

Bill No. 47 of 2012

THE NORTH-EASTERN AREAS (REORGANISATION) AND OTHER
RELATED LAWS (AMENDMENT) BILL, 2012

A

BILL

*further to amend the North-Eastern Areas (Reorganisation) Act, 1971 and Other
Related Laws.*

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

5 **1.** (1) This Act may be called the North-Eastern Areas (Reorganisation) and Other
Related Laws (Amendment) Act, 2012.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification
in the Official Gazette, appoint.

CHAPTER II

AMENDMENTS TO THE NORTH-EASTERN AREAS
(REORGANISATION) ACT, 1971

Amendment of section 2.	<p>2. In section 2 of the North-Eastern Areas (Reorganisation) Act, 1971 (hereinafter referred to as the principal Act), in clause (d), the following proviso shall be inserted, namely:—</p> <p style="padding-left: 40px;">‘Provided that on and from the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012, the provisions of this clause shall have effect as if for the brackets and words “(Assam, Nagaland, Meghalaya, Manipur and Tripura)”, the brackets and words “(Assam, Arunachal Pradesh, Mizoram and Nagaland)” had been substituted.’.</p>	81 of 1971. 5 10
Amendment of section 28.	<p>3. In section 28 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—</p> <p style="padding-left: 40px;">“Provided that on and from the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012, the common High Court shall be the High Court for the States of Assam, Arunachal Pradesh, Mizoram and Nagaland and shall cease to have its jurisdiction, powers and authority for the States of Meghalaya, Manipur and Tripura.”.</p>	15
Insertion of new sections 28A to 28K. Establishment of separate High Courts for the States of Meghalaya, Manipur and Tripura.	<p>4. (1) After section 28 of the principal Act, the following sections shall be inserted, namely:—</p> <p style="padding-left: 40px;">“28A. (1) On and from the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012, there shall be a High Court—</p> <p style="padding-left: 80px;">(a) for the State of Meghalaya to be called the High Court of Meghalaya;</p> <p style="padding-left: 80px;">(b) for the State of Manipur to be called the High Court of Manipur;</p> <p style="padding-left: 80px;">(c) for the State of Tripura to be called the High Court of Tripura.</p> <p style="padding-left: 40px;">(2) The principal seat of the High Court of Meghalaya, the High Court of Manipur and the High Court of Tripura shall respectively be at such place as the President may, by notified order, appoint.</p> <p style="padding-left: 40px;">(3) Notwithstanding anything contained in sub-section (2), the Judges and division courts of the High Court of Meghalaya, the High Court of Manipur and the High Court of Tripura may sit at such other place or places in the States of Meghalaya, Manipur and Tripura respectively, other than their principal seat as the Chief Justice of the respective High Court may, with the approval of the Governor of the State concerned, appoint.</p> <p style="padding-left: 40px;">28B. (1) Such of the Judges of the common High Court holding office immediately before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012 as may be determined by the President after ascertaining their option shall, on such commencement, cease to be the Judges of the common High Court and become a Judge of the High Court of Meghalaya or the High Court of Manipur or the High Court of Tripura, as the case may be.</p> <p style="padding-left: 40px;">(2) Every person who by virtue of sub-section (1) become a Judge of the High Court of Meghalaya or the High Court of Manipur or the High Court of Tripura shall, except in the case where any such person is appointed to be the Chief Justice of any of those High Courts, rank in the respective High Court according to the priority of their respective appointments as Judges of the common High Court.</p>	20 25 30 35 40 45

5	<p>28C. The High Court of Meghalaya, the High Court of Manipur and the High Court of Tripura shall have, in respect of any part of the territories included in the State of Meghalaya, the State of Manipur and the State of Tripura respectively, all such jurisdiction, powers and authority as, under the law in force immediately before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012, are exercisable in respect of that part of the said territories by the common High Court.</p>	<p>Jurisdiction of High Courts of Meghalaya, Manipur and Tripura.</p>
10	<p>28D. The law in force immediately before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012 with respect to the custody of the seal of the common High Court shall, with the necessary modifications, apply with respect to the custody of the seal of the High Court of Meghalaya, the High Court of Manipur and the High Court of Tripura, as the case may be.</p>	<p>Custody of seal of High courts of Meghalaya, Manipur and Tripura.</p>
15	<p>28E. The law in force immediately before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012 with respect to practice and procedure in the common High Court shall, with necessary modifications, apply in relation to the High Court of Meghalaya, the High Court of Manipur and the High Court of Tripura, and accordingly, the High Court of Meghalaya, the High Court of Manipur and the High Court of Tripura shall, respectively, have all such powers to make rules and orders with respect to practice and procedure as are immediately before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012 exercisable by the common High Court:</p>	<p>Practice and procedure in the High courts of Meghalaya, Manipur and Tripura.</p>
20	<p>Provided that any rules or orders which are in force immediately before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012 with respect to the practice and procedure in the common High Court shall, until varied or revoked by rules or orders made by the High Court of Meghalaya or the High Court of Manipur or the High Court of Tripura, as the case may be, apply with the necessary modifications in relation to the practice and procedure in the High Court of Meghalaya, the High Court of Manipur and the High Court of Tripura respectively, as if such rules or orders were made by the respective High Court.</p>	
25	<p>28F. The law in force immediately before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012 with respect to the form of writs and other processes used, issued or awarded by the common High Court shall, with the necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Meghalaya, the High Court of Manipur and the High Court of Tripura.</p>	<p>Forms of writs and other processes.</p>
30	<p>28G. The law in force immediately before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012 relating to the powers of the Chief Justice, Single Judges and division courts of the common High Court and with respect to all matters ancillary to the exercise of those powers shall, with the necessary modifications, apply in relation to the High Court of Meghalaya, the High Court of Manipur and the High Court of Tripura.</p>	<p>Powers of Judges.</p>
35	<p>28H. The law in force immediately before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012 relating to appeals to the Supreme Court from the common High Court and the Judges and division courts thereof shall, with the necessary modifications, apply in relation to the High Courts of Meghalaya, Manipur and Tripura.</p>	<p>Procedure as to appeals to Supreme Court.</p>
40	<p>28H. The law in force immediately before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012 relating to appeals to the Supreme Court from the common High Court and the Judges and division courts thereof shall, with the necessary modifications, apply in relation to the High Courts of Meghalaya, Manipur and Tripura.</p>	<p>Procedure as to appeals to Supreme Court.</p>
45	<p>28H. The law in force immediately before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012 relating to appeals to the Supreme Court from the common High Court and the Judges and division courts thereof shall, with the necessary modifications, apply in relation to the High Courts of Meghalaya, Manipur and Tripura.</p>	<p>Procedure as to appeals to Supreme Court.</p>

Transfer of proceedings from common High Court to the High Courts of Meghalaya, Manipur and Tripura.

28-I. (1) Except as hereinafter provided, the common High Court shall, as from the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012, have no jurisdiction in respect of the States of Meghalaya, Manipur and Tripura.

(2) Such proceedings pending in the common High Court immediately before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012 as are certified, whether before or after that day, by the Chief Justice of that High Court, having regard to the place of accrual of the cause of action and other circumstances to be proceedings which ought to be heard and decided by the High Court of Meghalaya or the High Court of Manipur or the High Court of Tripura, as the case may be, shall, as soon as may be after such certification, be transferred to the High Court of Meghalaya or the High Court of Manipur or the High Court of Tripura, as the case may be.

(3) Notwithstanding anything contained in sub-sections (1) and (2) or in section 28A, but save as hereinafter provided, the common High Court shall have, and the High Court of Meghalaya, the High Court of Manipur and the High Court of Tripura shall not have, jurisdiction to entertain, hear or dispose of appeals, applications for leave to the Supreme Court, applications for review and other proceedings where any such proceedings seek any relief in respect of any order passed by the common High Court before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012:

Provided that if after any such proceedings have been entertained by the common High Court, it appears to the Chief Justice of that High Court that they ought to be transferred to the High Court of Meghalaya or the High Court of Manipur or the High Court of Tripura, he shall order that they shall be so transferred, and such proceedings shall thereupon be transferred accordingly.

(4) Any order made by the common High Court—

(a) before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012, in any proceedings transferred to the High Court of Meghalaya, or the High Court of Manipur or the High Court of Tripura by virtue of sub-section (2); or

(b) in any proceeding with respect to which the common High Court retains jurisdiction by virtue of sub-section (3),

shall, for all purposes, have effect, not only as an order of the common High Court but also as an order made by the High Court of Meghalaya, or the High Court of Manipur or the High Court of Tripura, as the case may be.

Interpretation.

28J. For the purposes of section 28H,—

(a) proceedings shall be deemed to be pending in a Court until that Court has disposed of all issues between the parties, including any issue with respect to the taxation of the costs of the proceedings and shall include appeals, applications for leave to appeal to the Supreme Court, applications for review, petitions for revision and petitions for writs; and

(b) references to a High Court shall be construed as including references to a Judge or division Court thereof, and references to an order made by a Court or a Judge shall be construed as including references to a sentence, judgment or decree passed or made by that Court or Judge.

Saving.

28K. Nothing in sections 28A to 28J (both inclusive) shall affect the application to the High Court of Meghalaya, the High Court of Manipur and the High Court of Tripura of any provisions of the Constitution, and the provisions of these sections shall have effect subject to any provision that may be made on or after the

commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012 with respect to the respective High Court by any Legislature or other authority having power to make such provisions."

- 5 **5.** In section 31 of the principal Act, in sub-section (3), for the words "Assam, Manipur, Meghalaya, Nagaland or Tripura", the words "Assam, Arunachal Pradesh, Mizoram or Nagaland" shall be substituted. Amendment of section 31.
- 6.** In section 32 of the principal Act, the following proviso shall be inserted, namely:— Amendment of section 32.
- 10 "Provided that on and from the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012, the provisions of this section shall cease to have effect."
- 7.** In section 33 of the principal Act, for the words "Manipur, Meghalaya, Nagaland and Tripura", the words "Arunachal Pradesh, Mizoram and Nagaland" shall be substituted. Amendment of section 33.
- 15 **8.** After section 87 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 87A.
- "87A. (1) If any difficulty arises in giving effect to the provisions of this Act, as amended by the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty: Power to remove difficulties.
- 20 Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012.
- (2) Every order made under this section shall be laid before each House of Parliament."
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CHAPTER III

AMENDMENTS TO THE ADVOCATES ACT, 1961 AND SPECIAL PROVISIONS RELATING TO THE BAR COUNCIL AND ADVOCATES

- 25 of 1961. 30 **9.** On and from the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012, in section 3 of the Advocates Act, 1961,— Amendment of section 3.
- (A) in sub-section (1),—
- (i) in clause (a), for the words "and Uttaranchal", the words "Uttarakhand, Meghalaya, Manipur and Tripura" shall be substituted;
- (ii) for clause (b), the following clause shall be substituted, namely:—
- 35 "(b) for the States of Arunachal Pradesh, Assam, Mizoram and Nagaland to be known as the Bar Council of Arunachal Pradesh, Assam, Mizoram and Nagaland;"
- (B) in sub-section (2), for the words "in the case of the State Bar Council of Assam, Nagaland, Meghalaya, Manipur and Tripura, the Advocate-General of each of the States of Assam, Manipur, Meghalaya, Nagaland and Tripura", the words "in the case of the State Bar Council of Assam, Arunachal Pradesh, Mizoram and Nagaland, the Advocate-General of each of the States of Assam, Arunachal Pradesh, Mizoram and Nagaland" shall be substituted.
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Special provision relating to Bar Councils and advocates.

10. (1) Any person who immediately before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012 is an advocate on the roll of the Bar Council of the States of Assam, Nagaland, Meghalaya, Manipur and Tripura may give his option in writing, within one year from the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012 to the Bar Council of such State, to transfer his name on the roll of the Bar Council of any one State among the States of Meghalaya, Manipur and Tripura and notwithstanding anything contained in the Advocates Act, 1961 and the rules made thereunder, upon such option so given his name shall be deemed to have been transferred on the roll of the Bar Council of such State with effect from the date of the option so given for the purposes of the said Act and the rules made thereunder.

(2) The persons other than the advocates who are entitled immediately before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws Amendment Act, 2012, to practise in the common High Court or any subordinate Court thereof shall, on and after the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012, be recognised as such persons entitled also to practise in the High Court of Meghalaya, the High Court of Manipur and the High Court of Tripura or any subordinate Court thereof, as the case may be.

(3) The right of audience in the High Court of Meghalaya, the High Court of Manipur and the High Court of Tripura shall be regulated in accordance with the like principles as immediately before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012 are in force with respect to the right of audience in the common High Court.

Right to appear or to act in proceedings transferred to High Courts of Meghalaya, Manipur and Tripura.

11. Any person who, immediately before the commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012, is an advocate entitled to practise or any other person entitled to practise in the common High Court and was authorised to appear in any proceedings transferred from that High Court to the High Court of Meghalaya or the High Court of Manipur or the High Court of Tripura under section 28-I of the North-Eastern Areas (Reorganisation) Act, 1971 shall have the right to appear in the High Court of Meghalaya, or the High Court of Manipur or the High Court of Tripura, as the case may be, in relation to those proceedings.

CHAPTER IV

AMENDMENT OF THE STATE OF MIZORAM ACT, 1986

Amendment of Act 34 of 1986.

12. After section 26 of the State of Mizoram Act, 1986, the following section shall be inserted, namely:—

Non-applicability of this Part to the States of Meghalaya, Manipur and Tripura.

“26A. On and from the date of commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012, the provisions of section 15 to 26 (both inclusive) shall not apply to the States of Meghalaya, Manipur and Tripura.”

CHAPTER V

AMENDMENT OF THE STATE OF ARUNACHAL PRADESH ACT, 1986

Amendment of Act 69 of 1986.

13. After section 28 of the State of Arunachal Pradesh Act, 1986, the following section shall be inserted, namely:—

Non-applicability of this Part to the States of Meghalaya, Manipur and Tripura.

“29A. On and from the date of commencement of the North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Act, 2012, the provisions of sections 18 to 29 (both inclusive) shall not apply to the States of Meghalaya, Manipur and Tripura.”

STATEMENT OF OBJECTS AND REASONS

The North-Eastern Areas (Reorganisation) Act, 1971 was enacted with a view to provide for the establishment of the States of Manipur and Tripura and to provide for the formation of the State of Meghalaya and of the Union territories of Mizoram and Arunachal Pradesh by reorganisation of the existing State of Assam and for matters connected therewith.

2. Clause (b) of sub-section (1) of section 28 of the aforesaid Act provides that there shall be a common High Court for the States of Assam, Nagaland, Meghalaya, Manipur and Tripura to be called the Gauhati High Court (the High Court of Assam, Nagaland, Meghalaya, Manipur and Tripura). Subsequently, under sub-section (1) of section 15 of the State of Mizoram Act, 1986 and sub-section (1) of section 18 of the State of Arunachal Pradesh Act, 1986, the Gauhati High Court also became the common High Court for the States of Mizoram and Arunachal Pradesh (the High Court of Arunachal Pradesh, Assam, Meghalaya, Manipur, Mizoram, Nagaland and Tripura).

3. On the 9th February, 1987, it was decided by the Central Government that separate High Courts for each of the States of the North-Eastern Region *viz.* Arunachal Pradesh, Assam, Meghalaya, Manipur, Mizoram, Nagaland and Tripura (after Arunachal Pradesh and Mizoram attained Statehood) may be established. It was also decided that requisite Parliamentary legislation for this purpose may be brought in Parliament. Pending the enactment of the legislation, the Central Government approved the setting up of permanent Benches of the Gauhati High Court in each of the aforesaid States of the North-Eastern Region.

4. In pursuance of the above decision, permanent Benches of the Gauhati High Court were set up in Manipur at Imphal with effect from 21st January, 1992, in Meghalaya at Shillong with effect from 4th February, 1998 and in Tripura at Agartala with effect from 16th May, 1992. Separate High Courts for each of the States of the North-Eastern Region could not be established as the State Governments concerned could not provide High Court buildings and related infrastructure to the satisfaction of the Chief Justice of the Gauhati High Court. As the new buildings for the High Courts, housing and other infrastructural facilities are now ready, the Governments of Meghalaya, Manipur and Tripura have been requesting for establishment of separate High Courts at their respective State Capitals.

5. The North-Eastern Areas (Reorganisation) Act, 1971 is now proposed to be amended with the object of setting up separate High Courts for the States of Manipur, Meghalaya and Tripura, instead of the Gauhati High Court being the common High Court, in their respective State Capitals at Imphal, Shillong and Agartala, respectively, to address and to provide easy access, speedy and cost effective justice for the people of those States and also to make the consequential amendments in other related laws.

6. The Bill seeks to achieve the above objects.

NEW DELHI;
The 2nd April, 2012.

P. CHIDAMBARAM.

FINANCIAL MEMORANDUM

Clause 4 of the Bill seeks to amend section 28 of the North-Eastern Areas (Reorganisation) Act, 1971 for establishment of separate High Courts in the States of Manipur, Meghalaya and Tripura, instead of the common High Court at Gauhati.

2. The expenditure on establishment of separate High Courts in the States of Manipur, Meghalaya and Tripura including recurring expenditure, has been and will be borne by the respective State Governments.

ANNEXURE

EXTRACTS FROM THE NORTH-EASTERN AREAS (REORGANISATION) ACT, 1971

(81 OF 1971)

* * * * *
2. In this Act, unless the context otherwise requires,— Definitions.

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(d) “common High Court” means the Gauhati High Court (the High Court of Assam, Nagaland, Meghalaya, Manipur and Tripura) referred to in clause (b) of sub-section (1) of section 28;

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PARTIV

HIGH COURT

28. (1) On and from the appointed day,— Common High court for Assam, Nagaland, Meghalaya, Manipur and Tripura.
(a) the High Court of Assam and Nagaland shall cease to function and is hereby abolished;

(b) there shall be a common High Court for the States of Assam, Nagaland, Meghalaya, Manipur and Tripura to be called the Gauhati High Court (the High Court of Assam, Nagaland, Meghalaya, Manipur and Tripura);

(c) the Judges of the High Court of Assam and Nagaland holding office immediately before that day shall, unless they have elected otherwise, become on that day the Judges of the Common High Court.

31. (1) * * * * * Principal seat and other places of sitting of the common High Court.
(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Judges and division courts of the common High Court may also sit at such other place or places in the State of Assam, Manipur, Meghalaya, Nagaland or Tripura as the Chief Justice may, with the approval of the Governor of the State concerned, appoint.

32. On and from the appointed day, the jurisdiction of the common High Court shall extend to the Union territories of Mizoram and Arunachal Pradesh. Extension of jurisdiction of the common High Court to the Union territories of Mizoram and Arunachal Pradesh.

33. The expenditure in respect of salaries and allowances of the Judges of the common High Court shall be allocated amongst the States of Assam, Manipur, Meghalaya, Nagaland and Tripura and the Union in such proportion as the President may, by order, determine. Allocation of expenditure of the common High Court.

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EXTRACTS FROM THE ADVOCATES ACT, 1961

(25 OF 1961)

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CHAPTER II

BAR COUNCILS

State Bar
Councils.

3. (1) There shall be a Bar Council,—

(a) for each of the States of Andhra Pradesh, Bihar, Gujarat, Jammu and Kashmir, Jharkhand, Madhya Pradesh and Chhattisgarh, Karnataka, Orissa, Rajasthan, Uttar Pradesh and Uttaranchal to be known as the Bar Council of that State;

(b) for the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura to be known as the Bar Council of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh;

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(2) A State Bar Council shall consist of the following members, namely:—

(a) in the case of the State Bar Council of Delhi, the Additional Solicitor-General of India, *ex officio*; in the case of the State Bar Council of Assam, Nagaland, Meghalaya, Manipur and Tripura, the Advocate-General of each of the States of Assam, Manipur, Meghalaya, Nagaland and Tripura, *ex officio*; in the the case of the State Bar Council of Punjab and Haryana, the Advocate-General of each of the States of Punjab and Haryana, *ex officio*; and in the case of any other State Bar Council, the Advocate-General of the State, *ex officio*;

(b) in the case of a State Bar Council with an electorate not exceeding five thousand, fifteen members, in the case of a State Bar Council with an electorate exceeding five thousand but not exceeding ten thousand, twenty members, and in the case of a State Bar Council with an electorate exceeding ten thousand, twenty-five members, elected in accordance with the system of proportional representation by means of the single transferable vote from amongst advocates on the electoral roll of the State Bar Council:

Provided that as nearly as possible one-half of such elected members shall, subject to any rules that may be made in this behalf by the Bar Council of India, be persons who have for at least ten years been advocates on a State roll, and in computing the said period of ten years in relation to any such person, there shall be included any period during which the person has been an advocate enrolled under the Indian Bar Council Act, 1926.

38 of 1926.

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further to amend the North-Eastern Areas (Reorganisation) Act, 1971 and
Other Related Laws.

(Shri P. Chidambaram, Minister of Home Affairs.)