

Chapter 8 of the Code of Judicial Procedure

Concerning Members of the Swedish Bar Association

Section 1

There shall be a national Bar Association. The Charter of the Bar Association shall be confirmed by the government.

An *Advokat* is a member of the association.

Section 2

To be admitted as a member of the Bar Association the applicant must

1. be domiciled in Sweden or another state in the European Union or European Economic Area;
2. have passed the examinations prescribed to qualify for appointment as a judge;
3. have completed the practical and theoretical training necessary to practice as a Member of the Bar Association;
4. have established a reputation as a person of irreproachable character; and
5. in other respects be considered suitable to practice as a Member of the Bar Association.

In individual cases the Board of the Bar Association may grant exemption from the membership requirements set out in item 1 of the first paragraph. The same applies to the membership requirements in items 2 and 3 of the first paragraph with regard to any person authorised as the counterpart of an *Advokat* in another state in accordance with the regulations in force there.

Any person who has completed a course of education necessary to qualify as the counterpart of an *Advokat* in the European Union or European Economic Area and who has completed a test in Sweden that shows that he or she possesses the requisite knowledge of the Swedish legal system shall be deemed to meet the requirements set out in items 2 and 3 of the first paragraph. The same applies to any person who has been registered under section 2a and thereafter for a period of at least three years has actually and regularly practised as an *Advokat* in Sweden, provided either that the practice has mainly involved Swedish law or if the practice has not mainly involved Swedish law, the registered person has otherwise acquired sufficient skills and experience to be admitted as a Member of the association.

Any person who has been authorised as an *Advokat* in Denmark, Finland, Iceland or Norway in accordance with the regulations in force there and thereafter for a period of at least three years has satisfactorily served as an associate at a law firm (*advokatbyrå*) in Sweden will be deemed to meet the requirements set out in items 2 – 5 of the first paragraph.

Any person who is declared bankrupt or who has an administrator under chapter 11, section 7 of the Code on Parents and Children may not be admitted as a Member. Nor may any person who is prohibited from giving legal or financial assistance under section 3 of the Prohibition of Legal or Financial Assistance in Certain Cases Act (1985:354) be admitted as a Member.

A legally trained judge at, or officer of, a court of law or public prosecutor or senior enforcement officer may not be admitted as a Member; nor may any person who is employed in the service of the state or a municipality or any private individual other than a Member be admitted as a Member unless the Board of the Bar Association grants exemption.

Section 2a

Any person who is authorised as the counterpart of an *Advokat* in another state in the European Union and practises as an *Advokat* in Sweden on a permanent basis under the title used in their home country must be registered with the Bar Association.

Any such person must satisfy the conditions set out in section 2, paragraph 6.

Section 3

Applications for membership of the Bar Association or registration under section 2a are considered by its Board.

Section 4

In his practice, a Member must perform the tasks with which he has been charged professionally and with all due care and observe the Code of Conduct. A Member is under a duty to treat information he receives in pursuance of his profession with confidentiality when the Code of Conduct so requires.

Only a Member may be a shareholder or partner of a legal practice conducted in the form of a limited liability company or partnership unless the Board of the Bar Association grants exemption.

A Member is under a duty to keep money and other assets belonging to his clients separate from his own property.

Section 5

Repealed (1972:430)

Section 6

Members are subject to supervision by the Board and Disciplinary Committee of the Bar Association, whose task is to ensure that Members fulfil their duties when conducting cases before courts of law and in other aspects of their practice. Matters concerning disciplinary action against Members under section 7, paragraphs 1 - 4 are considered by the Disciplinary Committee and, as provided by the Charter of the Association, by the Board.

A Member is under a duty to provide the association with the information necessary for supervision.

The Chancellor of Justice may lodge a request with the Disciplinary Committee to take action against Members who fail in their duties and with the Board against any person who is no longer eligible to be a Member.

Any person who has been involved in consideration of a supervisory matter at the Bar Association may not, without authorisation, disclose any information thereby gained about any person's personal or financial affairs.

Section 7

Any Member who deliberately commits a wrongful act or omission in his practice or otherwise behaves dishonestly shall be disbarred from the Bar Association. A Member falling within the scope of section 2a shall have his registration revoked. In extenuating circumstances he may receive a warning instead.

A Member who otherwise fails in his duty as an *Advokat* may receive a warning or a reprimand. In exceptionally serious cases, a Member may be disbarred from the association or, in the case of a person falling within the scope of section 2, have his registration revoked.

Any Member receiving a warning may also be ordered to pay a fine to the association if there are particular reasons for so ordering. The minimum fine is one thousand kronor (SEK 1,000) and the maximum fine fifty thousand kronor (SEK 50,000).

If it is considered to suffice, the Disciplinary Committee may, instead of issuing the Member with a reprimand, issue a statement to the effect that a Member's action is wrong or inappropriate.

If an event concerning a Member occurs that precludes him under section 2, paragraphs 5 or 6 from becoming a Member of the association, he is under a duty immediately to resign from the association. If the Member does not do so, the Board must order that he be disbarred. The same applies if a Member no longer meets the domicile requirement under section 2, paragraph 1 and the Board does not grant him permission to remain a Member of the association. If a person falling within the scope of section 2a is deprived of the right to act as the counterpart of an *Advokat* in the state in which he is authorised, the Board must revoke his registration.

A decision to disbar someone from the association may order that the decision be executed immediately. The same applies to a decision to revoke a registration.

Prosecution for breach of the duty of confidentiality under the second sentence of section 4, paragraph 1 may not be brought by any person other than the Chancellor of Justice. Prosecution may only be brought if it is in the public interest to do so.

Section 8

Any person who is refused membership of, or disbarred from, the Bar Association may appeal the decision to the Supreme Court. The same applies to any person who is refused registration under section 2a or whose registration is revoked under section 7. The Chancellor of Justice may appeal a decision of the Board or Disciplinary Committee of the association under section 7 to the Supreme Court.

Section 9

Provisions of the Code of Judicial Procedure or any other law governing Members shall, where applicable, also apply to a person who is authorised as the counterpart of an *Advokat* in another state in the European Union, European Economic Area or Switzerland when they practise in Sweden. When so practising, he shall use the professional title used in the state in which he is authorised, expressed in the language of that state and with reference to the professional organisation to which he belongs or to the court of law at which he is entitled to practise under the law of that state. If the court so requires, any person claiming to meet the requirements set out in the first sentence shall produce evidence to that effect.

The first sentence of paragraph 1 encompasses the provision in section 4, paragraph 2 concerning practice as an *Advokat* in the form of a limited liability company or partnership only with regard to persons under a duty to be registered under section 2a.

The Board of the Bar Association must notify the competent authority or organisation in the state in which a counterpart of an *Advokat* is authorised of any decision by which the person has been found to have failed in his duty as a Member.

Section 10

Any person who purports to be authorised as an *Advokat* in Sweden or its counterpart in another state in the European Union or European Economic Area without being so authorised will be fined.

Section 11

The government may order that the provisions of this chapter governing registration of persons who are authorised as the counterpart of an *Advokat* in another state in the European Union are to encompass those authorised as the counterpart of an *Advokat* in a state in the European Economic Area or Switzerland.

Chapter 36, section 5 of the Code of Judicial Procedure

Any person who, as a consequence of chapter 2, sections 1 or 2 or chapter 3, section 1 of the Swedish Official Secrets Act (1980:100), or any provision to which reference is made in any of those statutory provisions, may not provide any information and may not be called to give evidence in relation thereto without the permission of the public authority from whose activities the information has been obtained.

Members of the Swedish Bar Association, doctors, dentists, midwives, nurses, psychologists, psychotherapists, family counsellors falling within the scope of the Social Services Act (2001:45) and their assistants may be called to give evidence with regard to anything that has been confided to them in the practice of their profession or anything to which they have become privy in conjunction therewith, only if this is permitted by law, or the person for whose benefit there is a duty of confidentiality consents to the examination. Any person who is prohibited by chapter 9, section 4 of the Official Secrets Act from disclosing information to which the examination relates may be called to give evidence as to that information only if

this is permitted by law or the person for whose benefit there is a duty of confidentiality consents to the examination.

Counsel in court proceedings, assistants or defenders may be called to give evidence as to that which has been confided to them for performance of the engagement only if the party so consents.

Notwithstanding the provisions of paragraphs 2 or 3, the following are under a duty to give evidence.

1. Any person other than a defender in cases concerning criminal offences falling within the scope of chapter 14, section 2, paragraph 5 of the Official Secrets Act (1980:100); and
2. Any person under a duty of information pursuant to chapter 14, section 1 of the Social Services Act (2001:453) in cases pursuant to chapter 5, section 2 or chapter 6, sections 6, 13 or 14 of the same act, or pursuant to the Special Provisions Concerning Care of Juveniles Act (1990:52).

Any person who is a priest or the equivalent in a religious community may not be called to give evidence with regard to anything to which he or she has become privy during confession or pastoral counselling of an individual.

Any person who is under a duty of confidentiality under chapter 3, section 3 of the Freedom of the Press Ordinance or chapter 2, section 3 of the Freedom of Speech Act may be called to give evidence as to circumstances to which the duty of confidentiality relates only to the extent stipulated in those provisions.

If, under the provisions set forth in this section, any person may not be called to give evidence with regard to certain circumstances, then any person who has provided interpreting or translation services under a duty of confidentiality may not be called to give evidence either.

Chapter 38, section 2 of the Code of Judicial Procedure

Any person in possession of a document that may be assumed to be of importance as evidence is under a duty to produce it. However, a suspect in criminal proceedings or any person having a relationship to the suspect falling within the scope of chapter 36, section 3 is under no such duty.

A party or a person related to him, as here mentioned, is under no duty to produce a written communication between the party and a person related to him or between such related parties. The holder of an official position or other person falling within the scope of chapter 36, section 5 may not produce any document whose contents may be assumed to be such that he may not be called to give evidence in respect thereof. If the document is in the possession of a party for whose benefit the duty of confidentiality applies, he is under no duty to produce the document. The provisions of chapter 36, section 6 concerning the right of a witness to refuse to give evidence apply correspondingly to a person in possession of a document whose contents are such that they fall within the scope of those provisions.

The duty to produce documents does not apply to memoranda or other such notes intended solely for personal use, unless there are particularly compelling reasons why the document should be produced.

Chapter 1, section 1 of the Companies Act (1975:1385)

The shareholders of a company limited by shares (*aktiebolag*) are not personally liable for the obligations of the company.

Notwithstanding paragraph 1, a shareholder in a company performing legal (*Advokat*) services is jointly and severally liable with the company for obligations towards clients incurred by the company while he is a shareholder.

Some further regulations governing practice as an Advokat may be found, in:

The Monies Held in Trust Act (1944:181)

The Prohibition against Supply of Legal or Financial Services in Certain Cases Act (1985:354)