

No. S 19

LEGAL PROFESSION (LAW SOCIETY OF BRUNEI DARUSSALAM) ORDER, 2003
(S 42/03)

LEGAL PROFESSION (LAW SOCIETY MEMBERS OF THE COUNCIL ELECTION) RULES,
2005

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In exercise of his power conferred by sub-paragraph (3) of paragraph 4, sub-paragraph (4) of paragraph 35 of the Legal Profession (Law Society of Brunei Darussalam) Order, 2003 and of all other powers him thereunto enabling, the Chief Justice hereby approves the following Rules —

Citation and commencement.

1. These Rules may be cited as the Legal Profession (Law Society Members of the Council Election) Rules, 2005 and shall commence on the day they are approved by the Chief Justice.

Mode of election.

2. The mode of election of members of the Council under these Rules shall be by secret ballot.

Appointment of scrutineers.

3. (1) There shall be appointed 3 scrutineers by the Council or, if the Council has not been constituted, by Chief Justice at least one week before the date of publication of their names as required under paragraph 17 of the Order.

(2) No person shall be disqualified from being appointed a scrutineer by reason only that he is a practising advocate and solicitor.

(3) A scrutineer shall, if he is a practising advocate and solicitor, cast his vote in accordance with these Rules.

(4) A scrutineer shall not be disqualified from acting simply because a member of his firm is a candidate for election.

(5) A scrutineer shall not be nominated for election.

Duties of scrutineers.

4. The duties of the scrutineers shall be —

(a) to ensure compliance with paragraphs 16 and 17 of the Order on the eligibility of practitioner members to be candidates for elections to the Council;

(b) to ensure compliance with paragraph 18 of the Order with regard to the eligibility of practitioner members to make nominations, making and publishing a list of all practitioners setting out —

(i) the years of standing of every practitioner members;

(ii) the nationality of the practitioner members and whether they are persons to whom a Residence Permit has been granted under regulations made under the Immigration Act (Chapter 17);

(iii) those practitioner members who are eligible to nominate or be nominated for election;

(c) to verify that nominations of candidates received are in compliance with these Order and to reject any nomination in breach thereof;

(d) generally ensuring that the election is in compliance with the Order and these Rules.

Nomination.

5. (1) Every nomination which complies with paragraph 18 of the Order shall be delivered to the Secretary of the Society or delivered to the Chief Registrar, in the case of the first election, to be within the published deadline.

(2) Every nomination so received and verified by the scrutineers as complying with the Order shall be posted on the High Court Notice Board, as well as at such other venue as the Council may decide, at least 3 days prior to the date of the election.

Ballot papers.

6. (1) There shall be three separate types of ballot papers, for the purposes of the three categories of candidates identified under sub-paragraph (1) of paragraph 15 of the Order, more particularly under sub-paragraph (a), which shall be coloured yellow; under sub-paragraph (b), which shall be coloured green and under sub-paragraph (c), which shall be coloured blue respectively.

(2) A ballot paper shall contain the name and date of admission of every eligible candidate properly nominated and fitting the criteria appropriate to that category described under sub-paragraph (1). The names shall be listed in the ballot paper in alphabetical order.

Voting.

7. (1) Every practitioner member shall attend at the place where the ballot takes place, between the hours of 8.30 am and 12.30 pm or during such hours as shall be decided by the Council, to cast his vote.

(2) Every practitioner member shall vote in person in accordance with sub-paragraph (1) of paragraph 16 of the Order.

(3) A vote is properly cast if a voter clearly indicates his choice of at least one candidate, but not more than the total number of candidates within the prescribed category, who can be elected to the Council.

(4) A voter shall clearly indicate his choice of a candidate by marking in ink a cross (X) in the box provided alongside the candidate's name.

(5) For the avoidance of doubt, the meaning of a certain number of years' standing referred to in sub-paragraph (1) of paragraph 15 and in sub-paragraph (1) of paragraph 16 of the Order means the number of years since the practitioner member was admitted as an advocate and solicitor of the Supreme Court of Brunei Darussalam.

(6) The attendance sheet shall be verified by the signatures of the scrutineers who shall immediately after the election deliver the same to the Chief Registrar.

(7) The scrutineers shall, immediately after the close of voting, count the votes.

Maintenance of attendance sheet.

8. (1) The scrutineers shall maintain an attendance sheet of practitioner members eligible to vote. Every practitioner member shall sign the attendance sheet which shall state the date of his admission for verification purposes.

(2) The scrutineers shall thereupon issue an appropriate ballot paper to that practitioner member.

Tied vote.

9. In the event of a tie involving two or more candidates for the remaining available seat or seats on the Council, the scrutineers shall arrange for them to draw lots to decide the winner or winners.

Election result.

10. (1) The election result and the tally shall be signed by each of the scrutineers in duplicate who shall forthwith deliver a sealed original to the Chief Registrar and the duplicate copy to the Council.

(2) The Council shall forthwith post the result of the election on the High Court Notice Board as well as at such other venue as the Council may decide.

Custody and destruction of ballot papers.

11. After the election, the scrutineers shall hand over the ballot papers duly sealed to the Secretary of the Society for safe-keeping by him for a period of 2 months. The Secretary shall then, unless he has been notified during that period of 2 months that the ballot papers may be required as evidence in a court or in any other proceedings, forthwith destroy them.

Pro-Tem Election Committee.

12. For the purposes of the first election and any other election where for whatsoever reason a Council has not been constituted, any acts that are required to be carried out by the Council under the Order or these Rules may be carried out by a Pro-Tem Election Committee comprising 4 practising advocates and solicitors nominated by the practising advocates and solicitors and approved by the Chief Justice.

Approved this 25th. day of Safar, 1426 Hijriah corresponding to the 5th. day of April, 2005.

DATO SERI PADUKA MOHAMMED SAIED
Chief Justice,
Brunei Darussalam.