

3

The council may exempt the trainee from his obligation to practise law at a principal if, in the opinion of the council, proper professional practice, including the financing of the practice and the cover of the risk of the trainee's professional liability, is assured in accordance with the relevant regulations stipulated under of pursuant to this act. If this is no longer the case in the opinion of the council, any exemption granted may be revoked. Under application of Section 28, subsection 1, final sentence of the Services Act [*Dienstenwet*], Subsection 4.1.3.3 of the General Administrative Law Act [*Algemene wet bestuursrecht*] does not apply to a request for exemption.

4

If the council has granted the exemption referred to in Subsection 3, it shall, if the trainee has been unable to find a principal who wishes to assume the required supervision, appoint an advocate as principal, unless this would constitute an unreasonable burden for the advocate in question.

5

A stakeholder can lodge an administrative appeal with the general council against extension of the term of the traineeship, the refusal or revocation of exemption on the basis of the provisions in Subsection 3, the appointment of a principal under application of Subsection 4, or the refusal of such an appointment.

6

Under or pursuant to a regulation as referred to in [Section 28](#), it is determined who can act as principal, or who can be appointed principal, which obligations the principal and the trainee have to fulfil, as well as when and in which cases the relationship between them starts and ends.

### **Section 9c**

1

The Netherlands Bar organises training for trainees and enables the trainee to following this training, which is concluded with an examination.

2

The following subjects, relating to the training referred to in Subsection 1, are specified under or pursuant to a regulation as referred to in [Section 28](#), unless this is provided for by governmental decree:

- a.  
the content and duration of the training;
- b.  
the scope of the examination and how the examination is held;
- c.  
the examination admission requirements;
- d.  
the requirements to obtain exemption from certain units of the examination;
- e.  
the course and examination fees to be charged to the trainee.

### **Section 9d**

Deleted

### **Section 9e**

Deleted

### **Section 9f**

Deleted

## **Section 9g**

Deleted

## **Section 9h**

Deleted

## **Section 9i**

Deleted

## **Section 9j**

1

An advocate with the Supreme Court [*Hoge Raad*] is an unconditionally registered advocate as referred to in [Section 1, subsection 2](#), while the annotation in the bar registration proves he has that capacity.

2

Annotations in the bar registration are made by the secretary of the general council, at the request of the advocate and after submission of a statement that the advocate meets the admission requirements referred to in Subsection 3.a. The secretary of the council notifies the advocate and the registrar of the Supreme Court [*Hoge Raad*] of every annotation in or deletion thereof from the bar registration.

3

Under or pursuant to a regulation, the board of representatives stipulates rules about obtaining, maintaining and losing the capacity of advocate with the Supreme Court [*Hoge Raad*], as well as the annotation in the bar registration. The regulation does in any case contain rules about:

- a.  
  
the requirements with regard to professional competence to be attached to the advocate, consisting of admission requirements and permanent training and practice requirements, particularly in the field of procedural law.
- b.  
  
the development of these requirements, the training and the examination;
- c.  
  
obtaining an exemption for certain units of the training or examination;
- d.  
  
the advice about and monitoring the provisions under b and c; and
- e.  
  
the issuing of the statement that an advocate complies with all requirements referred to under a.

4

Under or pursuant to the regulation, a distinction can be made according to rules referred to in Subsection 3 that relate to acting for the Supreme Court [*Hoge Raad*] in civil cases, criminal cases or tax cases.

5

The general council ensures that the matters referred to in Subsection 3 are taken care of.

6

On request, the general council can, in exceptional cases, grant exemption from the requirements in Subsection 1 regarding unconditional registration as an advocate.

7

The advocate can submit a notice of objection to the disciplinary court regarding a decision to refuse the request for an annotation in the bar registration as advocate with the Supreme Court [*Hoge Raad*], as well as a decision to refuse the exemption referred to in Subsection 6, within six weeks of the announcement. [Section 9, subsection 5](#) applies by analogy.

## **Section 9k**

1

The Council of the Local Bar which the advocate is a member of can ask the disciplinary board to decide that the annotation of capacity of advocate with the Supreme Court [*Hoge Raad*] is deleted if the advocate does not or no longer complies with the requirements referred to in [Section 9j, subsection 3.a](#).

2

The processing of the request is subject to [Sections 47, 49](#) and [50](#) by analogy, on the understanding that in Sections 49 and 50 «the complainant» reads as: the Council of the Local Bar.

3

The advocate can submit a notice of objection to the disciplinary court with regard to a decision to delete an annotation as referred to in Subsection 1, within six weeks of the copy referred to in [Section 50](#) having been sent. [Section 9, subsections 5 and 6](#) applies by analogy.

## **§ 2 Of the rights and obligations of advocates**

### **Section 10**

The advocates practise law in accordance with the rights and requirements, under the Code of Civil Procedure [*Wetboek van Burgerlijke Rechtsvordering*] and the Code of Criminal Procedure [*Wetboek van Strafvordering*] and under the special acts and decrees done and ordered, and in accordance with this act and the regulations and orders based on that.

### **Section 10a**

1



In the interest of proper administration of justice, the advocate ensures his client receives legal protection. To that end, the advocate is, in the course of his profession:

- a.  
independent towards his client, third parties and the cases in which he acts in this capacity;
- b.  
partial to looking after the justified interests of his client;
- c.  
competent and is able to rely on sufficient knowledge and skills;
- d.  
ethical and he refrains from any acts or omissions that do not befit a respectable advocate;  
and
- e.  
a person of trust and he observes confidentiality within the limits set by law and justice.

2

In the interest of proper administration of justice, the general council and the Councils of the Local Bars promote proper exercise of an office and they take all measures that may contribute to that. They stand up for the rights and interests of the advocates and fulfil the duties bestowed upon them under a regulation.

## **Section 11**

Without prejudice to the provisions in [Section 9j](#), advocates, both in civil and criminal cases, are authorised to act in that capacity for all courts of justice within the Kingdom.

### **Section 11a**

1

Insofar as not stipulated otherwise by law or regulation of the board of representatives, the advocate has a duty of confidentiality with regard to everything he learns of by virtue of practising his profession. The same obligation applies to the employees and staff of the advocate, as well as other persons involved in practising the profession.

2

The duty of confidentiality referred to in Subsection 1 continues after the profession is no longer practised or after termination of the position with regard to which the activities were undertaken.

## **Section 12**

1

Advocates are obliged to have a business address. They can have a business address at one location in only one district.

2

As such, the office of the advocate serves as his place of business for all his acts.

3

The general council can, for special reasons, grant an advocate who wishes to establish an office abroad, exemption from the regulation set out in Subsection 1. The Council of the Local Bar in the district where the advocate practised law most recently shall be heard in advance. If exemption is granted, the advocate shall, after having established his office outside the Netherlands, continue to be a member of the Local Bar in the district where he practised law most recently. If the advocate has not practised law in a district before, he shall be a member of the Local Bar of The Hague after the exemption being granted and establishing his office outside the Netherlands.

4

The general council can grant an advocate who, within the framework of secondment wishes to practise law elsewhere, temporary exemption from the regulation set out in Subsection 1. The Council of the Local Bar in the district where the advocate practised law most recently shall be heard in advance. If exemption is granted, the advocate continues to be a member of the Local Bar in the district where he practised law when exemption was applied for.

5

Advocates who fail to comply with the regulations in this section shall be disbarred, after having received an appropriate demand from the Council of the Local Bar in the district, at the demand of the public prosecutor and after the district court has decided to disbar them. For the purpose of processing in the bar registration, the court registrar shall notify the secretary of the general council of the decision to disbar the advocate.

## **Section 12a**

Under application of Section 28, subsection 1, final sentence of the Services Act [*Dienstenwet*], Subsection 4.1.3.3 of the General Administrative Law Act [*Algemene wet bestuursrecht*] does not apply to a request for exemption as referred to in [Section 12, subsections 3 and 4](#).

## **Section 13**

1

A litigant who is unable to find an advocate willing to offer his services for a case that prescribes representation by an advocate or in which legal aid can only be provided by an advocate, or who is unable to find an advocate in time, can turn to the President of the Local Bar where the case shall be heard, with the request to appoint an advocate. The President shall also appoint an advocate if the litigant, in the opinion of the President, qualifies for legal aid by virtue of the provisions under or pursuant to the Legal Aid Act [*Wet op de rechtsbijstand*].

2

The President can refuse such a request for good reasons only. He can change or withdraw an appointment if there are good reasons for doing so.

3

The stakeholder can submit a complaint to the disciplinary court within six weeks of the announcement of the decision pertaining to the refusal of the request. The processing of the complaint is not subject to Chapters 6 and 7 of the General Administrative Law Act [*Algemene wet bestuursrecht*].

4

The appointed advocate is obliged to offer his services.

5

An advocate who has been assigned as a defence counsel by the Legal Aid Board [*raad voor rechtsbijstand*], acts in that capacity or is represented in accordance with Section 46 of the Code of Criminal Procedure [*Wetboek van Strafvordering*], for as long as an elected defence counsel has not acted or another has been assigned pursuant to Section 45 of the Code of Criminal Procedure [*Wetboek van Strafvordering*].

#### **Section 14**

The advocates address the court while standing up, dressed in the attire stipulated by the special regulations for that subject, with their heads covered when approved.

#### **Section 15**

Deleted

#### **Section 16**

Advocates who have been declared bankrupt or who are the subject of a debt management scheme, who have been committed to prison for debt or who have been placed under guardianship, shall be suspended from practising law for the duration of the bankruptcy, the application of the debt management scheme, the detention or guardianship by operation of law. A suspended advocate is not permitted to use the title of attorney of law while suspended. For the purpose of processing in the bar registration, the registrar of the court that has pronounced a decision or decisions, referred to in the first sentence, that result in the suspension being lifted, shall notify the secretary of the general council of the suspension or exemption thereof. Suspension constitutes a loss of the positions for which the capacity of advocate is required for electability or eligibility for appointment.

### **§ 2a Of the rights and obligations of advocates other than those registered in the Netherlands**

#### **Section 16a**

The provisions of this act and other statutory provisions with regard to advocates only relate to advocates who are registered in the Netherlands, insofar as those provisions or the sections set out below that form part of this division do not stipulate otherwise.

#### **Section 16b**

For the purpose of undertaking activities in the Netherlands by way of service provision, persons who are not registered in the Netherlands as an advocate, but who are entitled to undertake their professional activities under the title of advocate or an equivalent title in the language or in one of the languages of the state of origin in another Member State of the European Union, in another state that is a party to the Agreement on the European Economic Area or in Switzerland, hereinafter referred to as the state of origin, shall also be considered advocates.

#### **Section 16c**

When the persons referred to in the previous section, hereinafter referred to as visiting advocates, do use their title by way of service provision whilst undertaking activities in the Netherlands, they shall state the professional organisation they are a member of or the court to which they have been admitted in accordance with the statutory provision of the state of origin.

#### **Section 16d**

1

The activities, by way of service provision, relating to the representation and defence of a client in court or before a government body, are undertaken by visiting advocates under the same conditions as those that apply to advocates registered in the Netherlands.

2

Whilst undertaking the activities referred to in Subsection 1, visiting advocates observe the rules of professional practice that apply to advocates registered in the Netherlands, including the regulations referred to in [Section 28](#), notwithstanding their obligations as advocates in the state of origin.

3

When acting before a government body, visiting advocates shall, when asked, demonstrate their right to practise the profession of advocate, to the satisfaction of that body.

#### **Section 16e**

1

When undertaking activities, by way of service provision, with regard to the representation and defence of the client in court, for which the law prescribes legal aid or representation by an advocate, a visiting advocate has to cooperate with an advocate registered in the Netherlands, hereinafter referred to as the cooperating advocate.

2

The cooperating advocate has to satisfy himself in advance that the visiting advocate is authorised to practise the profession of advocate and he is responsible towards the court in question in that respect.

3

The cooperating advocate introduces the visiting advocate to the judge who presides over the court session, before the visiting advocate acts at law in that capacity for the first time.

4

The visiting advocate is expected to have elected the offices of the cooperating advocate as his address for service for the activities referred to in Subsection 1.

5

When advocates are obliged or entitled to wear special attire, the visiting advocate may, if he so wishes, wear the attire prescribed in the state of origin instead.

6

The judge who presides over the court session may allow visiting advocates to use a language other than the Dutch language, if he is of the opinion that this does not negatively affect proper administration of justice. He may stipulate that an interpreter is used.

### **Section 16f**

With regard to activities, by way of service provision, other than those referred to in [Section 16d, subsection 1](#), visiting advocates continue to be subject to the conditions and the rules of professional practice of the state of origin. In addition, they shall observe the rules of professional practice that apply to advocates registered in the Netherlands, particularly those pertaining to: (a) the incompatibility of undertaking the activities of an advocate with undertaking other activities in the Netherlands, (b) the relationship with other advocates and (c) the same advocate offering assistance to parties with conflicts of interests. The latter rules only apply insofar as they can be observed by an advocate who is not established in the Netherlands and the observance thereof is objectively justified so as to ensure the proper undertaking of the activities of advocates, the dignity of the profession and the observance of the rules with regard to incompatibility.

### **§ 2b The rights and obligations of an advocate from another Member State who wishes to work under his original professional title**

#### **Section 16g**

The provisions of this act and other statutory provisions with regard to advocates only relate to advocates who are registered in the Netherlands, insofar as those provisions or the sections set out below that form part of this division do not stipulate otherwise.

#### **Section 16h**

1

The person who is not registered with due observance of [Section 1](#), but who, in another Member State of the European Union, in another state that is a party to the Agreement on the European Economic Area or in Switzerland, hereinafter referred to as the state of origin, is entitled to undertake his professional activity under the title of advocate or a similar name in the language or languages of the state of origin, has the right to permanently undertake the same activities as an advocate who is registered in accordance with [Section 1](#), after he has been added to the bar registration of the Netherlands Bar.

2

The secretary of the general council registers the advocate after submission of a certificate of registration with the competent authority of the state of origin, provided the certificate was not issued more than three months before the date on which the registration application is submitted.

3

The secretary of the general council notifies the competent authority of the state of origin of the registration.

#### **Section 16i**

1

The advocate, referred to in [Section 16h, subsection 1](#), is obliged to undertake his professional activities in the Netherlands under his original professional title, as it should read in the language or one of the official languages of the state of origin, yet in an understandable manner and in such a way that it cannot be confused with the title of advocate referred to in [Section 9a](#).

2

While undertaking the activities referred to in Subsection 1, the advocate states the professional organisation he is a member of or the court at which he has been admitted in accordance with the statutory provision of the state of origin, as well as his entry in the bar registration.

### **Section 16j**

For the purpose of undertaking the activities relating to the representation and defence of a client in court, the advocate, referred to in [Section 16h, subsection 1](#), cooperates with an advocate who is registered in the Netherlands in accordance with [Section 1](#) insofar as the law prescribes the legal aid or representation by an advocate. [Section 16d, subsection 1](#) as well as [Section 16e, subsection 2 to 4 inclusive and 6](#) apply by analogy.

### **Section 16k**

1

With regard to all activities he undertakes in the Netherlands, the advocate, referred to in [Section 16h, subsection 1](#), is subject to the same rules of professional conduct and practice as the advocate who is registered in accordance with [Section 1](#), including the regulations referred to in [Section 28](#).

2

[Sections 10, 10a, subsection 1, 11a, 12, 13, 14](#) and [16](#) apply by analogy. [Section 11](#) applies by analogy insofar as the advocate acts in the Netherlands.

## **§ 3 Of the Netherlands Bar, the Local Bars, and of its bodies**

### **Division 1 Of the composition and competence**

#### **Section 17**

1

The joint advocates who are registered in the Netherlands, form the Netherlands Bar. It is established in The Hague. It is a public-law body within the meaning of Section 134 of the Constitution [*Grondwet*].

2

The joint advocates who practise in the same district form the Local Bar.

3

The Netherlands Bar and the bars are legal entities.

#### **Section 17a**

1

The Netherlands Bar has the following bodies:

- a.

the general council, referred to in [Section 18, subsection 1](#);

- b.  
the President of the Netherlands Bar, referred to in [Section 18, subsection 1](#);
- c.  
the board of representatives, referred to in [Section 19, subsection 1](#);
- d.  
the advisory board, referred to in [Section 32a, subsection 1](#);
- e.  
the supervisory board, referred to in [Section 36a, subsection 1](#).

2

The Local Bar has the following bodies:

- a.  
the council, referred to in [Section 22, subsection 1](#);
- b.  
the President, referred to in [Section 22, subsection 2](#); and
- c.  
the annual meeting of the bar, referred to in [Section 22, subsection 2](#).

## **Section 18**

1

The Netherlands Bar is headed by a general council, consisting of at least five and no more than nine members, among whom the President. The number of members of the council is further determined by the board of representatives referred to in [Section 19, subsection 1](#).

2

In the case of the President's absence or inability to act, he is replaced by a member of the general council, appropriately appointed by that council.

## **Section 19**

1

The President and the other members of the general council are elected by a board of representatives. The board of representatives meets at least once a year.

2

The meetings of the board of representatives are public. The meeting is held behind closed doors if the chairman, taking the nature of the subject to be discussed into account, considers this necessary or if the majority of the members present ask for this.

3

Membership of the general council cannot be combined with membership of the board of representatives.

4

Each year, two members step down in accordance with a schedule to be stipulated by the general council.

5

The board of representatives fills open interim vacancies as soon as possible, at an extraordinary meeting if so required.

6

No one can form part of the general council, as a President or a member, for more than nine years in total.

## **Section 20**

1

The representatives and their deputies are elected for a term of three years, at meetings of the Local Bars. They are eligible for re-election.

2

The number of representatives and deputies are:

- a.  
for the bars, consisting of less than 1,500 advocates: four representatives and three deputies;
- b.  
for the bars, consisting of 1,500 advocates or more, yet less than 3,000: six representatives and three deputies; and
- c.  
for the bars, consisting of 3,000 advocates or more: eight representatives and three deputies.

3

For the application of Subsection 2, the number of advocates that practise law in the district on the first working day before the election referred to in Subsection 1 is the determining factor.

4



The capacity of representative or deputy cannot be combined with membership of the Council of the Local Bar, employment with the Netherlands Bar or employment with the Council of a Local Bar.

5

The deputies act in order of election.

6

Vacancies can be filled immediately if there is an apparent need.

7

The secretary of the general council acts as secretary of the meeting of the board of representatives.

### **Section 21**

When a representative is unable to attend a meeting of the board of representatives, he shall immediately notify the appointed deputy referred to in [Section 20, subsection 5](#).

### **Section 22**

1

The Local Bar is managed by a council that consists of at least five and no more than eleven members, amongst whom is the President. The number of members of the council is specified in the standing orders of the bar.

2

The President and other members of the council are elected from the members of the bar, at the bar's annual meeting.

3

Each year, two members step down in accordance with a schedule to be stipulated by the council. The President is eligible for re-election. A member of the council can be elected President at all times. The members of the council are not eligible for re-election, unless stipulated otherwise by the standing orders.

4

Vacancies can be filled immediately if there is an apparent need.

### **Section 23**

1

In the case of the President's absence or inability to act, he is replaced by a member of the Council of the Local Bar, appropriately appointed by that council.

2

The council appoints a secretary and treasurer from among its members.

## **Section 24**

1

Only advocates who are registered in accordance with [Section 16h](#) are eligible to be elected members of the general council, the board of representatives and the Councils of the Local Bars, insofar as they have not yet reached the age of 70. When they reach that age, they shall step down with effect from the next month.

2

Under the standing orders of the Local Bar, it can be stipulated that only advocates who are registered in accordance with [Section 16h](#) and who have been registered as such for a certain period of no more than three years are electable.

## **Section 25**

The meeting of the Netherlands Bar consults about subjects that are of interest to advocates and litigants.

### [Explanation](#)

## **Section 26**

The general council and the councils of the local bars promote a proper practice of law and are entitled to take any measures conducive to that. They stand up for the rights and interests and monitor compliance with the obligations of the advocates and fulfil the duties bestowed upon them under regulations.

## **Section 27**

The general council represents Dutch advocates wherever there is reason to do so, also if it does not directly concern the interest of the Netherlands Bar.

## **Section 28**

1

The board of representatives stipulates regulations in the interest of proper law practice, as well as to safeguard the requirements attached to that by virtue of [Section 10a](#).

2

Under or pursuant to a regulation, the board of representatives also stipulates rules about:

- a.  
the requirements to promote the professional competence of advocates and the quality of the practising of the profession.
- b.  
the compulsory participation in a complaints and disputes scheme, including compulsory participation in a scheme that involves an arbitration agreement within the meaning of Section

1020 of the Code of Civil Procedure [*Wetboek van Burgerlijke Rechtsvordering*] or a settlement agreement within the meaning of Section 900, Book 7 of the Civil Code [*Burgerlijk Wetboek*], on the basis of which disputes about the extent of a fee statement are settled;

- c.

proper organisation of the administration of practice for advocates;

- d.

insurance with regard to the risk of professional liability of advocates; and

- e.

the internal affairs and organisation of the Netherlands Bar.

3

proposals for regulations are submitted to the board of representatives by the general council or by at least five representatives. Before the general council submits a proposal to the board of representatives, it can invite the Councils of the Local Bars to voice their opinions.

4

After having been adopted, regulations are immediately announced to the Minister of Security and Justice and they are published in the Government Gazette [*Staatscourant*].

5

The board of representatives does not stipulate regulations with regard to the supervision of the Local Bar President, referred to in [Section 45a](#), or with regard to the supervisory board performing the duties and exercising the powers referred to in [Subsection 3a](#).

## Section 29

1

The regulations have a binding effect on:

- a.

advocates, entered in the bar registration, referred to in [Section 1, subsection 1](#);

- b.

visiting advocates in accordance with the provisions in [Sections 16d, subsection 1](#), and [16f](#); and

- c.

legal entities or associations within which the persons referred to under a and b are employed and who exclusively practise law or have this practised by advocates or by advocates and other professionals.

2

They cannot constitute stipulations about subjects provided for under or pursuant to the law, nor can they relate to affairs that are unsuitable for general provisions as a result of differing circumstances in the districts.

3

The stipulations of regulations, the subject of which is provided for under or pursuant to the law, cease to apply by operation of law.

### **Section 30**

1

Decisions of the board of representatives, the general council or other bodies of the Netherlands Bar, with the exception of decisions of the supervisory board, referred to in [Section 36a, subsection 1](#), and decisions of the President of the Netherlands Bar, referred to in [Section 45b](#), can be annulled by royal Decree.

2

The suspension or annulment takes place within six months of the announcement referred to in [Section 28, subsection 4](#), or, when it concerns a decision of the general council or another body of the Netherlands Bar, within six months of the decision having reached the Minister of Security and Justice.

### **Section 31**

1

The general council represents the Netherlands Bar, in and out of court, without prejudice to the provisions in [Section 36a, subsection 5](#).

2

The Councils of the Local Bars represent the bars, in and out of court.

### **Section 32**

1

The general council and the Councils of the Local Bars administer the Netherlands Bar and the Local Bars respectively, and they are entitled to undertake acts of administration and disposition with regard to the assets.

2

Each year, the board of representatives and the meeting of the bar in the district stipulate the amounts to be paid by the members to cover the costs to be incurred by the Netherlands Bar and the Local Bars respectively.

3

The general council and the councils account for their financial management each year. This account is audited by a committee that consists of three members, to be appointed by the board of representatives and the bar from their respective midst. The committee reports to the board of representatives and the bar. Adoption of the statements by the board of representatives and the bar serves to discharge the general council and the council respectively.

4

Each year, the general council and the councils issue a report about the past year, which report is discussed at the meetings of the board of representatives and the bar.

5

The report referred to in Subsection 4 also discusses the status of the advocates practising their profession and the settlement of disputes between advocates and clients.

### **Section 32a**

1

An advisory board is in place, consisting of four or seven members, including the chairman. The majority of the members of the advisory board are not advocates.

2

Before a proposal for a regulation as referred to in [Section 28, subsection 2.a to d inclusive](#) is submitted to board of representatives, the draft is submitted to the advisory board for recommendation purposes.

3

The advisory board may decide against issuing a recommendation. If a recommendation is issued, it is submitted when the proposal is submitted to the board of representatives.

4

Membership of the board of representatives cannot be combined with membership of any other body of the Netherlands Bar or of the Local Bars, except the annual meeting of the bar, referred to in [Section 22, subsection 2](#).

5

Under a regulation, rules are set about the composition and structure of the advisory board. Under a regulation, the advisory duties of the advisory board can be extended.

### **Section 33**

The general council maintains the office of the Netherlands Bar and as such it provides information about all the subjects an advocate should know about, it pursues unity of professional colleagues and promotes the discussion of scientific and practical issues at general meetings of advocates.

### **Section 34**

The general council appoints and dismisses its secretary, who cannot be a member of the general council. The secretary of the general council manages the office of the bar; the general council determines his salary, sets the conditions under which he shall be working and ensures he is replaced when he is unable to attend or is absent.

### **Section 35**

1

The President, referred to in [Section 22, subsection 2](#), informs the advocates about everything in relation to the professional practice.

2

The President can mediate in disputes among advocates.

3

The President informs everyone about the possibility of complaints and dispute settlement and the possibility for the parties to turn to the courts. If necessary, the President shall refer parties to other bodies.

4

The President supervises advocates in accordance with the provisions in [Subsection 3a](#).

## **Section 36**

The bodies of the Netherlands Bar and of the Locals Bars can draw up standing orders.

### **Division 1a The supervisory board**

#### **Section 36a**

1

A supervisory board is in place that consists of three members, including the President of the Netherlands Bar, who is also the chairman.

2

With the exception of the President of the Netherlands Bar, members are appointed by royal Decree, on the nomination of the Minister of Security and Justice. A nomination for appointment is not made other than on the recommendation of the general council. To that end, the general council draws up a recommendation list of three candidates, if possible, for each vacancy on the board. The board of representatives can advise the general council with regard to the recommendation list. The general council sends the recommendation list, along with a certificate of good conduct, for every candidate, within the meaning of Section 28 of the Judicial Data and Criminal Records Act [*Wet justitiële en strafvorderlijke gegevens*], as well as, if appropriate, the recommendation from the board of representatives to the Minister of Security and Justice. The Minister of Security and Justice can refuse a candidate included in the recommendation for compelling and motivated reasons only.

3

The members referred to in Subsection 2 are appointed for a maximum period of four years. After this period, they can be re-elected for another maximum period of four years only once.

4

The members referred to in Subsection 2 receive an allowance for their activities as well as for their travel and subsistence expenses, to be determined under a decision of the general council. The board of representatives can stipulate further rules about the allowance by or pursuant to a regulation as referred to in [Section 28](#).

5

The board is supported by a secretary. The secretary is appointed and dismissed by the board. The secretary only has to account to the board for his activities. Under or pursuant to a regulation as referred to in [Section 28](#), general rules regarding the legal status may be imposed on the secretary.

6

The Minister of Security and Justice may annul a decision of the general council as referred to in Subsection 4 for reasons of inconsistency with the law or the general interest.

7

The President does not take part in the decision-making process by the general council, referred to in Subsection 2.

### **Section 36b**

1

The members of the supervisory board referred to in [Section 36a, subsection 2](#) cannot be advocates at the same time.

2

The members referred to in [Section 36a, subsection 2](#), cannot at the same time:

- a.  
  
be a member or an employee of another body of the Netherlands Bar or of a body of the Local Bars;
- b.  
  
be a chairman, deputy chairman, member, deputy member or a registrar of a disciplinary board or the disciplinary court;
- c.  
  
be a member of public-law boards or committees for which they are elected by means of elections called pursuant to a statutory provision;
- d.  
  
hold a public position that is subject to fixed remuneration or a fixed allowance; or
- e.  
  
be a member of permanent boards or committees that offer advice and assistance to the Government.

3

A member of the board shall not fulfil any ancillary positions that are undesirable with a view to the proper fulfilment of his position, or the enforcement of his independence or trust in that.

4

Ancillary positions of a member are published by means of an appropriate list that is made available for inspection at the office of the board.

5

Subsection 2.d does not relate to positions at an institution within the meaning of Section 1.1., division f, of the Higher Education and Research Act [*Wet op het hoger onderwijs en wetenschappelijk onderzoek*].

6

Subsections 2.d and 2.e do not relate to the members of the Council of State, the state councils and the extraordinary state councils that are appointed only in the Advisory Division of the Council of State.

### **Section 36c**

1

Insofar as it relates to the members referred to in [Section 36a, subsection 2](#), membership of the supervisory board ends:

- a.  
upon expiry of the period for which the member was appointed;
- b.  
upon resignation by royal Decree on the nomination of the Minister of Security and Justice, after hearing the advice of the general council;
- c.  
upon the member's death; and
- d.  
upon dismissal as referred to in Subsection 5 or 6.

2

At the request of the Minister of Security and Justice, after hearing the advice of the general council, the disciplinary court shall suspend a member of the board referred to in [Section 36a, subsection 2](#), if and for as long as:

- a.  
he is remanded in custody;
- b.  
he has been convicted for a crime under a not yet irrevocable court ruling or if an order for deprivation of liberty is imposed on him under such a ruling; or
- c.



he, under a not yet irrevocable court ruling, is put under guardianship, is declared bankrupt, is the subject of a debt management scheme, is granted a moratorium or is committed to prison for debt.

3

At the request of the Minister of Security and Justice, after hearing the advice of the general council, the disciplinary court can suspend a member of the board referred to in [Section 36a, subsection 2](#), if:

- a.  
a preliminary judicial investigation has been instigated against him with regard to a crime; or
- b.  
there are other serious reasons to believe there are facts or circumstances that could lead to dismissal.

4

If so requested or by virtue of its office, the disciplinary court shall lift a suspension as referred to in Subsection 2 or 3 when the reason thereof no longer applies.

5

At the request of the Minister of Security and Justice, after hearing the advice of the general council, the disciplinary court shall suspend a member of the board referred to in [Section 36a, subsection 2](#), with immediate effect, if:

- a.  
the member has been convicted for a crime under an irrevocable court ruling or if an order for deprivation of liberty is imposed on him under such a ruling; or
- b.  
the member, under an irrevocable court ruling, is put under guardianship, is declared bankrupt, is the subject of a debt management scheme, is granted a moratorium or is committed to prison for debt.

6

At the request of the Minister of Security and Justice, after hearing the advice of the general council, the disciplinary court can dismiss a member of the board referred to in [Section 36a, subsection 2](#) for reasons of unsuitability or incompetence for the position or for other compelling reasons relating to the person of the member in question.

7

A stakeholder may submit a notice of objection to the district court with regard to a decision by the disciplinary court in accordance with Section 8:1 of the General Administrative Law Act [*Algemene wet bestuursrecht*]. Section 7:1 of the General Administrative Law Act [*Algemene wet bestuursrecht*] does not apply.

8

Under application of Subsections 2 to 6 inclusive, the President does not form part of the general council.

## **Division 2 Of the meetings**

### **Section 37**

1

The President of The Netherlands Bar or the Local Bar President respectively call a meeting as soon as he deems this necessary and every time at least 50 members of the Netherlands Bar, at least two members of the general council or a Council of the Local Bar, at least four members of the board of representatives and at least six members of a bar submit such a request in writing.

2

The President and the other members of the general council can attend the meetings of the board of representatives.

### **Section 38**

1

At the meetings, the President of The Netherlands Bar or the Local Bar President assume chairmanship.

2

At the meetings of the council and of the Local Bar, the President has the deciding vote if the votes are tied.

### **Section 39**

1

A meeting that has been properly convened shall be held, regardless of the number of members present.

2

However, a meeting of the general council is not held when not at least five members, and for a meeting of the board of representatives no more than half of the number of representatives or their deputies have shown up.

3

When the required number of representatives or deputies has not shown up for a meeting of the board of representatives, a new meeting is convened. This meeting is held, regardless of the number of representatives or deputies that have shown up.

### **Section 40**

1

At a meeting of the Local Bar, all members are entitled to vote. Also entitled to vote are those who have registered in accordance with [Section 16h](#).

2

Every voter casts one vote.

#### **Section 41**

1

Business matters shall be decided by call vote.

2

Matters concerning persons shall be voted on by sealed and unsigned ballots.

3

If, when making a decision on business matters, none of the persons present ask for a vote, the motion is deemed to have been accepted.

#### **Section 42**

1

A vote at a meeting of the general council is invalid if not at least five members took part in it.

2

A vote at a meeting of the board of representatives is invalid if no more than half of the number of serving representatives or deputies has taken part in it.

3

When voting about matters concerning persons, representatives or their deputies who failed to hand in ballots or handed in incomplete ballots, are deemed to have taken part in the vote for the application of this section.

4

A vote is valid, regardless of the number of representatives or their deputies who took part in that vote, if a new vote is held for a motion or an appointment with regard to which a vote at an earlier meeting was invalid by virtue of the provisions in Subsection 2.

#### **Section 43**

1

For a resolution to be established during a vote, the absolute majority of the members who took part in the vote is required.

2

When voting about matters concerning persons, members who failed to hand in ballots or handed in incomplete ballots, are deemed not to have taken part in the vote for the application of this section.

#### **Section 44**

1

When the votes about business matters are tied, the passing of a resolution is, subject to the provisions in [Section 38, subsection 2](#), postponed until the next meeting, at which the discussions can be reopened.

2

At this meeting, as well as at a plenary meeting at which the votes about business matters are tied, the motion is deemed to have been rejected, subject to the provisions in [Section 38, subsection 2](#).

## **Section 45**

1

During a vote about matters concerning persons, two members appointed by the chairman shall act as scrutineers at the meetings.

2

The scrutineers verify if the number of ballots is equal to the number of members present.

3

The number of separate votes coincides with the number of persons to be elected. A vote about the President of the Netherlands Bar or the Local Bar President is always held first.

4

In the event of doubt about the contents of a ballot, the chairman decides.

5

A majority of votes obtained is invalid when the meeting resolves that it may have been affected by a difference between the number of ballots and the number of people present.

6

When no one reaches an absolute majority during the first vote, a second free vote is held.

7

If not absolute majority is reached during the second vote either, the vote is reduced to the two persons who obtained most votes during the second vote or, if most votes are equal among multiple persons, the vote is reduced to everyone who obtained most votes.

8

If this does not lead to an absolute majority of votes either, a fourth vote is held between the two persons who obtained most votes during the third vote.

9

If two or more persons received the same amount of votes during the third or fourth vote, the matter shall be decided by lot.

## § 3a Supervision

### Section 45a

1

The President of the Local Bar is charged with supervising compliance by advocates who practise law in that district with the provisions under or pursuant to this act, including supervision of the care they must exercise in their capacity of advocates towards those whose interests they are representing or should be representing as such, violations of regulations of the Netherlands Bar and any acts or omissions that do not befit a respectable advocate.

2

The President is furthermore charged with supervision of compliance with the provisions under or pursuant to the Money Laundering and Terrorist Financing (Prevention) Act [*Wet ter voorkoming van witwassen en financieren van terrorisme*].

3

With regard to exercising the supervision referred to in Subsection 1, the advocate, his employees and staff, as well as other persons involved in practising the profession, are not bound by the duty of confidentiality referred to in [Section 11a](#). In that case, the President, as well as the employees, staff and other persons engaged by him for the supervision of compliance are subject to a duty of confidentiality similar to the one referred to in Section 11a.

### Section 45b

The President of the Netherlands Bar can give instructions to the Local Bar President about the fulfilment of the duties referred to in [Section 45a](#), after hearing the advice of the other members of the supervisory board.

### Section 45c

1

At the request of the supervisory board, the disciplinary court shall suspend a President from fulfilling the duties pursuant to [Sections 45a, subsection 1 or 2](#), and [46c](#), if and for as long as:

- a.  
he is remanded in custody;
- b.  
he has been convicted for a crime under a not yet irrevocable court ruling or if an order for deprivation of liberty is imposed on him under such a ruling; or
- c.  
he, under a not yet irrevocable court ruling, is put under guardianship, is declared bankrupt, is the subject of a debt management scheme, is granted a moratorium or is committed to prison for debt.

2

At the request of the board, the disciplinary court can suspend a President from fulfilling the duties pursuant to [Sections 45a, subsection 1 or 2](#), and [46c](#), if:

- a.  
a preliminary judicial investigation has been instigated against him with regard to a crime; or
- b.  
there are other serious reasons to believe there are facts or circumstances that could lead to dismissal.

3

If so requested or by virtue of its office, the disciplinary court shall lift a suspension as referred to in Subsection 1 or 2 when the reason thereof no longer applies.

4

At the request of the board, the disciplinary court shall relieve a President from fulfilling the duties pursuant to [Sections 45a, subsection 1 or 2](#), and [46c](#), if:

- a.  
the President has been convicted for a crime under an irrevocable court ruling or if an order for deprivation of liberty is imposed on him under such a ruling; or
- b.  
the President, under an irrevocable court ruling, is put under guardianship, is declared bankrupt, is the subject of a debt management scheme, is granted a moratorium or is committed to prison for debt.

5

A stakeholder may submit a notice of objection to the district court with regard to a decision by the disciplinary court in accordance with Section 8:1 of the General Administrative Law Act [*Algemene wet bestuursrecht*]. Section 7:1 of the General Administrative Law Act [*Algemene wet bestuursrecht*] does not apply.

6

In the event that the disciplinary court applies Subsections 1 to 4 inclusive, the fulfilment of duties pursuant to [Sections 45a, subsections 1 and 2](#), and [46c](#) shall be taken care of by the member of the Council of the Local Bar, referred to in [Section 23, subsection 1](#).

## **Section 45d**

1

The supervisory board can send the annual meeting of the bar referred to in [Section 22, subsection 2](#) a written request to dismiss the Local Bar President and to elect another President in his place, for reasons of failure to fulfil the duties pursuant to [Section 45a, subsection 1 or 2](#), or [Section 46c](#), for reasons of unsuitability or incompetence for the position or other compelling reasons relating to the person of the President in question.

2

The request referred to in Subsection 1 is addressed to the member of the Council of the Local Bar, referred to in [Section 23, subsection 1](#). The annual meeting of the Local Bar shall convene within six weeks of the request being submitted to decide about the request.

#### **Section 45e**

1

The supervisory board adopts annual statements and a budget, which require the approval from the Minister of Security and Justice, after hearing the advice of the general council.

2

The decision regarding the approval referred to in Subsection 1 is subject to Division 10.2.1 of the General Administrative Law Act [*Algemene wet bestuursrecht*] by analogy.

3

Under application of Subsection 1, the President does not form part of the general council.

#### **Section 45f**

1

Each year, the supervisory board draws up a work plan, as well as a report of activities, which shall at least set out the policy pursued in general and the efficiency and effectiveness of its activities and approach in particular of the past few years.

2

The work plan and the report are sent to the Minister of Security and Justice, the general council, the board of representatives and the Councils of the Local Bars, and are made available for general inspection.

#### **Section 45g**

1

Upon violation of a regulation under or pursuant to [Sections 9b, subsection 6, 9c, subsection 2](#), and [28, subsections 2a to d inclusive](#), the President can impose an administrative penalty or an order subject to a penalty.

2

The administrative penalty shall be no more than the sum of the penalty of the third category within the meaning of Section 23, subsection 4, of the Penal Code [*Wetboek van Strafrecht*].

3

An administrative penalty shall not be imposed if, by virtue of [Section 46c](#), a complaint has been lodged against the advocate for the same behaviour.

4

The sum of the imposed administrative penalty and the imposed order subject to a penalty goes to the Netherlands Bar.

#### **Section 45h**

The supervisory board stipulates policy rules for the fulfilment of the duties by virtue of [Section 45a, subsections 1 and 2](#), and [Section 46c](#).

#### **Section 45i**

1

The supervisory board oversees the effect of the supervision referred to in [Section 45a](#) and the handling of complaints by the President pursuant to [Section 46c](#).

2

The Local Bar President provides the board with all the information the latter may reasonably need for the fulfilment of the duty referred to in Subsection 1.

### **§ 4 Of the disciplinary rules**

#### **Section 46**

The advocates are subject to disciplinary rules with regard to any acts or omissions in violation of the care they must exercise in their capacity of advocates towards those whose interests they are representing or should be representing as such, with regard to violations of the provisions under or pursuant to this act and the Money Laundering and Terrorist Financing (Prevention) Act [*Wet ter voorkoming van witwassen en financieren van terrorisme*], the regulations of the Netherlands Bar and with regard to any acts or omissions that do not befit a respectable advocate. These disciplinary rules are at first instance exercised by the Boards of Discipline and on appeal, also in the highest instance, by the disciplinary court.

#### **Section 46a**

1

The territorial jurisdiction of each court of appeal has a disciplinary board, whose territorial jurisdiction coincides with that of the court of appeal and which exercises the disciplinary rules at first instance with regard to the advocates who practise law in that jurisdiction.

2

A disciplinary board is situated in a location within the court area, which location is to be determined by governmental decree. A disciplinary board can also hold session outside its location.

3

With regard to the associate advocates, the deputy associate advocates and the registrar of the Boards of Discipline, insofar as he is an advocate, the disciplinary rules are at first instance exercised by another disciplinary board to be officially appointed by the chairman of the disciplinary court following a complaint. The chairman of the disciplinary court shall notify the appointed disciplinary board, the disciplinary board of which the defendant is an associate advocate, a deputy associate advocate or registrar, the President of the Local Bar where the defending advocate practises law, and the complainant of such a referral.



4

An appointment of another disciplinary board in accordance with Subsection 3 also takes place if a complaint relates to a President within the territorial jurisdiction of a disciplinary board or was lodged by an associate advocate, a depute associate advocate or the registrar of a disciplinary board.

5

If the complaint is filed against or related to several advocates who hold office in different districts or if between complaints a connection exists which warrants a joint hearing for efficiency reasons, the disciplinary court may designate a disciplinary board which will hear the complaint or complaints. Subsection 3, second sentence, applies by analogy.

## **Section 46b**

1

Every disciplinary board consists of a chairman, no more than 13 deputy chairmen, no more than 16 associate advocates and no more than 30 deputy associate advocates. The chairman and the deputy chairmen and the associate advocates and deputy associate advocates of a disciplinary board are deputy chairmen and deputy associate advocates of the other disciplinary boards by operation of law.

2

The chairman and deputy chairmen are appointed by the Minister of Security and Justice for a term of four years, from members of the judiciary entrusted with the administration of justice.

3

The associate advocates and the deputy associate advocates can only be advocates who practise law within the territorial jurisdiction of the council in question, and who have been registered in the Netherlands for more than five years.

4

The associate advocates and the deputy associate advocates are elected by the board of representatives at the meeting referred to in [Section 19, subsection 1](#), from the nominees of the Councils of the local bars, for a maximum term of four years. The election takes place with due observance of the aim of a regionally responsible composition of the disciplinary boards.

5

The chairman and deputy chairmen are eligible for re-election once, immediately after stepping down.

6

A quarter of the associate advocates and the deputy associate advocates step down each year, in accordance with a schedule to be stipulated by the disciplinary board in question.

7

The chairman, the deputy chairmen, the associate advocates and deputy associate advocates do in any case step down with effect from the first month after the month during which they reach the age of 70.

8

If the position of chairman or deputy chairman becomes vacant in the interim, the Minister of Security and Justice shall fill the vacancy as soon as possible.

9

The board of representatives fills open interim vacancies as soon as possible, at an extraordinary meeting if so required. It is not bound by a nomination.

10

Those who have been appointed to fill an interim open position, step down when the person in whose place they have been appointed should have stepped down.

11

The chairman, the deputy chairmen, the associate advocates and deputy associate advocates remain in office after their term of office has expired, until the position that has fallen vacant because of their stepping down is filled again. After stepping down, also after the positions that fall vacant have been filled, they remain entitled to take part in the further processing of and decisions about complaints, in the processing of which they took part before they stepped down.

12

Membership or deputy membership of a disciplinary board cannot be combined with membership of membership or deputy membership of the disciplinary court, a body of the Netherlands Bar or a body of the Local Bars, except the annual meeting of the bar, referred to in [Section 22, subsection 2](#).

13

Between the chairman, the deputy chairmen, the associate advocates and deputy associate advocates of a disciplinary board no relationship can exist of spouses or registered partners, blood relatives or relatives by marriage up to the third degree, a partnership or other permanent collaboration to practise the profession of advocate or a relationship of employer and employee.

14

The provisions in Sections 46c, subsection 2, 46d, subsection 2, 46f, 46i, with the exception of subsection 1.c, 46j, 46l, subsections 1 and 3, 46m, 46o and 46p of the Judicial Officers (Legal Status) Act [*Wet rechtspositie rechterlijke ambtenaren*] apply by analogy to the chairman, the deputy chairmen, the associate advocates and deputy associate advocates of the disciplinary board.

15

The associate advocates and deputy associate advocates of the disciplinary board can be dismissed for the reasons given in Sections 46c, subsection 2, 46d, subsection 2, 46i, with the exception of subsection 1.c, 46j, 46l, subsections 1 and 3, and 46m of the Judicial Officers (Legal Status) Act [*Wet rechtspositie rechterlijke ambtenaren*]. In addition, the membership of the associate advocates and deputy associate advocates expires by operation of law as soon as they stop being advocates.

16

The disciplinary board appoints and dismisses its registrar and provides for his replacement when he is unable to attend or is absent.

Sections 13a, 13b, with the exception of subsection 1. b, 1.c and subsection 4, and 13c to 13g inclusive of the Judiciary (Organisation) Act [*Wet op de rechterlijke organisatie*] apply by analogy to behaviour of the chairman, the deputy chairmen, the associate advocates and deputy associate advocates, on the understanding that:

- a.

for the corresponding application of those sections «the court management involved» is taken to mean: the chairman of the disciplinary board; and

- b.

the procurator general is not obliged to comply with the request referred to in Section 13a, if the applicant has a reasonably insufficient interest in an investigation as referred to in that same section.

### **Section 46c**

1

Complaints against advocates are submitted in writing to the President of the bar they are a member of. The President shall help the complainant document his complaint if the latter so requests. If a submitted complaint needs clarification, the President shall help the complainant at the latter's request.

2

If the complainant so requests when submitting his complaint, the President shall immediately notify the disciplinary board of that complaint, without prejudice to the provisions in Subsection 3. The President notifies the complainant about this when the complaint is submitted.

3

The President shall start an investigation into every complaint submitted to him.

4

The President is authorised to refer a complaint submitted to him to a member of the Council of the Local Bar, in order to complete its investigation in the manner set out in [Sections 46d](#) and [46e](#).

5

Complaints against a President are submitted or immediately forwarded to the chairman of the disciplinary court. The chairman refers the case to a President of a different bar, in order to investigate and deal with it in accordance with the provisions in this section and in [Sections 46d](#) and [46e](#). Once investigated and dealt with, the President whom the case was referred to shall notify the disciplinary board in the court area he belongs to.

6

The Council of the Local Bar ensures that the location and date at which the President or, in the case of his absence or inability to act, his deputy shall hold session, are properly announced in the district.

### **Section 46d**

1

The President shall always try to settle the complaint out of court, unless it is brought to the attention of the disciplinary board immediately, in accordance with [Section 46c, subsection 2](#).

2

If an out-of-court settlement is possible, it shall be documented and signed by the complainant, the advocate against whom the complaint was submitted and the President. By virtue of an out-of-court settlement that is thus determined, the complainant's right to demand the complaint is submitted to the disciplinary board lapses.

3

If after three months of the complaint being submitted to the President, no out-of-court settlement is reached, the complainant can ask the President to notify the disciplinary board of the complaint. Unless [Section 45g, subsection 1](#) applies, the President shall declare Subsection 4 applicable in that case. The President always notifies the disciplinary board of a complaint if Section 45g, subsection 1 is not declared applicable and it is unlikely that an out-of-court settlement is reached or if, in his opinion, the substance of the complaint renders an out-of-court settlement undesirable or impossible. The President notifies the complainant about this when the complaint is submitted.

4

The President submits the complaint to the disciplinary board in writing and notifies the advocate in question and the complainant accordingly in writing. The complaint can be sent to the disciplinary board electronically insofar as the board has indicated this method of communication is permitted. Sections 2:17 to 2:17 inclusive of the General Administrative Law Act [*Algemene wet bestuursrecht*] apply by analogy, on the understanding that «administrative body» should read: disciplinary board.

5

The complaint is dated and signed and contains at least:

- a.  
the name and address of the complainant;
- b.  
the name and the work address of the advocate against whom the complaint is made, insofar as known by the complainant;
- c.  
a clear description of the complaint and the facts on which it is based.

6

All documents that relate to the case are submitted to the disciplinary board at the same time as the complaint.

7

The complaint states if the complaint was previously submitted to the organisation at which the advocate is employed or to a complaints tribunal or a dispute settlement authority to which the

advocate or his organisation is affiliated. If it was not, the reason thereof is stated in the complaint, if possible. If it was, the outcome of the proceedings is given, including the relevant documents, if possible.

8

If the President, on the basis of his investigation, is of the opinion that the complaint is manifestly unfounded or carries insufficient weight, he shall notify the complainant, the advocate in question, and the disciplinary board accordingly, stating the reasons.

9

The disciplinary board may supplement the complaint by virtue of its office.

### **Section 46e**

1

Before notifying the disciplinary board of a complaint, the President charges the complainant with a court fee of € 50.00. The court fee goes to the disciplinary board

2

The President makes the complainant aware of his liability to pay the court fee and tells him that the money owed must have been transferred into the appropriately announced bank account number within four weeks of the day on which his notification is sent.

3

If [Section 46n, subsection 2](#) is declared applicable, the parties, as part of the out-of-court settlement may stipulate that the court fee paid by the complainant is reimbursed by the advocate.

4

If the complaint is fully or partially upheld, the court fee paid by the complainant is reimbursed by the advocate in question.

5

In derogation from Subsection 1, no court fee is charged if the complaint is made by the President.

6

The Minister of Security and Justice can change the amount referred to in Subsection 1 insofar as the consumer price index gives rise to that.

### **Section 46f**

If the President, when it does not concern a complaint, is made aware of objections to an advocate, he shall notify the disciplinary board accordingly. He shall notify the advocate against whom the objections are made in writing.

### **Section 46fa**

1

If the advocate against whom a complaint has been made or who is the subject of objections has, pursuant to the national law of another Member State of the European Union or another state that is a party to the Agreement on the European Economic Area that complies with Section 3 of EC Directive 98/5 of the European Parliament and the Council of the European Union of 16 February 1998 to facilitate the permanent practising of law, from practising the profession of advocate, registered himself, the Council of the Local Bar shall, before the start of the disciplinary proceedings, notify the competent authority in that Member State or those Member States of the intention to start disciplinary proceedings against the advocate and it shall furnish that authority or those authorities with all useful information.

2

If the advocate is registered in Switzerland with due observance of the Agreement concluded on 21 June 1999 between the European Community and its Member States on the one hand and the Swiss Confederation on the other about the free movement of persons, Subsection 1 applies by analogy.

### **Section 46fb**

1

The registrar of the disciplinary board shall send a copy of the complaint, the documents added to that and any supplements to that to the advocate against whom the complaint was made and to the President of the bar which the advocate is a member of, as soon as possible.

2

No copy needs to be sent to the President insofar as the complaint was submitted by him, or if the provisions in [Section 46i, subsection 1](#) are declared applicable.

### **Section 46g**

1

The chairman of the disciplinary board shall declare a complaint inadmissible:

- a.

if the complaint is submitted after three years have lapsed since the day on which the complainant learned or reasonably could have learned of the acts or omissions of the advocate against whom the complaint was made; or

- b.

insofar as it relates to behaviour for which a penalty is imposed as referred to in [Section 45g, subsection 1](#).

2

With regard to a complaint submitted after expiry of the term referred to in Subsection 1.a, it shall not be declared inadmissible by virtue of that if the consequences of the acts or omissions did not reasonably become known afterwards. In that case, the term for submitting a complaint expires one year after the date on which the consequences should reasonably be regarded as known.

3

A complaint can be declared inadmissible:

- a.

if no statutory provision for processing the complaint has been complied with, provided the complainant had the opportunity to remedy the non-compliance within a reasonable term; or

- b.

if the complaint relates to the amount of an invoice and a dispute about this already has been or can be submitted to a complaints tribunal or a dispute settlement authority as referred to in [Section 28, subsection 2.b](#), or with regard to which that option was available.

## Section 46h

1

The complainant, the advocate in question and the President can send the disciplinary board a written notice of objection regarding a decision as referred to in [Section 46g, subsection 1, preamble, under a](#), stating the reasons, within 30 days of the copy of the decision having been sent.

2

Before making a decision about the objection, the disciplinary board gives the persons and authorities referred to in Subsection 1 the opportunity to be heard.

3

The objection shall be processed in a composition of the board, which composition the persons who took the decision referred to in Subsection 1 do not form a part of.

4

The decision about the objection shall state the reasons and provides for:

- a.

the objection being declared inadmissible;

- b.

the objection being declared unfounded; or

- c.

the objection being declared well-founded.

5

If the Board declares the objection inadmissible or unfounded, the decision against which the objection was raised shall be upheld.

6

If the objection is declared well-founded, the decision against which the objection was raised shall lapse and the processing of the case shall continue.

7

The decision about the objection is not open to appeal. The registrar of the board shall immediately send a copy of the decision to the persons and authorities referred to in Subsection 1.

8

In derogation from Subsection 6, the board can give a decision about the complaint immediately if the objection is declared well-founded and a further investigation or further processing can reasonably no longer contribute to the assessment of the complaint.

### **Section 46i**

1

If the chairman of the disciplinary board thinks that the complaint is appropriate for it and the complaint shows that the complaint has not yet been submitted to an authority that is competent to take cognizance of complaints or disputes by virtue of a regulation as referred to in [Section 28, subsection 2.b](#), the chairman may decide to forward the complaint to the competent authority. He shall notify the complainant, the advocate in question and the President of this in writing.

2

If the chairman declares Subsection 1 applicable, he shall forward the documents that relate to the case to the complaints tribunal or a dispute settlement authority. The decision suspends the term referred to in [Section 46g, subsection 1.a](#). The decision is not open to appeal.

### **Section 46j**

1

Until the complaint is dealt with at a hearing, the chairman of the disciplinary board may decide that:

- a.  
the board manifestly lacks jurisdiction;
- b.  
the complaint is manifestly inadmissible;
- c.  
the complaint is manifestly unfounded; or
- d.  
the complaint manifestly carries insufficient weight.

2

The decision referred to in Subsection 1 shall state the reasons. It shall also refer to the provisions in Subsection 4.

3



The registrar of the board shall send a copy of the decision to the persons and authorities referred to in [Section 46i, subsection 1, second sentence](#) as soon as possible.

4

[Section 46h](#) applies by analogy to the decision in Subsection 1.

### **Section 46k**

1

The chairman of the disciplinary board can give the advocate in question the opportunity to submit a statement of defence within four weeks of the day on which the copy of the complaint was sent in accordance with [Section 46fb, subsection 1](#). The registrar of the Board shall send a copy of the statement of defence to the complainant and the President.

2

If Subsection 1 is declared applicable, the chairman can give the complainant the opportunity to reply within four weeks of a copy of the statement of defence having been sent. The registrar shall send a copy of the reply to the advocate, as well as to the President, insofar as he is not the complainant.

3

If Subsection 2 is declared applicable, the chairman can give the advocate in question the opportunity to submit a rejoinder within four weeks of a copy of the reply having been sent. The registrar shall send a copy of the rejoinder to the complainant and the President.

4

The chairman can extend the terms referred to in Subsections 1 to 3 inclusive, or let them start at a different date, if he thinks there is good reason to do so.

### **Section 46l**

1

Unless [Section 46g](#) or [Section 46i](#) or [Section 46j](#) is declared applicable, the chairman of the disciplinary board may order a preliminary investigation, after a copy of the complaint has been sent by virtue of [Section 46fb, subsection 1](#).

2

If Subsection 1 is declared applicable, the chairman assigns the preliminary investigation to the President of the bar which the advocate is a member of, unless he thinks there are reasons to assign the investigation to:

- a.  
the President of a different bar;
- b.  
a deputy chairman;
- c.

one or more deputy members of the disciplinary board; or

- d.

the registrar.

3

The chairman stipulates the scope of the preliminary investigation. The preliminary investigation may also encompass facts other than those stated in the complaint.

4

The preliminary investigator can ask the chairman to change the scope of the preliminary investigation, within the limits of the complaint as it reads at that time.

5

The investigation is closed by the preliminary investigator submitting a report to the chairman.

6

The chairman may decide that the preliminary investigation is suspended or ended before the report is submitted.

#### **Section 46m**

1

The chairman of the disciplinary board can give instructions to the preliminary investigator.

2

The preliminary investigation and the preliminary investigator are subject to Sections 5:13 to 5:17 inclusive and Section 5:20, subsection 1 of the General Administrative Law Act [*Algemene wet bestuursrecht*] by analogy. When assigning a preliminary investigation, the chairman stipulates which powers the preliminary investigator can exercise on behalf of the board.

3

With regard to the preliminary investigation being carried out by the preliminary investigator, the advocate, his employees and staff, as well as other persons involved in practising the profession, are not bound by the duty of confidentiality referred to in [Section 11a](#). In that case, the preliminary investigator in question is bound by a duty of confidentiality, similar to the one referred to in Section 11a, while Section 218 of the Code of Criminal Procedure [*Wetboek van Strafvordering*] applies by analogy.

4

During the preliminary investigation, a copy of the order to carry out the investigation is presented to the advocate in question, if possible.

5

The preliminary investigator gives the complainant and the advocate in question the opportunity to be heard.

6

A member of a depute member of the board that carried out a preliminary investigation in a case, shall not take part in the processing of that case in court, subject to the decision of the board in that case being nullified.

7

If the complaint was submitted by the President, the preliminary investigation shall not be assigned to him. In that case, the chairman shall assign the preliminary investigation to one of the persons referred to in [Section 46l, subsections 2.a to 2.d inclusive](#).

#### **Section 46n**

1

The chairman of the disciplinary board can instruct the preliminary investigator to investigate if the complaint can be settled out of court. Furthermore, until the board gives a decision, the chairman can investigate if the complaint can be settled out of court.

2

If an out-of-court settlement of the complaints proves to be possible, it is documented and signed by the complainant and the advocate in question. A copy thereof shall be sent to the registrar of the board, as well as to the President and the supervisory board.

3

By signing the out-of-court settlement, the complaint is deemed to have been withdrawn. [Section 47a, subsections 2, 3 and 4](#) applies by analogy.

#### **Section 47**

1

The chairman or one of the deputy chairmen, as well as two associate advocates or deputy associate advocates shall take part in the processing and decision of disciplinary cases, subject to nullification. If one of these members thinks the case is not suitable to be processed and decided on by three members, the processing is continued by five members, amongst who is the chairman or one of the deputy chairmen. If the chairman or deputy chairman is unable to act due to circumstances that occurred after the case started, he can be replaced by a deputy chairman.

2

Sections 512 to 519 inclusive of the Code of Criminal Procedure [*Wetboek van Strafvordering*] apply by analogy with regard to the chairman, the deputy chairmen, the associate advocates and the deputy associate advocates.

#### **Section 47a**

1

Until the disciplinary board announces its decision, the complainant can withdraw his complaint. The registrar of the board sends a copy thereof to the advocate in question and, insofar as he was not the complainant, to the President.

2

If the complaint is withdrawn, the processing thereof is halted, unless:

- a.  
the advocate in question has, in writing, demanded continued processing, or
- b.  
the board for reasons of general interest decides that the complaint continues to be processed.

3

The board shall not decide to continue processing a complaint for reasons of general interest until he has given the advocate in question and, insofar as he was not the complainant, the President the opportunity to form an opinion on the matter.

4

If, for reasons of general interest, it is decided to continue the complaint, the board may stipulate that the President is regarded as complainant for the continuation of the case.

5

If the advocate in question dies, the processing of the complaint is halted.

6

If the complainant dies, the board, for reasons of general interest, may decide that the complaint continues to be processed. Subsections 3 and 4 apply by analogy.

7

The decision to continue processing a complaint is not open to an independent appeal.

#### **Section 47b**

1

By virtue of the provisions in this paragraph, no one can be tried again under disciplinary law for an act or omission with regard to which an irrevocable disciplinary final decision was made with regard to that person.

2

Subsection 1 does not apply:

- a.  
if a complaint has been submitted about the act or omission and [Section 60ab, subsections 1 and 2](#), is declared applicable;
- b.

if [Section 60ab, subsections 1 and 2](#), is declared applicable, and a complaint about the act or omission in question is submitted after all, on the basis of Section 60ab, subsection 5.

3

If [Section 60ab](#) is declared applicable and the complaint is subsequently declared admissible, the previously imposed suspension for practising law or the interim measure with regard to the professional practice shall be taken into account when the order referred to in [Section 48, subsection 2](#) is determined.

### **Section 47c**

1

If an order as referred to in [Section 48, subsection 1.d or 1.e](#), is imposed on an advocate, or if, by virtue of [Section 60ab, subsection 1 or Section 60b, subsection 1](#), he is suspended from practising his profession or if an interim measure with regard to the professional practice has been taken against him, the person involved remains subject to disciplinary rules with regard to any act or omission during the time he was practising the profession.

2

Advocates who are no longer registered as such in accordance with [Section 1, subsection 1](#), continue to be subject to disciplinary rules with regard to any act or omission during the time they were registered.

### **Section 48**

1

The decisions of the disciplinary board about the submitted complaints state the reasons and are passed in public, subject to nullification.

2

The orders that can be imposed when a complaint is declared well-founded are:

- a.  
a warning;
- b.  
a reprimand;
- c.  
a financial penalty;
- d.  
suspension of practising the profession for the term of no more than one year; or
- e.

disbarment.

3

The board may stipulate that, despite a complaint being declared well-founded, no order is imposed.

4

The order of a financial penalty can be imposed together with another order.

5

If so demanded by any interest protected under [Section 46](#), the disciplinary board can, under the decision pertaining to impose an order as referred to in Subsections 1.b to 1.e inclusive, decide to publish the order imposed, stating the reasons thereof or otherwise, in a manner to be stipulated by the board.

6

If the board fully or partially upholds the complaint and imposes an order as referred to in Subsections 2.a to 2.e inclusive, it can, in its decision, stipulate that the costs, or part thereof, reasonably incurred by the complainant in connection with the processing of the complaint, are reimbursed by the advocate on whom the order is imposed and that the costs, or part thereof, that are charged to the Netherlands Bar in connection with the processing of the case are reimbursed to the Netherlands Bar by the advocate on whom the order imposed. Under or pursuant to a governmental decree, further rules can be stipulated about the implementation of the decision of the board.

7

Orders imposed in accordance with this section are not implemented until they have become final.

8

A suspended advocate is not permitted to use the title of attorney of law while suspended.

9

Suspension of practising the profession constitutes a loss of the positions for which the capacity of advocate is required for electability or eligibility for appointment.

10

If the complainant so requests, the board shall in its decision set out, stating the reasons at all times, if the advocate against whom the complaint is made has acted prudently towards the complainant, as befits sound legal assistance. The board can make such a decision by virtue of its office as well, if it feels there are sufficient reasons for doing so.

#### **Section 48a**

1

When imposing an order for suspension of practising the profession, the disciplinary board can, both with regard to this order and the ban to use the title of advocate, stipulate that this order shall not be implemented at all or for only as much as stipulated by the disciplinary board, unless the disciplinary board subsequently stipulates otherwise on the basis that the advocate in question, before the end of

a probationary period to be set out in the decision, has shown conduct as referred to in [Section 46](#), or has failed to comply with a special condition that may have been stipulated in the decision.

2

The probationary period has a maximum term of two years. It starts as soon as the decision has become final.

#### **Section 48aa**

1

The financial penalty referred to in [Section 48, subsection 2.c](#), amounts to no more than the amount stipulated for the fourth category, referred to in Section 23, subsection 4 of the Penal Code [*Wetboek van Strafrecht*].

2

The decision to impose the financial penalty includes the term within and the way in which the penalty must be paid. At the request of the advocate in question, the chairman of the disciplinary board can extend the term.

3

The amount of the imposed financial penalty goes to the State.

4

If the penalty is not paid within the term stipulated in Subsection 2, the board, after having given the advocate in question the opportunity to be heard about it, can by virtue of its office decide to impose an order as referred to in [Section 48, subsection 2.c, 2.d. or 2.e](#), for that reason.

#### **Section 48ab**

1

The decision to impose a financial penalty constitutes an enforcement order that can be implemented under application of the Code of Criminal Procedure [*Wetboek van Burgerlijke Rechtsvordering*].

2

Under a governmental decree, further rules are stipulated about the implementation of the decision referred to in Subsection 1.

#### **Section 48b**

1

When imposing the orders referred to in [Section 48, subsection 2](#), the disciplinary board can, in derogation from [Section 48a, subsection 1](#), stipulate a special condition that the advocate in question reimburses all or part of the damage he caused, up to an amount to be stipulated by the board and subject to a maximum of € 5,000, within a term to be stipulated by the board, shorter than the probationary period and in a manner to be stipulated by the board.

2

Furthermore, the disciplinary board is authorised to stipulate other special conditions relating to the advocate in question practising law during the probationary period or during part thereof, to be stipulated under the decision.

#### **Section 48c**

1

The President monitors compliance with the conditions, referred to in [Section 48b](#). If the advocate in question is the President, the member of the Council of the Local Bar referred to in [Section 23, subsection 1](#) shall be charged with monitoring compliance with the conditions.

2

In the event that the advocate fails to comply with the conditions during the probationary period, the President or the other member of the bar referred to in Subsection 1 shall notify the disciplinary board accordingly, with such demand as he deems necessary.

#### **Section 48d**

The disciplinary board that has issued the order referred to in [Section 48a](#), can, either on the demand of the person who, by virtue of [Section 48c, subsection 1](#), monitors compliance with the conditions, referred to in [Section 48b](#), or, at the request of the advocate in question, make changes to the special conditions during the probationary period.

#### **Section 48e**

The disciplinary board that, under application of [Section 48a](#) has stipulated that the imposed order shall not be implemented for a part to be stipulated by the board, can either on demand of the person who, by virtue of [Section 48c, subsection 1](#), monitors compliance with the conditions, referred to in Sections 48a and [48b](#), or by virtue of its office, instruct that the order shall be implemented after all.

#### **Section 48f**

A decision as referred to in [Sections 48d](#) and [48e](#) is not given before hearing, or at least duly summoning the advocate in question and, in the event that the decision relates to the special condition for full or partial compensation and he has an interest in this, the complainant. Also summoned to be heard is the person who, by virtue of [Section 48c, subsection 1](#), monitors compliance with the conditions referred to in [Section 48b](#). The hearing and the decision are subject to the provisions in [Sections 49, subsections 1 to 11 inclusive](#), and [50](#) by analogy.

#### **Section 48g**

A decision as referred to in [Sections 48d](#) and [48e](#) is not subject to any means of recourse, insofar as it does not form part of a decision by the disciplinary board with regard to other conduct referred to in [Section 46](#).

#### **Section 48h**

Deleted

#### **Section 49**

1



The disciplinary board shall not take a decision before hearing or duly summoning the advocate against whom the complaint is made, and the complainant.

2

The advocate in question and the complaint are entitled to be assisted by a defence counsel for the processing of the complaint. They and their defence counsels are given the opportunity to take cognizance of the procedural documents in time. The registrar of the disciplinary board shall notify them in time of the location and date of such opportunity.

3

The disciplinary board may refuse certain persons whose business it is to give legal advice and who are not advocates, to act as defence counsel. In that case, the processing of the complaint is adjourned until the person in question has been able to replace the refused defence counsel. He shall be notified of the adjournment and the reason thereof by the registrar.

4

The disciplinary board can summon and hear witnesses and experts. Hearing witnesses and experts can be assigned to the chairman, the deputy chairman or one of the members or deputy members of the disciplinary board.

5

At the request of the disciplinary board, the public prosecutor shall summon them. Having received a summons, the witnesses and expert are obliged to appear.

6

In the event that a witness or expert does not obey the summons, the public prosecutor shall, at the request of the disciplinary board again summon him, demanding to secure a person's presence, if requested.

7

Section 556 of the Code of Criminal Procedure [*Wetboek van Strafvordering*] applies by analogy.

8

The chairman swears in the witness, that he shall tell the whole truth and nothing but the truth; the witness is obliged to answer the questions posed to him. The expert must perform his task impartially, and to the best of his ability. If Subsection 4, second sentence applies, the witness is sworn in by the appropriately appointed associate advocate or deputy associate advocate of the disciplinary board.

9

The witnesses and experts are subject to Sections 217-219 of the Code of Criminal Procedure [*Wetboek van Strafvordering*] by analogy.

10

The witnesses and experts receive, on production of their call or summons if they so choose, compensation from the government, to be estimated by the public prosecutor in accordance with the provisions under and pursuant to the Court Fees (Civil Cases) Act [*Wet griffierechten burgerlijke zaken*].

The disciplinary board shall deal with the complaint at a public hearing. For compelling reasons, the board may order that the complaint is fully or partially processed behind closed doors.

## Section 50

The registrar of the disciplinary board shall immediately send copies of the decisions of the board in a registered letter:

- a.  
to the advocate in question;
- b.  
to the complainant;
- c.  
to the President of the general council
- d.  
to the secretary-general of the general council
- e.  
to the President of the bar which the advocate in question is a member of;
- f.  
to the supervisory board;
- g.  
if the decision was given pursuant to a referral as referred to in [Section 46a, subsection 3](#) or to a designation as referred to in Section 46a, subsection 5 to the disciplinary board of the bar which the advocate in question is a member of;
- h.  
if the advocate is registered with the Legal Aid Board [*raad voor de rechtsbijstand*] and an order as referred to in [Section 48, subsection 2](#), has been imposed on him and the order is final or if the disciplinary board deems dispatch necessary: to the management of the Legal Aid Board [*raad voor de rechtsbijstand*].

## Section 50a

1

Costs, designated by ministerial regulation, in relation to the chairmanship and deputy chairmanship are payable by the state.

2

The travel and subsistence expenses of the associate advocates and the deputy associate advocates of the disciplinary board and of the registrar are reimbursed and are payable by the Netherlands Bar.

## **Section 51**

1

The disciplinary court is situated in a location to be determined by governmental decree. The court can form divisions from its midst for the fulfilment of its task. Divisions can also be in session outside their locations. The court consists of no more than ten members appointed by Us, including the chairman and no more than six deputy chairmen, and four associate advocates, as well as deputy members and deputy associate advocates appointed by Us, up to the number deemed necessary by Us or by the board of representatives.

2

The chairman, the deputy chairmen and the other members and deputy members appointed by Us are appointed for a term of five years, from members of the judiciary entrusted with the administration of justice. Associate advocates and deputy associate advocates are elected by the board of representative for a term of five years.

3

The disciplinary court appoints and dismisses its registrar and provides for his replacement when he is unable to attend or is absent.

4

Membership or deputy membership of a disciplinary court or fulfilling the position of registrar cannot be combined with membership or deputy membership of a disciplinary board, a body of the Netherlands Bar or a body of the Local Bars, except the annual meeting of the bar, referred to in [Section 22, subsection 2](#).

5

[Section 46b, subsections 8 to 11 inclusive](#), applies by analogy.

## **Section 52**

1

The chairman, the deputy chairmen and the members and deputy members step down with effect from the first month after the month during which they reach the age of 70. If their term in office has not yet expired by then, they can, at their request, remain in office until their term in office has ended.

2

There can be no relationship by blood or affinity up to the third degree between the chairman, the deputy chairmen, the members, the deputy members and the registrar. Furthermore, between the associate advocates and the deputy associate advocates, there can be no partnership or other permanent collaboration to practise the profession of advocate or a relationship of employer and employee.

## **Section 53**

1

Only advocates who have practised law within the Kingdom for more than seven years and who have not yet reached the age of 70 can be elected as associate advocates and deputy associate advocates of the disciplinary court.

2

The vote takes place by ballot and separately for every individual member.

3

The deputy members of the court take their seat in order of appointment or election.

4

Members of the general council or the Council of the Local Bar, who have been elected member or deputy member of the disciplinary court, step down as member of the council in question when they accept their membership of the disciplinary court. Associate advocates or deputy associate advocates of a disciplinary board, who have been elected member or deputy member of the disciplinary court, step down as associate advocate or deputy associate advocate of the disciplinary board when they accept their membership of the disciplinary court.

#### **Section 54**

1

The provisions in Sections 46c, subsection 2, 46d, subsection 2, 46f, 46i, with the exception of subsection 1.c, 46j, 46l, subsections 1 and 3, 46m, 46o and 46p of the Judicial Officers (Legal Status) Act [*Wet rechtspositie rechterlijke ambtenaren*] apply by analogy to the members and deputy members of the disciplinary court.

2

The associate advocates and deputy associate advocates can be dismissed for the reasons given in Sections 46c, subsection 2, 46d, subsection 2, 46i, with the exception of subsection 1.c, 46j, 46l, subsections 1 and 3, and 46m of the Judicial Officers (Legal Status) Act [*Wet rechtspositie rechterlijke ambtenaren*]. In addition, membership of the associate advocates and deputy associate advocates expires by operation of law as soon as they stop being advocates.

3

Sections 13a, 13b, with the exception of subsection 1. b, 1.c and subsection 4, and 13c to 13g inclusive of the Judiciary (Organisation) Act [*Wet op de rechterlijke organisatie*] apply by analogy to behaviour of the members and deputy members, on the understanding that:

- a.

for the corresponding application of those sections «the court management involved» is taken to mean: the chairman of the disciplinary court; and

- b.

the procurator general is not obliged to comply with the request referred to in Section 13a, if the applicant has a reasonably insufficient interest in an investigation as referred to in that same section.

## Section 55

1

The disciplinary court guards against unnecessary delays in the investigation by the disciplinary boards.

2

It can submit the documents and stipulate a time within which the decision must be made.

3

If a disciplinary board fails to comply with this, the court can proceed to deal with the case and decide in the highest instance.

## Section 56

1

For a period of 30 days after the copy referred to in [Section 50](#) is sent, the following persons can lodge an appeal with the disciplinary court against the decisions of the disciplinary board:

- a.  
  
the complainant who by virtue of [Section 46c, subsection 1](#), has submitted the complaint that led to the decision, if the complaint was declared fully or partially inadmissible or if the request, referred to in [Section 48, subsection 10](#), is rejected upon declaration that the complaint is well-founded;
- b.  
  
the President;
- c.  
  
the advocate against whom the decision was made.

2

Furthermore, the President of the general council can lodge an appeal against all decisions of the disciplinary board within the same term. He can submit the documents in advance. When exercising these powers, he can be deputised by a member of the general council.

3

The appeal is lodged by means of a memorandum stating the reasons, to be submitted to the registrar of the disciplinary court in septuplicate and accompanied by six copies of the decision against which the appeal is lodged. The registrar immediately communicates the lodged appeal to the disciplinary board that took the decision at first instance and, insofar as the appeal was not lodged by him, the President of the bar which the advocate in question is a member of, to the supervisory board, to the advocate in question and to the complainant. At the request of the disciplinary court, the President makes a statement which demonstrates whether disciplinary complaints were made before against the advocate against whom the complaint was made. In the event that the advocate received a disciplinary conviction before, the statement shall also set out the order that was imposed.

4

Subject to annulment, the chairman or one of the deputy chairmen, as well as a member and an associate advocate or a deputy associate advocate appointed by Us shall take part in the handling of and decision with regard to an appeal lodged to the court by a division. If one of these members thinks the case is not suitable to be processed and decided on by three members, the processing is continued by five members, amongst whom are the chairman or one of the deputy chairmen, as well as two members appointed by Us. If the chairman or deputy chairman is unable to act due to circumstances that occurred after the case started, he can be replaced by a member appointed by Us or by a deputy member appointed by Us.

5

If a lodged appeal is withdrawn, the disciplinary court, in case the order for suspension of practising the profession is imposed, shall stipulate the date on which the order comes into effect, having heard or duly summoned the advocate in question.

6

Sections 512 to 519 inclusive of the Code of Criminal Procedure [*Wetboek van Strafvordering*] apply by analogy with regard to the members of the disciplinary court.

#### **Section 56a**

1

The chairman of the disciplinary court can, in a decision stating the reasons, dismiss manifestly inadmissible and manifestly unfounded appeals, as well as appeals which in his opinion shall not lead to a decision other than the one made by the disciplinary board, within 30 days of such appeals having been lodged.

2

[Section 50](#), applies by analogy.

3

When exercising the powers referred to in Subsection 1, the chairman may be replaced with a deputy chairman, member of the judiciary.

#### **Section 56b**

1

The person who lodged the appeal, as well as the President of the Netherlands Bar can submit a written notice of objection to the disciplinary court regarding the decision referred to in the previous section, within 14 days of the copy of the decision having been sent.

2

[Section 46h, subsections 2 to 8 inclusive](#), applies by analogy, on the understanding that a copy of the decision to declare an appeal inadmissible or unfounded is also sent to the President of the Netherlands Bar.

#### **Section 57**

1

The disciplinary court shall not make a decision before having heard or duly summoned the complainant, the advocate in question and the person who has lodged the appeal.

2

The processing on appeal is subject to [Sections 47a, 48](#) and [49](#) by analogy.

4

The disciplinary court can invite the President and the President of the Netherlands Bar, insofar as they are complainants or have lodged the appeal, the preliminary investigator referred to in [Section 46l](#), as well as the disciplinary board that took the decision against which the appeal is lodged to provide further information.

4

The disciplinary court investigates on the basis of the decision of the disciplinary board. The court can also make decisions about facts deemed not suitable for an order by the disciplinary board, and it can investigate facts deemed unproven by the disciplinary board.

#### **Section 57a**

If the disciplinary court, when imposing the order for suspension, decides that, in accordance with the provisions in [Section 48a](#), this cannot be fully or partially implemented, the decision about the implementation is left to the disciplinary board that ruled about the complaint at first instance. Sections 48b to 48 inclusive apply by analogy.

#### **Section 58**

The registrar of the disciplinary court shall immediately send a copy of the decision in a registered letter:

- a.  
to the advocate in question;
- b.  
to the President of the Netherlands Bar;
- c.  
to the disciplinary board that dealt with the case at first instance;
- d.  
to the President of the bar which the advocate in question is a member of;
- e.  
to the supervisory board;
- f.

- if the decision at first instance was given pursuant to a referral as referred to in [Section 46a, subsection 3](#) or to a designation as referred to in Section 46a, subsection 5: to the chairman of the disciplinary board which the advocate in question is a member of,g.

if an order as referred to in [Section 48, subsection 2](#), has been imposed on the advocate who is registered with the Legal Aid Board [*raad voor de rechtsbijstand*] or if the disciplinary court deems dispatch necessary: to the management of the Legal Aid Board [*raad voor de rechtsbijstand*].

- h.

to the complainant.

## **Section 59**

1

With a view to processing in the bar registration, the orders for suspension of practising the profession and disbarment are announced to the secretary of the general council by the registrar of the disciplinary board as soon as the decision has become final.

2

The President of the bar which the advocate is a member of or, if the advocate in question is the President, a member of the Council of the Local Bar as referred to in Section 23, subsection 1 is responsible for publication as referred to in [Section 48, subsection 5](#).

3

In the event of application of Sections 48a to 48g inclusive, the announcement, referred to in Subsection 1, and the publication, referred to in Subsection 2, are not effectuated until an enforcement order has been issued for the decision or the relevant part thereof.

## **Section 60**

1

Costs, designated by ministerial regulation, in relation to the membership of the members and deputy members appointed by Us are payable by the state.

2

The associate advocates and deputy associate advocates and the registrar receive an allowance for travel and subsistence expenses and other disbursements from the Netherlands Bar. Furthermore, the registrar receives an allowance from the Netherlands Bar, the extent of which is stipulated by the general council.

3

The other costs incurred by the disciplinary court are charged to the Netherlands Bar, on the understanding that the state reimburses the Netherlands Bar for the costs ensuing from appeals referred to in [Section 56, subsection 1.a](#).

## **Section 60a**



The previous provisions in this paragraph, with the exception of [Section 46fa](#), also apply to visiting advocates as referred to in [Section 16b](#), on the understanding that:

- 1.

in derogation from [section 46](#), the disciplinary jurisdiction at first instance is administered by the disciplinary board that is authorised with regard to the cooperating advocate and failing that, by the disciplinary board in the The Hague district;

- 2.

in derogation from [Section 48, subsection 2](#), the following orders can be imposed:

- a.

a simple warning;

- b.

a reprimand;

- c.

a financial penalty;

- d.

suspension for no more than one year of the right to carry out the activities in the Netherlands, referred to in [Section 16b](#);

- e.

disqualification from the right to carry out the activities in the Netherlands, referred to in [Section 16b](#);

- 3.

the provisions in [Section 48, subsection 5](#) about publication also apply to the punishments referred to in the previous subsection under b to e inclusive;

- 4.

the competent authority in the state of origin of the advocate in question can be asked for statements about the necessary information about him practising his profession and that cognizance shall be taken of every decision made, all this without prejudice to the confidential nature of those statements.

## **Section 60aa**

1

Sections 46 to 46f inclusive, 46fb to 60 inclusive as well as sections 60b to 60g inclusive apply by analogy to advocates who carry out their activities under their original professional title as referred to in [Section 16h](#).

2

In derogation from [Section 48, subsection 2.d](#), a suspension of no more than one year to carry out the activities in the Netherlands, referred to in [Section 16h](#) can be imposed as an order.

3

The provisions in [Section 48, subsection 5](#), about publication also apply to the order referred to in Subsection 2.

4

The competent authority in the state of origin is given the opportunity to voice its opinion in the cases referred to in [Sections 46h, subsection 4](#), [48f](#), [49](#), [56, subsection 5](#), [57, subsection 1](#), [60b, subsections 1 and 7](#) and [60c, subsections 3 and 4](#).

5

If the competent authority of the Member State of origin or the disciplinary court in that state has temporarily or permanently disqualified the advocate from practising the profession of advocate, that advocate is, by operation of law, no longer authorised to practise his profession in the Netherlands using his original professional title. In that case, the secretary of the general council shall temporarily or permanently disbar the advocate. The secretary of the general council notifies the competent authority of the state of origin of the disbarment.

6

Before starting disciplinary law proceedings or proceedings with regard to incorrect practising of the profession against the advocate working under his original professional title, the Council of the Local Bar where this advocate practises law shall immediately notify the competent authority of the state of origin of that advocate and it shall provide all necessary information.

7

During the proceedings, the Council of the Local Bar cooperates with the competent authority of the state of origin. [Section 60a, subsection 4](#) applies by analogy.

#### **§ 4a The procedure regarding urgent suspension or taking an interim measure**

##### **Section 60ab**

1

At the request of the President of the bar which the advocate is a member of, the disciplinary board can suspend an advocate with regard to whom there are serious doubts about an act or omission as a result of which any interest protected under [Section 46](#) is seriously harmed or in danger of being seriously harmed, from practising his profession or take an interim measure with regard to the advocate in question practising his profession, if so demanded by the interest protected under Section 46. He shall not make a decision before hearing or duly summoning the advocate and the President of the bar which the advocate is a member of.

2

A request as referred to in Subsection 1 can also be submitted in the event that an advocate is remanded in custody or if he has been convicted for a crime under a not yet irrevocable court ruling or if an order for deprivation of liberty is imposed on him under such a ruling, on the understanding that suspension can be delivered only for the duration of the deprivation of liberty. The registrar of the court

that takes one of the decisions referred to in the first sentence, shall notify the President of the Local Bar which the advocate is a member of, of that decision. Subsection 5 does not apply.

3

The President notifies the advocate in question in writing of the request referred to in Subsections 1 and 2, as well as of the reasons on which the request is based.

4

The disciplinary board makes a decision within 14 days of the request having been sent in accordance with Subsection 1 or 2. The disciplinary board can extend this term with the same term only once.

5

If the complaint or the objection against the advocate on the basis of which the serious suspicion has arisen has not yet been communicated to the disciplinary board in writing, the disciplinary board shall in its decision regarding the request referred to in Subsection 1 also stipulate a reasonable term of no more than six weeks, within which the President shall notify the disciplinary board of the complaint or objection in writing. When this term is exceeded, the decision regarding the request referred to in Subsection 1 shall lapse by operation of law. Following a written request from the President, the disciplinary board can extend the term only once, with a reasonable term, to be stipulated by the board, of no more than six weeks. [Paragraph 4](#) applies by analogy, with the exception of [Sections 46c, subsection 1](#), 46i to 46k inclusive and 46n.

6

At the request of the advocate in question, the disciplinary board can at all times lift the suspension or interim measure imposed by virtue of Subsection 1. He shall not make a decision before hearing or duly summoning the advocate and the President.

### **Section 60ac**

1

With a view to processing in the bar registration, the order for suspension of practising the profession is announced to the secretary of the general council by the registrar of the disciplinary board.

2

A suspended advocate is not permitted to use the title of attorney of law while suspended.

3

Suspension of practising the profession constitutes a loss of the positions for which the capacity of advocate is required for electability or eligibility for appointment.

### **Section 60ad**

1

The advocate, the President of the bar which the advocate is a member of and the President of the Netherlands Bar can lodge an appeal with the disciplinary court with regard to a decision pursuant to [Section 60ab, subsections 1, 2 and 6](#), within 30 days of a copy of the decision having been sent.

2

The appeal does not suspend the effect of the decision against which it is aimed.

### **Section 60ae**

As soon as the decision of the disciplinary board with regard to a complaint or objection as referred to in [Section 60ab, subsection 5](#) and announced to the board by the President, has become final, the suspension or interim measure imposed pursuant to [Section 60ab, subsection 1 or 2](#), lapses by operation of law.

### **Section 60af**

1

This paragraph applies by analogy to visiting advocates as referred to in [Section 16b](#), and to the advocates who carry out their activities under their original professional title as referred to in [Section 16h](#).

2

If the advocate with regard to whom there is an intention to suspend him from practising his professions or to take in interim measure by virtue of [Section 60ab, subsections 1 and 2](#), pursuant to the international law of another Member State of the European Union or another state that is a party to the Agreement on the European Economic Area that complies with Section 3 of EC Directive 98/5 of the European Parliament and the Council of the European Union of 16 February 1998 to facilitate the permanent practising of law, has registered himself in a Member State other than where he acquired the professional qualification, the Council of the Local Bar shall notify the competent authority of that Member State or those Members States of this intention and it shall provide this authority or those authorities with all necessary information.

3

If the advocate is registered in Switzerland with due observance of the Agreement concluded on 21 June 1999 between the European Community and its Member States on the one hand and the Swiss Confederation on the other about the free movement of persons, Subsection 2 applies by analogy.

4

The competent authority of the state of origin of the advocate in question shall, in the cases referred to in [Section 60ab, subsections 1, 2 and 6](#), be given the opportunity to voice its opinion.

5

The competent authority in the state of origin of the advocate in question can be asked for statements about the necessary information about him practising his profession and cognizance shall be taken of every decision made, all this without prejudice to the confidential nature of those statements.

## **§ 4b The procedure regarding undue practising of the profession**

### **Section 60b**

1

The disciplinary board can, whether or not after an investigation has taken place in accordance with Sections 60c to 60g inclusive, at the request of the President of the bar which the advocate is a member of, suspend an advocate who temporarily or permanently gives no indication of being able to duly practise law, or take one or more measures he deems necessary with regard to the advocate practising his profession. At the same time as imposing a suspension, the disciplinary board can take

a measure. He shall not make a decision before hearing or duly summoning the President of the bar which the advocate is a member of and the advocate in question.

2

The hearing of the case is subject to Sections 47 and [49, subsection 2 to 10 inclusive](#) by analogy. The hearing takes place behind closed doors, unless the advocate in question prefers a public hearing.

3

[Section 50](#), applies by analogy to the dispatch of a copy of the decisions of the disciplinary board, referred to in Subsection 1. Furthermore, the registrar of the disciplinary board immediately sends a copy of the decision with regard to the suspension of the advocate in question, referred to in Subsection 1, to the secretary of the general council by registered letter with a view to processing in the bar registration, and if the advocate is registered with the Legal Aid Board [*raad voor de rechtsbijstand*], to the management of that board.

4

Both the advocate and the person who made the request referred to in Subsection 1 can, for a period of 30 days after a copy of the decision against the decision, referred to in Subsection 1, was sent, lodge an appeal to the disciplinary court. The second sentence in Subsection 2 applies. The hearing of the case is subject to [Sections 55](#) and [56, subsections 2, 3, 4 and 6](#). [Section 57](#), with the exception of the reference to [Section 47a](#) and [Section 48, subsection 1](#) in Subsection 2, and with the exception of Subsection 5, applies by analogy. [Section 58, subsection 1.a to 1.g inclusive](#) applies, on the understanding that the registrar of the disciplinary court shall send only a copy of the decision with regard to the suspension to the management of the Legal Aid Board [*raad voor de rechtsbijstand*] which the advocate is registered with. With a view to processing in the bar registration, the secretary of the general council also receives a copy of the decision of the court with regard to the suspension of the advocate in question. The appeal does not suspend the effect of the decision against which it is aimed.

5

A suspended advocate is not permitted to use the title of attorney of law while suspended. [Section 48, subsection 9](#) applies.

6

With a view to monitoring compliance with the provisions referred to in Subsection 1, [Section 48c](#) applies by analogy.

7

At the request of the advocate, the disciplinary board can lift the suspension or measures at all times. The board shall not decide about this before having heard or duly summoned the person who made the request referred to in Subsection 1 and the advocate in question. Subsections 2 to 5 inclusive apply by analogy.

8

[Sections 60d](#) and [60e](#) apply by analogy.

## **Section 60c**

1

The President can ask the chairman of the disciplinary board in writing to start an investigation into the status of the practice of an advocate, if there are indications that a situation as referred to in [Section 60b, subsection 1](#), should arise. The petition contains the grounds it is based on.

2

The President of the bar which the advocate is a member of is authorised to submit a petition. If the advocate in question is the President, the member of the Council of the Local Bar referred to in [Section 23, subsection 1](#) shall be authorised. The chairman of the disciplinary board within whose district the attorney in question practises law is authorised to take cognizance. When exercising his powers, the chairman can be deputised by one of the deputy chairmen.

3

After having heard or duly summoned the President and the advocate in question, the chairman shall make a decision about the request referred to in Subsection 1 as soon as possible. The hearing takes place behind closed doors, unless the advocate in question prefers a public hearing.

4

The advocate in question and the President can send the disciplinary board a notice of objection regarding the decision referred to in Subsection 3, within 14 days of the copy of the decision having been sent. Subsection 3 applies by analogy. The objection does not suspend the effect of the decision against which it is aimed.

## **Section 60d**

1

When starting an investigation as referred to in [Section 60c, subsection 1](#), the chairman of the disciplinary board appoints one or more observers who, within a term of no more than six weeks, have to report back to him about the state of the practice of the advocate in question. At the request of the observer or observers, the chairman can extend this term by no more than six weeks, once. With regard to the investigation being carried out by the observer, the advocate, his employees and staff, as well as other persons involved in practising the profession, are not bound by the duty of confidentiality referred to in [Section 11a](#). In that case, the observer in question is bound by a duty of confidentiality, similar to the one referred to in Section 11a, while Section 218 of the Code of Criminal Procedure [*Wetboek van Strafvordering*] applies by analogy.

2

During the decision referred to in Subsection 1, the chairman determines the basis for the reimbursement for the observer or observers appointed by him and he determines the maximum amount that can be spent on the investigation. Pending the investigation, he can increase this amount at the request of the observer or observers. The chairman can furthermore stipulate that the attorney in law in question furnishes security for payment of the costs.

3

With due observance with Subsection 2, the disciplinary board shall determine the amount to be reimbursed in accordance with Subsection 4.

4

The advocate in question bears the costs of the investigation, unless the disciplinary board, based on the results of the report, does not suspend the advocate in question or does not take a measure as

referred to in [Section 60b, subsection 1](#) or the advocate in question is not or only partially able to bear these costs. In the latter case, the advocate shall bear some of the costs.

5

In derogation from Subsection 4, the disciplinary board, if there are good reasons to do so, can stipulate that the advocate in question bears all or some of the costs of the investigation, also when the board, based on the results of the report, does not decide to suspend or take a measure as referred to in [Section 60b, subsection 1](#).

6

The costs of the investigation not borne by the advocate shall be reimbursed by the bar in the district where the advocate practises law.

7

If the disciplinary court decides on appeal that there is no ground for imposing a suspension or taking any measure, the disciplinary court can also stipulate that all or some of the costs of the investigation are borne by the bar in the district where the advocate practises law.

### **Section 60e**

1

The observer, as well as the persons appointed by him who accompany him, are authorised to access any location where the advocate in question practises law and they are entitled to inspect the dossiers, accounts, documents and other information carriers that relate to the lawyer's practice, the inspection of which the observer deems necessary for the proper performance of his task, including that of the partnership within which the advocate practises law. The observer can call in the police for assistance.

2

The advocate in question and the advocates with whom he forms a partnership, the persons employed by the advocate or the partnership, as well as the employer of the advocate in question are obliged to provide all requested information deemed necessary by the observer for his investigation and to allow him to inspect the information carriers referred to in Subsection 1. If the investigation - also - relates to a legal entity, the executive and supervisory directors of that legal entity are subject to a similar obligation.

3

The advocates with whom the advocate in question forms a partnership are subject to Sections 217 to 219 inclusive of the Code of Criminal Procedure [*Wetboek van Strafvordering*] by analogy.

### **Section 60f**

1

During the investigation, the chairman of the disciplinary board can, at the request of the observer or observers, take an interim measure for no more than the term of the investigation, if this is in the interest of the investigation.

2

During the investigation, the chairman of the disciplinary board can, at the request of the President or the observer or observers, take an interim measure if he deems this necessary in connection with the state of the practice. This measure remains applicable until a decision as referred to in [Section 60b, subsection 1](#), is made or the chairman of the council lifts the interim measure on the basis that it is no longer necessary in connection with the state of the practice.

3

The advocate in question and the President can send the disciplinary board a notice of objection regarding a decision as referred to in Subsections 1 and 2, within 14 days of the copy of the decision having been sent. [Section 60c, subsection 3, second sentence](#), applies by analogy. The objection does not suspend the effect of the decision against which it is aimed.

## **Section 60g**

1

The observer sends his report to the chairman of the board, which report shall include an opinion about the state of the practice of the advocate in question, stating the reasons and one or more recommendations, if so desired. The registrar of the board shall immediately send a copy of the report to the advocate in question, as well as the President.

2

With the exception of the advocate in question and the President of the Council of the Local Bar which he is a member of, nothing of the report can be disclosed to third parties without the consent of the chairman of the disciplinary board. The observer and the persons involved in the investigation by the observer do not disclose anything they learn of during the investigation, other than required by the investigation.

3

The disciplinary board shall make a decision as referred to in [Section 60b, subsection 1](#), within four weeks of receiving the report..

4

Without prejudice to the power of the chairman of the board to lift an interim measure as referred to in [Section 60f, subsection 2](#), early, such a measure shall be lifted by operation of law with effect from the first day of the term referred to in Subsection 3 of this section having lapsed, if the board has not taken a decision as referred to in [Section 60b, subsection 1](#).

## **Section 60h**

1

If the advocate against whom there is an intention to start proceedings with regard to improper professional practice, pursuant to the national law of another Member State of the European Union or another state that is a party to the Agreement on the European Economic Area that complies with Section 3 of EC Directive 98/5 of the European Parliament and the Council of the European Union of 16 February 1998 to facilitate the permanent practising of law, from practising the profession of advocate, registered himself, the Council of the Local Bar shall, before the start of the proceedings, notify the competent authority in that Member State or those Member States of the intention and it shall furnish that authority or those authorities with all useful information.

2



If the advocate is registered in Switzerland with due observance of the Agreement concluded on 21 June 1999 between the European Community and its Member States on the one hand and the Swiss Confederation on the other about the free movement of persons, Subsection 1 applies by analogy.

## **§ 5 Final provisions**

### **Section 61**

Deleted

### **Section 62**

Deleted

### **Section 63**

Deleted

### **Section 64**

Deleted

### **Section 65**

Deleted

### **Section 66**

Deleted

### **Section 67**

Deleted

### **Section 68**

Deleted

### **Section 69**

Deleted

### **Section 69a**

Deleted

### **Section 70**

By governmental decree, rules are stipulated with regard to the official dress of the advocates.

### **Section 71**

This Act may be cited as: Act on Advocates [*Advocatenwet*]

### **Section 72**

Deleted

**Section 73**

Deleted

**Section 74**

Deleted

**Section 75**

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**Section 76**

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**Section 77**

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**Section 78**

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**Section 79**

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**Section 80**

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**Section 81**

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**Section 82**

Deleted

**Section 83**

Deleted

**Conclusion of the act**

We order and command that this shall be published in the Bulletin of Acts and Decrees [*Staatsblad*], and that all ministerial departments, authorities, bodies and officials whom it may concern shall diligently implement it.

Done at Soestdijk Palace 23 June 1952.

JULIANA.

The Minister of Justice,

H. MULDERIJE.

the first of July 1952.

The Minister of Justice,

H. MULDERIJE.