

## **Was it the Bar Council's or Malaysian Bar's EGM?**

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The Bar Council had commented that because it was created under an Act of Parliament, "go ahead, dissolve it".

I will not speculate what the comment was meant for. I would like to highlight certain provisions of the Legal Profession Act 1976 (Act 166) to share with those, who like myself have puzzled on "Whose EGM is it? Bar Council's or the Malaysian Bar's?"

First and foremost, the Act was passed by Parliament "to consolidate the law relating to the legal profession in Malaysia".

s.41 establishes the Malaysian Bar as a body corporate with the purpose of the Malaysian Bar spelt out , such as "to maintain and improve the standards of conduct and learning of the legal profession in Malaysia".

As claimed by the Bar Council, the Malaysian Bar has 14,000 members. Membership to the Malaysian Bar is a process by application to the qualifying board ( Sections 4-9 of the Act) which is chaired by the attorney general assisted by two judges nominated by the chief justice, A dean of the faculty of law nominated by the minister of education and the chairman of the bar council.

The final stage for membership to the Malaysian Bar is being awarded with a Sijil Annual for legal practice. Interesting to note, too, is that the lawyer's membership to the Malaysian Bar can be challenged.

s. 47 establishes the Bar Council as stated in 47(1) "For the proper management of the affairs of the Malaysian Bar and for the proper performance of its functions under the Act, there shall be a council to be known as the Bar Council". One of its major task is the issuance of the Sijil Annual to practicing lawyers.

The website [www.malaysianbar.org.my](http://www.malaysianbar.org.my) also states that "the Bar Council comprises of 36 members who are elected annually to manage the affairs and execute the functions of the Malaysian Bar".

This complies with s.48 of the Act stating , "every member of the Bar Council shall hold office for one year, but shall be eligible for re-election" and s.54 which states that "...but no president, vice-president or secretary shall hold office for more than two consecutive years".

Since the Bar Council is an administrative office set up for the purpose of managing the affairs of the Malaysian Bar having some 14,000 members, when can the Bar Council act on its own and claim to be acting on behalf of the body corporate, i.e. the Malaysian Bar?

The Act, where it refers to what the Bar Council can do, is punctuated with expressions such as, "with the approval of ", "with prior approval", "not expressly reserved to the Malaysian Bar", " provided no such resolution of the Malaysian Bar".... etc....etc...

s.62(1) expressly points out "the Bar Council may decide to call a meeting at any time and place as may be necessary .... at the request in writing of not less than one half of its members call an emergency meeting of the Bar Council to consider any urgent matter".

This would mean there should be requests in writing from at least 18 members of the Bar Council.

s.67 (1) deals with quorum of meeting of the Malaysian Bar - "The quorum of a general meeting of the Malaysian Bar shall be one-fifth of the total members of the Malaysian Bar personally present or any greater number".

Since the Malaysian Bar has 14,000 members, one-fifth of it should be 2,800 members of the Malaysia Bar - being present in person. The 1,270 attendees of the Saturday EGM was not even one-tenth.

s.67(2) states " Any general meeting, ....shall be dissolved if a quorum is not present within half an hour from time appointed for holding the meeting".

The reputation of the Bar Council is not a matter of only those in the legal profession.

I am certain that when the Parliament enacted the Legal Profession Act 1976 it did not intend for any of the office bearers of the Bar Council to use the office for personal interest.

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