THE KARNATAKA ADVOCATES' WELFARE FUND ACT, 1983

ARRANGEMENT OF SECTIONS

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STATEMENT OF OBJECTS AND REASONS

I

Act 2 of 1985.- Although here and there a few men in the legal profession have been flourishing in their profession , the economic condition of a very large section of the members of the legal profession has been far from satisfactory. Representation have been received among others, from the Bar Council of India for constituting a Legal Benefit Fund. The twin objects are providing efficient legal service to the people of the State and social security to the legal profession by providing for payment of a lumpsum amount after the cessation of practice by the members and also for payment of certain amount to their dependents if they were to die while still in practice. It is therefore proposed to constitute an Advocates Welfare Fund and a Legal Benefit Fund for the purpose. The Advocates' Welfare Fund is proposed to be constituted out of among other emolument, fees and voluntary contribution and grants from Government, the receipts from Welfare Fund Stamps which the Bar Council is empowered to issue and which are compulsorily to be affixed to the Vakalathnamas.

The Legal Benefit Fund is proposed to be constituted by levy of additional court fee on appeals and revisions before Tribunals other than Civil Courts at the rate not exceeding Rs. 100/- per appeal or revision.

Hence the Bill.

II

Amending Act 21 of 1993.- It is considered necessary to make certain amendments to the Karnataka Advocates Welfare Fund Act, 1983, for the following purposes.-

(1) to make membership of the Fund compulsory;

(2) instead of annual subscription to the fund an amount of rupees one hundred is to be collected, as one time admission fee;

(3) provision regarding payment of twenty percent of enrolment fee to the Welfare Fund is being omitted;

(4) on account of voluntary retirement due to old age, an advocate would be entitled to receive, from the fund at the rate of rupees one thousand for every year of practice subject to rupees fifty thousand and not in accordance with the Schedule which is being omitted and for permanent disability, an advocate would receive a lumpsum of rupees fifty thousand, irrespective of number of years of practice;

(5) certain categories of advocates are excluded from the scheme of the fund;

(6) an Advocate's Family Welfare Fund is proposed to be constituted for payment of rupees one lakh on the death of an advocate who is a member of the Fund to his nominee or legal heir.

Hence the Bill.

(Obtained from L.A.Bill No.17 of 1993)

III

Amending Act 6 of 1996.- It is considered necessary to make the following amendments to the karnataka Advocates' Welfare Fund Act, 1983 for effective implementation of the provisions of the Act,-

1) Membership fee is being enhaced from rupees one hundered to one thousand.

2) The benefit of payment of rupees fifty thousand to a member on cessation of practice due to permanent disability is proposed to be extended to the nominee or legal heirs in the event of death of a member.

3) Value of Welfare Fund stamps is being enhanced from rupees two to rupees five and it is made mandatory on the part of every Advocate to affix such stamps on every vakalat filed by him.

4) Every designated Senior Advocate will be required to contribute rupees Two Thousand Five hundred per year to the Welfare Fund.

5) It is also proposed to provide that any contributions made by the Government shall be credited to Family Welfare Fund. Hence the Bill.

(Obtained from L.A. Bill No. 6 of 1996)

IV

Amending Act 18 of 2002.- It is considered necessary to amend the Karnataka Advocates Welfare Fund Act, 1983,-

(i) to make the Chairman of the Karnataka State Bar Council as the Chairman of the Trustee Committee in place of the Advocate General and to continue the Advocate General as a member Ex-officio:

(ii) to make the Secretary, Department of Law, Government of Karnataka to be a member Ex-officio.

(iii) to make the Vice-Chairman of the Bar council to be the Treasurer of the Trustee Committee.

(iv) to reduce the time limit from three months to one month in respect of a notice required to be issued by a nominated member of trustee committee who intends to resign his office.

(v) to reduce the time limit from the existing five months to three months for disposal of application received by the Trustee Committee for payment of amount out of the fund:

(vi) to enable the Chairman of the of the Trustee Committee to act as Treasurer.

(vii) to allow membership of the fund to all the Advocates by removing the restriction placed on certain categories of Advocates practice subject to a maximum of rupees one lakh fifty thousand.

(viii)to require every advocate enrolled as such and has become a member after 1997 to make declaration in the fifth year and tenth year of his becoming member.

(ix) to allow an advocate to have on cessation of practice due to permanent disability an amount of rupees one lakh fifty thousand and to provide for rupees two thousand for every completed year of practice to an advocate who enrolls after the age of forty years.

(x) To provide for printing of welfare fund stamps of the face value of rupees five or ten council and to require every advocate to affix the welfare fund stamp of the value of rupees ten on every vakalath.

(xi) to enhance the contribution amount of every designated senior advocate from the existing rupees two thousand five hundred to rupees five thousand per annum and to enhance the late fee from rupees ten to rupees twenty per month or part of a month for failure to pay contribution by the designated senior advocates.

Certain consequential amendment are also made.

Hence the Bill.

(L.C. Bill No. 3 of 2002)

V

Amending Act 15 of 2005.- The Karnataka Advocates Welfare fund (Amendment) Act, 2002 (Karnataka Act 18 of 2002) has been issued. The said Act has not been brought into force till date. The Karnataka State Bar Council has proposed certain amendments to the Karnataka Advocates Welfare Fund (Amendment) Act, 2002. Accordingly, a draft of

the Karnataka Advocates Welfare Fund (Amendment) Bill, 2004 has been prepared and scrutinized by the Department of Parliamentary Affairs and Legislation. The Bill provides for the following, namely:-

(i) definition of interim applications by inserting clause (ff) to section 2 of the Act.

(ii) by amending sub-section (1) of section 15, the admission fee of rupees of

(iii) one thousand has been enhanced to rupees two thousand for enrollments after the commencement of the Amendment Act and rupees one thousand for Advocates enrolled after 2nd April, 1997;

by insertion of sub-ssection (1A) to section 15 of the Act a late fee of rupees fifty per month or part of a month may be levied from the commencement of the proposed Act;

(iv) by insertion of sub-section (4) of section 15 of the Act, every member has to file a declaration along with rupees five hundred after completion of every five year from the date of his becoming member;

(v) by amending sub-section (1) of section 16 of the Act, rupees three thousand and rupees one lakh and fifty thousand has been reduced to rupees two thousand and rupees fifty thousand respectively.

Certain consequential amendments have also been proposed.

Hence the Bill.

(LA Bill No.24 of 2004)

VI

Amending Act 28 of 2010.- It is considered necessary to amend the Karnataka Advocates Welfare Fund Act, 1983 to enhance the retirement benefits of Advocates from Rs.1.5 lakhs to Rs. 4.00 lakhs and to provide for medical relief to Advocates and certain other amendments.

Hence the Bill.

[L.A. Bill No. 18 of 2010, File No. DPAL 17 Shasana 2010]
[Entries 23 and 26 of List III of the Seventh Schedule to the Constitution of India.]

VII

Amending Act 12 of 2017.-It is considered necessary to amend the Karnataka Advocates' Welfare Fund Act, 1983 (Karnataka Act 2 of 1985) to,-

(1) enhance Advocate Welfare Fund annual Membership fee,-

(i) for completion of 15 years of practice from Rs.1,000 to Rs.2,000;

(ii)

non completion of 15 years of practice from Rs.500 to Rs.1,000; and

(iii) for failure penalty from Rs.50 to Rs.100 (Section 15(4));

(2) enhance the lumpsum fee of Rs.15,000 to Rs.25,000 in lieu of payment of fee every year (Section 15(4));

(3) enhance the amount payable where deemed suspension due to cessation of practice is more than five years from Rs.1.00 to Rs.2.00 lakhs (Section 15(6));

(4) enhance the amount at the rate from Rs.5,000 to Rs.10,000 for every completed year subject to maximum from Rs.1.5 lakh to Rs.3.00 lakh towards payment from the fund on cessation of membership to member or nominee or legal heirs (Section 16(1)); (5) extend the period of minimum practice from two years to three years who

has voluntarily suspended practice due to any employment or on appointment to an office of Chairperson, Vice-Chairperson or Member of any Commission, Corporation, Committee, Board, Body or other authority, either statutory or non-statutory constituted by any Central Government or any State Government (Section 16(1)(iii)); (6) enhance the maximum amount payable towards medical relief from Rs.1.00 lakh to Rs.1.5 lakh (Section 16A);

(7) enhance the fee amount for appeal against Trustee Committee under section 21(2)(b) from Rs.100 to Rs.500 towards the credit of the Advocate Bar Council;

(8) enhance vakalath amount to bear welfare fund stamps from Rs.10 to Rs.50 for High Court and Rs. 30 for other Courts (Section 23); and from Rs.5 to Rs.20 in respect Interlocutory Application.

(9) enhance Senior Advocates' yearly contribution from Rs.5000 to Rs.10,000 (section 23A).

Certain consequential and other amendments are also made.

Hence, the Bill.

[L.A. Bill No.1 of 2017, File No. Samvyashae 56 Shasana 2016]
[entry 23 and 26 of List III of the Seventh Schedule to the Constitution of India.]

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KARNATAKA ACT No. 2 OF 1985

THE KARNATAKA ADVOCATES' WELFARE FUND ACT, 1983

(Received the assent of the President on the Twenty-eighth day of December 1984)

(As Amended by Acts 21 of 1993, 6 of 1996, 18 of 2002, 15 of 2005 28 of 2010 and 12 of 2017)

An Act, to provide for the constitution of a welfare fund for the payment of retirement benefits to advocates in the State of Karnataka and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to provide for the constitution of a welfare fund for the payment of retirement benefits to advocates in the State of Karnataka and for matters connected therewith or incidental thereto;

BE it enacted by the Karnataka State Legislature in the Thirty-fourth year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Advocates' Welfare Fund Act, 1983.

(2) It shall come into force on such [1][date][1] as the State Government may, by notification in the official Gazette, appoint.

1. Act came into force w.e.f. 01.11.1986 by notification. The text of the notification is at the end of the Act

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

(a) "advocate" means a person whose name has been entered in the State roll of Advocates prepared and maintained by the Bar Council of Karnataka under section 17 of the Advocates' Act, 1961 (Central Act 25 of 1961) and includes a legal practitioner whose rights are saved under section 55 of the said Act and who ordinarily practices in the State of Karnataka;

(b) "bar association" means an association of advocates recognised by the Bar Council under section 13;

(c) "Bar Council", means the Bar Council of Karnataka constituted under section 3 of the Advocates' Act, 1961 (Central Act 25 of 1961);

[1][(d) "cessation of practice" means removal of the name of an advocate from the roll maintained by the Bar Council or non-renewal of Pleadership Certificate on the ground of,-

(i) death ; or

(ii) permanent disability ; or

[2][(iii)voluntary retirement on attaining an age of seventy five years or on completion of fifty years of practice whichever is earlier;][1]][2]

1.Substituted by Act 21 of 1993 w.e.f. 02.04.1997. Text of notification is at the end of the Act.
2.Substituted by Act 28 of 2010 w.e.f.06.08.2010.

[1][(1) "Chairman" means the chairman of the Trustee Committe][1] 1. Inserted by Act 18 of 2002 w.e.f. 15.04.2005.

(e) "dependents" means wife, husband, father, mother and [1][minor][1] hildren or such of them as are alive;

1. substituted by Act 18 of 2002 w.e.f. 15.04.2005.

(f) "Fund" means the Advocates Welfare Fund constituted under section 3;

[1][(ff) interlocutory application includes all applications filed before any Court, Tribunal or Authority in respect of any pending or disposed of case or proceeding][1]

1. Inserted by Act 15 of 2005 by notification tobe issued.

[1][(g) "member" means member of the fund;

[2][(ga) permanent disability" means disability incurred by an advocate after becoming a member which renders him totally incapable from practicing as an advocate and certified as such by the District Surgeon of the District where the advocate is practicing;][1]] 2

1. Substituted by Act 21 of 1993 w.e.f. 2.4.1997
2. Substituted by Act 28 of 2010 w.e.f.06.08.2010.

(h) "prescribed" means prescribed by the Bar Council by rules made under this Act;

(i) "retirement" means stoppage of practice as an advocate communicated to and recorded by the [1][Bar Council and the trustee

1. Substituted by Act 21 of 1993 w.e.f. 02.04.1997 by notification.

(j) "registered clerk" means a person who is registered as a recognized clerk or gumasta of an advocate or a pleader in connection with any rules passed by the High Court of Karnataka under Article 225 of the Constitution of India and section 54 of the State Re-organization Act, 1956 or under section 122 of the Code of Civil Procedure or any other law.

[1][(jj) "schedule" means the schedule appended to this Act;][1]

1. Substituted by Act 28 of 2010 w.e.f.06.08.2010.

(k) "stamp" means the stamp printed and distributed under section 22;

(l) "State" means the State of Karnataka;

(m) "suspension of practice" means voluntary suspension of practice as an advocate or suspension by the Bar Council for misconduct; [1][and includes deemed voluntary suspension of practice referred to in [2][sub-section (4) of section 15 or sub-section (3) of section 23A][2]][1]

1. Substituted by Act 18 of 2002 w.e.f. 15.04.2005.
2. Substituted by Act 15 of 2005 by notification to be issued.

(n) "trustee committee" means the committee established under section 4;

(o) "vakalath" means vakalathnama and includes memorandum of appearance or any other document by which an advocate is empowered to appear or plead before any court, tribunal or other authority.

3. Advocates' Welfare Fund.- (1) The State Government shall constitute a fund called the Karnataka Advocates' Welfare Fund for the payment of retirement [2][and other benefits to the advocates and their dependents, in the State.][2]

(2) There shall be credited to the Fund,-

[1][(a) xxx][1]

(b) any [1][xxx][1] contribution made by the Bar Council;

(c) any voluntary donation or contribution made to the Fund by the Bar Council of India, any bar association, any other association or institution, any advocate or any other person;

(d) any grant made by the State Government to the Fund;

(e) the amounts set apart from the Legal Benefit Fund constituted under section 76A of the Karnataka Court Fees and Suits Valuation Act, 1958

(Karnataka Act 16 of 1958), for providing social security measures for the legal profession;

(f) any sum borrowed under section 10;

(g) all sums received from the Life Insurance Corporation of India on the death of an advocate under the group insurance policy;

(h) any profit or dividend received from the Life Insurance Corporation of India in respect of policies of Group Insurance of the members of the Fund;

(i) any interest or dividend or other return on any investment made of any part of the Fund;

(j) all sums collected by way of sale of welfare fund stamps under section 22;

[2][(k) amounts collected under section 15 [3][by way of admission fee and any other fee including late fee under section 23A and penalty or contribution if any.][2]][3]

(3) The sums specified in sub-section (2), shall be paid to, or collected by, such agencies, at such intervals and in such manner, and the accounts of the Fund shall be maintained and operated in such manner, as may be prescribed.

1. Omitted by Act 21 of 1993 w.e.f . 02.04.1997.

2. Substituted by Act 21 of 1993 w.e.f . 02.04.1997.

3. Substituted by Act 12 of 2017 w.e.f. 12.06.2017

4. Establishment of trustee committee.- (1) The State Government may, by notification, establish with effect from such date as may be specified therein a committee to be called the Karnataka Advocates' Welfare Fund Trustee Committee.

(2) The trustee committee shall be a body corporate having perpetual succession and a common seal with power to acquire and hold property and shall, by the said name, sue and be sued.

(3) The trustee committee shall consists of,-

[1][(a) The Chairman of the Bar Council who shall be the chairman of the Trustee Committee, ex-officio;

(aa) The Advocate General of Karnataka who shall be a member- Ex-officio.

(b) The Secretary, Department of Law, Government of Karnataka [1] who shall be a Member Ex-officio.]

1. Substituted by Act 18 of 2002 w.e.f. 15.04.2005.

(c) two members nominated by the State Government; (d) [1][three][1] members of the Bar Council nominated by it; 1. Substituted by Act 21 of 1993 w.e.f . 02.04.1997.

[1][(e) the Vice-Chairman of the Bar Council, who shall be the Treasurer of the trustee committee, *ex-officio*;][1]and

1. Substituted by Act 18 of 2002 w.e.f. 15.04.2005.

(f) the Secretary of the Bar Council, who shall be the Secretary of the trustee committee, *ex-officio*;

(4) A member nominated by the State Government under clause (c) of sub-section (3), shall hold office for a term of [1][three years] [1].

(5) A member nominated by the Bar Council under clause (d) of sub-section (3), shall hold office for a term of [1][three years][1] or for the duration of his membership in the Bar Council, whichever is less.

1. Substituted by Act 28 of 2010 w.e.f. 06.08.2010.

5. Disqualification and removal of nominated members of trustee committee.- (1) A member nominated under clause (c) or clause (d) of sub-section (3) of section 4, shall be disqualified to be a member of the trustee committee, if he,-

(a) becomes of unsound mind; or

(b) is adjudged an insolvent; or

(c) is absent without leave of the trustee committee, for more than three consecutive meetings thereof; or

[1][(d) has committed breach of trust; or][1]

1. Substituted by Act 21 of 1993 w.e.f . 02.04.1997.

(e) is convicted by a criminal court for an offence involving moral turpitude, unless such conviction has been set aside by a competent court.

(2) The State Government may remove any member who is or has become disqualified under sub-section (1) from membership of the trustee committee:

Provided that no order removing any member shall be passed unless that member and the Bar Council, in the case of a member nominated by it, have been given an opportunity of being heard.

6. Resignation by nominated members of trustee committee and filling up of casual vacancies .- (1) Any member nominated under clause (c) or clause (d) of sub-section (3) of section 4, may resign his office by giving [1][one month][1] notice in writing to the State Government or the Bar Council, as the case may be, and on such resignation being accepted by the State Government or the Bar Council, shall be deemed to have vacated his office:

1. Substituted by Act 18 of 2002 w.e.f. 15.04.2005.

Provided that the Bar Council shall consult the State Government before accepting the resignation.

(2) A casual vacancy in the office of a member referred to in sub-section (1), may be filled as soon as may be, by the State Government or the Bar Council, as the case may be, and a member so nominated to fill such vacancy shall hold office for the unexpired portion of the term of office of the member whose place he fills.

7. Act of trustee committee not to be invalidated by vacancy, defect, etc.- No act done or proceeding taken under this Act or the rules made thereunder by the trustee committee shall be invalidated merely by reason of,-

(a) any vacancy or defect in the constitution of the committee ; or

(b) any defect or irregularity in the nomination of any person as a member thereof ; or

(c) any defect or irregularity in such act or proceeding not affecting the merits of the case.

8. Vesting and application of Fund.- The Fund shall vest in , and be held and applied by, trustee committee subject to the provisions and for the purposes of this Act.

9. Function of trustee committee.- (1) The trustee committee shall administer the Fund.

(2) In the administration of the Fund, the trustee committee shall, subject to the provisions of this Act and the rules made thereunder,-

(a) hold the amounts and assets belonging to the Fund in trust;

[1][(b) x x x][1]

1. Omitted by Act 21 of 1993 w.e.f . 02.04.1997.

(c) receive applications from the members of the Fund, their nominees or legal representatives, as the case may be, for payments out of the Fund, conduct such enquiry as it deems necessary for the disposal of such applications and dispose of the applications within [1][three months][1] from the date of receipt thereof;

1. Substituted by Act 18 of 2002 w.e.f. 15.04.2005.

(d) record in the minutes book of the trustee committee, its decisions on the applications;

[1][(e) pay to the members amounts [2][in accordance with this Act][1]][2]

1. Substituted by Act 21 of 1993 w.e.f . 02.04.1997.

2. Substituted by Act 28 of 2010 w.e.f.06.08.2010.

(f) send such periodical and annual reports as may be prescribed, to the State Government and the Bar Council;

[1][(g) communicate to the applicants by registered post with acknowledgment due, the decisions of the trustee committee in respect of claims to the benefits of the fund;][1]

1. Substituted by Act 21 of 1993 w.e.f . 02.04.1997.

(h) do such other acts as are, or may be, required to be done under this Act and the rules made thereunder.

10. Borrowing and investment.- (1) The trustee committee may, with the prior approval of the State Government and the Bar Council, borrow from time to time any sum required for carrying out the purposes of this Act.

forming part of the Fund in any scheduled bank or invest the same in loans to any corporation owned or controlled by the Central Government or the State Government or in loans floated by the Central Government or the State Government or in any other manner as the Bar Council may, from time to time direct with the prior approval of the State Government.

(3) All amounts due and payable under this Act and all expenditure relating to the management and administration of the Fund [1][and all expenditure relating to supply of Welfare Fund stamps][1] shall be paid out of the Fund.

1. Inserted by Act 21 of 1993 w.e.f. 02.04.1997

(4) The accounts of the trustee committee shall be audited annually by a chartered accountant appointed by the Bar Council.

(5) The accounts of the trustee committee, as certified by the auditor, together with the audit reports thereon, shall be forwarded to the Bar Council by the trustee committee and the Bar Council may issue such directions as it deems fit to the trustee committee in respect thereof.

(6) The trustee committee shall comply with the directions issued by the Bar Council under sub-section (5).

11. Powers and duties of Secretary.- The Secretary of the trustee committee shall,-

(a) be the chief executive authority of the trustee committee and be responsible for carrying out its decisions;

(b) represent the trustee committee in all suits and proceedings for and against it;

(c) authenticate by his signature all decisions and instructions of the trustee committee;

(d) operate the bank accounts of the trustee committee jointly with the [1][Chairman][1]

1. Substituted by Act 18 of 2002 w.e.f. 15.04.2005.

(e) convene meetings of the trustee committee and prepare its minutes;

(f) attend the meetings of the trustee committee with all the necessary records and information;

(g) maintain such forms, registers and other records as may be prescribed from time to time and do all correspondence relating to the trustee committee;

(h) inspect and verify periodically the accounts and registers of the Bar Associations regarding stamps;

(i) prepare an annual statement of business transacted by the trustee committee during each financial year; and

(j) do such other acts as may be directed by the trustee committee.

[1] **[12.** x x x][1]

1. Omitted by Act 21 of 1993 w.e.f. 02.04.1997.

13. Recognition and registration of bar associations.- (1) All associations of advocates known by any name functioning in any court centre may, before a date to be notified by the Bar Council in this behalf, apply to the Bar Council in such form as may be prescribed for recognition and registration.

(2) Every application for recognition and registration shall be accompanied by the [1][rules or bye-laws of the association made by adopting model by-laws circulated by the Bar Council, and registered under the Karnataka Societies Registration Act, 1960 (Karnataka Act 17 of 1960)][1], names and addresses of the office bearers of the association and with an uptodate list of the members of the association showing the name, address, age, date of enrolment and the ordinary place of practice of each member.

(3) The Bar Council may, after such enquiry as it deems necessary, recognize the bar association and issue a certificate of registration in such form as may be prescribed.

(4) The decision of the Bar Council regarding the recognition and registration of the bar association shall be final.

(5) Subject to such rules and conditions as may be prescribed by the Government every registered bar association may be paid grants by the Government every year.

14. Duties of bar associations.- [(1) Every bar association shall, on or before the 30th April of every year, intimate to the Bar Council a list of its members as on the 31st March of that year.

(2) Every bar association shall intimate to the Bar Council,-

(a) any change of the office bearers of the association within fifteen days from such change;

(b) any change in the membership including admission or re-admission within thirty days of such change;

(c) the death, retirement or voluntary suspension of practice of any of its members within thirty days from the date of occurrence thereof ; and (d) such other matter as may be required by the Bar Council or the Government from time to time.

1[**15. Membership of the Fund.-**3[(1) Every Advocate on the roll of the Karnataka State Bar Council 4[and every person holding pleadership certificate]4 practicing in the State of Karnataka shall be a member of the Fund and shall file a declaration 5[in such form along with such admission fee as may be prescribed] 5,-

6[(i) XXX

(ii)XXX]3]6

Provided that the advocates other than those who have already become Members, shall file such declarations as may be prescribed and pay 2[rupees one thousand]2 within six months from the date of coming into force of the Karnataka Advocates Welfare Fund (Amendment) Act, 1993.

2[Provided further that the Advocates who have already become members, shall pay the balance amount of rupees eight hundred towards admission fee within six months from the date of coming into force of the Karnataka Advocates Welfare Fund (Amendment) Act, 1996.]2

6[1A. XXX]6

(2) Every member shall furnish the particulars of place of practice with such other details as may be prescribed.

(3) Every member who voluntarily suspends practice or retires shall within fifteen days of such suspension or retirement intimate that fact to the trustee committee and if any member fails to do so without sufficient reason the trustee committee may reduce the amount due to that member in such manner as may be prescribed.]1

5[3[(4) Every member who has completed fifteen years of practice shall pay a fee of 7[rupees two thousand]7 to the fund and who has not completed fifteen years of practice shall pay a fee of 7[rupees one thousand]7 to the fund on or before the thirty first day of December of every

year, next after the year of becoming member, failing which, he shall be deemed to have voluntarily suspended practice for the purpose of this Act: Provided that a member may pay such fee within six months from the expiry of the due date along with a penalty of 7[rupees one hundred]7 per month, in which case it shall not be construed as deemed voluntary suspension of practice:

Provided further that a member who has completed fifteen years of practice may, in lieu of payment of fee every year, pay in a lumpsum 7[rupees twenty five thousand]7.

[8][Provided also that a member who has already paid a lumpsum amount of rupees fifteen thousand before the date of commencement of the Karnataka Advocates' Welfare Fund (Amendment) Act, 2017 shall pay the balance amount of rupees ten thousand within one year from the date of such commencement or pay a sum of rupees one thousand every year on or before thirty first day of December till the balance is cleared failing which he shall be deemed to have voluntarily suspended practice for the purpose of this Act:

Provided also that where a member pays balance of such lumpsum amount within one year from the expiry of the due date along with a penalty of rupees one hundred per month it shall not be construed as deemed voluntary suspension of practice.][8]

(5)Notwithstanding anything contained in sub-section (4), a member who is enrolled as an advocate before attaining an age of forty years, fails to pay fees under sub-section (4) after attaining an age of seventy years shall be eligible to claim benefit under sub-section (1) of sub-section 16, so however, arrears of fee due under sub-section (4) shall be deducted in the amount payable under sub-section (1) of sub-section 16.][5]

(6) For every year of deemed suspension under sub-section (4) an amount of [7][5][rupees ten thousand][5][7] per annum shall be deducted from out of the amount payable under sub-section (1) of section 16.][3]

[4][Provided that where a deemed suspension under sub-section (4) is consecutively for a period of five years and more, amount payable under sub-section (1) of section 16 shall not exceed [7][two lakh rupees][7].][4]

[8][(7) Notwithstanding anything contained in this Act if a member who,- (a) has completed fifty years of practice and paid all the arrears to the fund; or

(b) having been enrolled as an advocate before completion of an age of forty years has attained an age of seventy five years, fails to pay fees and penalty, if any, under subsection (4) or contribution and late fee under sub-sections (1) and (2) of section 23A he shall be eligible to claim entire amount payable to him under sub-section (1) of section 16

without deduction of any amount towards arrears of fee and penalty due under sub-section (4) or contribution or late fee due under sub-sections (1) and (2) of section 23A][8]

1. Section 15 with sub-sections (1) (2) and (3) substituted by Act 21 of 1993 w.e.f. 02.04.1997.
2. Substituted by Act 6 of 1996 w.e.f 02.04.1997 by notification. Text of the notification is at the end of the Act.
3. Substituted by Act 15 of 2005 by notification to be issued.
4. Inserted by Act 28 of 2010 w.e.f.06.08.2010
5. Substituted by Act 28 of 2010 w.e.f.06.08.2010.
6. Omitted by Act 28 of 2010 w.e.f.06.08.2010.
7. Substituted by Act 12 of 2017 w.e.f.12.06.2017
8. Inserted by Act 12 of 2017 w.e.f.12.06.2017

16. Payment from the Fund on cessation of practice.-[2][(1)Where the cessation of practice,-

(i) is due to death of a member, his nominee and if there is no nominee, to his dependents or heirs as the case may be; or

(ii) is due to reasons other than death, the member, shall be entitled to receive an amount specified in the schedule, from out of the fund:

Provided that the following categories of members shall be entitled to receive an amount at the rate of [5][ten thousand rupees][5] for every completed year of practice subject to a maximum of [5][rupees three lakhs][5] namely:-

(i) an advocate who becomes member after attaining an age of forty

years except those who have become members prior to the commencement of the Karnataka Advocates' Welfare Fund (Amendment) Act, 2010;

(ii) an advocate enrolled after attaining an age of forty years;

5[(iii) an advocate who has voluntarily suspended practice for a period exceeding three years for the purpose of any employment, avocation or business or for appointment to an office of Chairperson, Vice-Chairperson or Member of any Commission, Corporation, Committee, Board, Body or other authority, either statutory or non-statutory constituted by any Central Government or any State Government.]5

(iv) an advocate enrolled after retirement, dismissal or removal from service or employment;

(v) an advocate who has become member on or after the first day of August 2000 and has attained an age of sixty years on the date of becoming member;

(vi) an advocate who becomes member on transfer from other states, after attaining an age of forty years:

Provided further that an advocate who had become member prior to the second day of April, 1997 and has failed to pay balance fee due and has not been re-admitted to the fund after the second day of April, 1997, shall be entitled only to an amount at the rate of 5[five thousand rupees]5 for every completed year of practice but not exceeding an amount of 5[rupees one lakh]5 and this amount shall be paid to him or to his nominees, and where there are no nominees to his dependants or heirs as the case may be on cessation of practice.]2

(2) In the event of the death of a member, the amount shall be paid to his nominee or, where there is no nominee, to his legal dependents or heirs 2[in accordance with the law of inheritance applicable to such member]2.

1[(3) xxx]1

2[(4)While calculating period of completed years of practice for the purpose of payment under this Act,-

(i) fraction of three months and more shall be treated as one full year; and

(ii) the period of suspension practice as a result of misconduct under section 35 of the Advocates Act, 1961 (Central Act 25 of 1961) shall be excluded.

(4A)In case of an advocate enrolled prior to the second day of April 1997 and admitted to the fund after the Second day of April 2002, every four years of practice before admission as a member to the fund shall be computed as one year of completed year of practice and added on to the number of completed years of practice after such admission for the purpose of payment under this Act.]2

3[(5) XXX]3

(6) An application for payment from the Fund shall be preferred to the trustee committee in such form as may be prescribed.

6[Provided that if a member who has opted for payment of fees in a lumpsum, makes an application claiming amount specified in the schedule on account of cessation of practice on the ground of voluntary retirement he should have paid the entire lumpsum amount along with penalty, if any, specified in the second, third and fourth provisos to sub-section (4) of section 15 before making such application or should give a written consent

for deduction of the lumpsum fee and penalty, if any, due at the time of final settlement of the amount.

(6A) Where applications are received from members under sub-section (6) on account of cessation of practice on the ground of voluntary retirement total number of applications which may be considered for payment under this section during a year shall be fixed by the trustee committee having regard to its financial position, feasibility of future operation of the fund, need of the applicant and other relevant factors.][6]

(7) An application received under sub-section (6), shall be disposed of by the trustee committee after such enquiry as it deems necessary.

[4][(8) If a claim made by any applicant under sub-section (6) is found to be false or incorrect by the trustee committee after making payment to him based on such claim, the trustee committee may, after holding such enquiry as it deems fit and after giving an opportunity of being heard to the applicant, direct him to refund the amount paid in excess of the amount due to him, and in case of default it shall be recoverable as an arrear of land revenue][4].

1. Omitted by Act 21 of 1993 w.e.f. 02.04.1997.
2. Substituted by Act 28 of 2010 w.e.f.06.08.2010.
3. Omitted by Act 28 of 2010 w.e.f. 06.08.2010
4. Inserted by Act 28 of 2010 w.e.f 06.08.2010.
5. Substituted by Act 12 of 2017 w.e.f.12.06.2017
6. Inserted by Act 12 of 2017 w.e.f.12.06.2017.

[1][**16A. Medical relief.-** (1) If any member suffering from such serious ailment as may be prescribed undergoes treatment for the prescribed ailment, he may apply to the Trustee committee in such form along with such documents as may be prescribed for payment from the fund towards the amount actually incurred for the treatment:

Provided that, the amount payable under this section shall not exceed [2][rupees one lakh fifty thousand][2] or fifty percent of the amount payable under section 16, whichever is less.

(2) The member should have completed five years of practice as a member of the fund on the date of treatment.

(3) The application should be made within three months from the date of initial hospitalization and this may be extended by the trustee committee for a further period of three months on the member showing sufficient cause for delay in making the application.

(4) The benefit under this section shall be available only once in the life time of the member.

(5) Total number of applications which may be considered for payment under this section during a financial year shall be fixed by the trustee committee having regard to its financial position, feasibility of future operation of the fund, need of the applicant and other relevant factors.

(6) The trustee committee may after making such enquiry as it deems fit, either grant or reject the application. The application shall be considered strictly according to the date of their filing.

(7) The amount paid under this section shall be deducted at the time of making final payment under section 16.

(8) Where an applicant has received amount in respect of his ailment under the Bar Council of India Advocate's Welfare Fund Scheme, the trustee committee shall while granting amount under this section deduct the amount so received under that scheme.

(9) If any statements or particulars given by the applicant or documents produced in support of his claim are found to be false by the trustee committee, it shall make a report to the Bar council and the Bar council may after holding such enquiry as it deems fit and after giving an opportunity of being heard to the applicant call upon him to refund the entire amount received under this section along with an interest at the rate of twelve percent per annum. If the applicant fails to comply with the direction of the Bar council, the entire amount received under this section along with an interest at the rate of twelve percent per annum shall be deducted while making final payment under section 16.][1]

1. Inserted by Act 28 of 2010 w.e.f 06.08.2010.

2. Substituted by Act 12 of 2017 w.e.f 12.06.2017.

[1][**16B. Part payment from the fund during financial hardship.-** (1) A member who has attained the[2][age of sixty five years][2] and has completed twenty years of practice as an advocate and twelve years as a member of the fund is facing a financial hardship may apply in a prescribed form to the trustee committee seeking part payment from the fund. The Situation leading to such financial hardship shall be such as may be prescribed.

(2) If the trustee committee is satisfied with the claim of the applicant it may, with the prior approval of the Bar Council, sanction an amount

equivalent to fifty percent of entitlement of the applicant under section 16 [2][or one lakh fifty thousand rupees][2] whichever is less.

(3) The applications shall be considered strictly according to their dates of filing.

(4) The amount paid under this section shall be deducted at the time of making final payment under section 16.

(5) Total number of applications which may be considered for payment under this section during a financial year shall be fixed by the trustee committee having regard to its financial position, feasibility of future operation of the fund and need of the applicant and other relevant factors as may be prescribed.][1]

1. Inserted by Act 28 of 2010 w.e.f.06.08.2010.

2. Substituted by Act 12 of 2017 w.e.f.12.06.2017.

17. Restriction on alienation, attachment, etc., of interest in the Fund.- (1) The interest of any member in the Fund, or the right of a member or his nominee or legal heirs to receive any amount from the Fund, shall not be assigned, alienated or charged and shall not be liable to attachment under any decree or order of any court, tribunal or other authority.

(2) No creditor shall be entitled to proceed against the Fund or the interest therein of any member or his nominee or heirs.

***Explanation*.-** For the purposes of this section, 'creditor' includes the State or an official assignee or receiver appointed under the Provincial Insolvency Act, 1920 or any other law for the time being in force.

18. Group Life Insurance for members and other benefits.- The Bar Council may, for the welfare of the members of the Fund,-

(a) obtain from the Life Insurance Corporation of India policies of group insurance for the members of the Fund ;

[1][(b) xxx][1]

1. Omitted by Act 15 of 2005 by notification to be issued.

(c) provide for such other benefits as may be prescribed.

19. Meetings of trustee committee.- (1) The trustee committee shall meet at least once in three months or more often if found necessary to transact business under this Act or the rules made thereunder.

(2) Three members of the trustee committee shall form the quorum for a meeting of the committee.

(3) The Chairman or in his absence, a member elected by the members present shall preside over a meeting of the trustee committee.

(4) Any matter coming before a meeting of the trustee committee shall be decided by a majority of the members present and voting at the meeting and, in the case of an equality of votes, the Chairman or the member presiding over the meeting shall have a casting vote.

20. Travelling and daily allowance to members of trustee committee.- The non-official members of the trustee committee shall be eligible to get such travelling allowance and daily allowance as are admissible to the members of the Bar Council.

21. Appeal against decisions of trustee committee.-(1) An appeal against any decision of the trustee committee shall lie to the Bar Council. (2) The appeal shall be in the prescribed form and shall be accompanied by,-

(a) a copy of the order appealed against; and

[1][(b) a receipt for having paid rupees five hundred in the office of the Bar Council.][1]

(3) The appeal shall be filed within thirty days from the date of receipt of the order appealed against.

(4) The decision of the Bar Council on the appeal shall be final.

1. Substituted by Act 12 of 2017 w.e.f.12.06.2017

22. Printing and distribution of stamps by Bar Council.- (1) The Bar Council shall cause to be printed Welfare Fund stamps of the value of [1][five rupees or ten rupees][1] with the Bar Council Emblem and its value inscribed thereon.

1. Substituted by Act 6 of 1996 w.e.f. 02.04.1997 and again substituted by Act 18 of 2002 w.e.f. 15.04.2005.

(2) The welfare Fund stamps shall be of the size 1"x2" and be sold only to members of the Fund.

(3) The custody of the welfare Fund stamps shall be with the Bar Council.

(4) The Bar Council shall control the distribution and sale of the welfare Fund stamps through bar associations.

(5) The Bar Council and the bar association shall keep proper accounts of the welfare Fund stamps in such form and in such manner as may be prescribed.

(6) The bar associations shall purchase the welfare Fund stamps from the Bar Council after paying the value thereof less ten per cent of such value towards incidental expenses.

23. Vakalath to bear stamps.-[2][(1) Every Advocate shall affix welfare Fund stamps of the value of rupees fifty on every vakalath filed by him in the High court and rupees thirty on every vakalath filed by him in any court, other than High court or in any tribunal or other authority and no vakalat shall be filed before or received by, the High Court or any court, tribunal or other authority unless it is so stamped.][2]

[1][(1A) Every Advocate shall affix Welfare Fund stamp of the value of [2][rupees twenty][2] one every interlocutory application.][1]

(2) Every welfare Fund stamp affixed on vakalaths filed before any court, tribunal or other authority shall be cancelled in the manner provided in the Karnataka Court Fees and Suits Valuation Act, 1958 (Karnataka Act 16 of 1958).

(3) The value of the welfare Fund stamp shall neither be costs in the case nor be collected in any event from the client.

(4) Any contravention of the provisions of sub- section (3) by the member shall disentitle him to the benefits of the Fund and the trustee committee shall report such instances to the Bar Council for appropriate action.

1. Sub-section (1A) inserted by Act 15 of 2005 by notification to be issued.

2. Substituted by Act 12 of 2017 w.e.f..12.06.2017.

[1][**23A. Contribution by Senior Advocate.**-(1) Every designated Senior Advocate shall contribute [5][2][rupees ten thousand][5] in every financial year][2] to the Fund [3][before thirty first March][3]

[3][(2) If any designated Senior Advocate fails to pay the contribution under sub-section (1) on or before thirty-first March of every year, such contribution may be paid within six months from that date together with a late fee of rupees one hundred per month or part of a month subject to a maximum of rupees five hundred.][3]][1]

[4][(3) In the event of non-payment of contribution within the period specified in sub-section (2) such default shall be construed as deemed suspension of practice for the purpose of this Act and the provisions of sub-sections (5) and (6) of section 15 shall mutatis mutandis apply.][4]

1. Section 23A with sub-sections (1) and (2) inserted by Act 6 of 1996 w.e.f. 02.04.1997.

2. Substituted by Act 18 of 2002 w.e.f. 15.04.2005.

3. Substituted by Act 15 of 2005 by notification tobe issued.

4. Inserted by Act 15 of 2005 by notification tobe issued.

5. Substituted by Act 12 of 2017 w.e.f.12.06.2017.

24. Protection of action taken in good faith.- (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

(2) No suit or other legal proceedings shall lie against the trustee committee or the Bar Council for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

25. Bar of jurisdiction of civil courts.- No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by the trustee committee or the Bar Council.

26. Power to summon witnesses and take evidence.- The trustee committee and the Bar Council shall, for the purposes of any enquiry under this Act, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:--

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses.

[1]**[26A.XXX]**[1]

1 Omitted by Act 28 of 2010 w.e.f.06.08.2010.

27. Registered Clerks Welfare Fund.- (1) Subject to such rules as may be prescribed by it, the State Government shall constitute a fund called the Karnataka Registered Clerks' Welfare Fund for payment of retirement benefits to the registered clerks in the State.

(2) There shall be credited to the Fund,--

(a) any grant that may be made by the State Government; and

(b) any donation or contribution made to the Fund by the Bar Council of India, Bar Council, any Bar Association, any association or authority, institution, any advocate or any other person.

(3) The State Government shall constitute a committee for the administration of the Fund.

(4) The State Government may make rules to provide for all matters relating to the Fund including its membership and administration and the conditions subject to which payment from the Fund shall be made.

28. Power to make rules.- The Bar Council may, with the previous approval of the State Government, by notification in the official Gazette, make rules for the purposes of carrying into effect the provisions of this Act other than for provisions of section 27.

29. Amendment of Act 16 of 1958.- In the Karnataka Court Fees and Suits Valuation Act, 1958 (Karnataka Act 16 of 1958), after section 76 , the following section shall be inserted, namely:-

"76A. Legal Benefit Fund.- (1) Notwithstanding anything contained in this Act or any other law for the time being in force, it shall be competent for the State Government to levy an additional court-fee, by notification, in respect of appeals or revisions to tribunals or appellate authorities, other than Civil and Criminal courts, at a rate not exceeding one hundred rupees for each appeal or revision.

(2) There shall be constituted a legal benefit fund to which shall be credited the proceeds of the additional court-fee levied and collected under sub-section (1).

(3) The fund constituted under sub-section (2), shall be applied and utilised for the purpose of providing an efficient legal service for the people of the State and to provide social security measures for the legal profession.

(4) The mode and manner in which legal service to the people may be made more efficient and social security measures for the legal profession may be provided, shall be as prescribed by rules made by Government".

[3][2][1][Schedule

(see sub-section (1) of section 16)

	Completed years of practice	**Entitlement**
(1)Not exceeding fifteen years		Rupees four lakhs
(2) Exceeding fifteen years but not exceeding	Thirty five years	Rupees six lakhs
(3) Above Thirty five years		Rupees eight lakhs]1]2]3

1. Omitted by Act 21 of 1993 w.e.f.02.04.1997.
2. Inserted by Act 28 of 2010 w.e.f. 06.08.2010.
3. Substituted by Act 12 of 2017 w.e.f.12.06.2017.

* * * *

NOTIFICATIONS

I

Bangalore, dated 23.9.1986.(No. 1256-S.O. 1737). [No. LAW 49 LGR 85]

S.O.No.1737.- In exercise of the powers conferred by sub-section (2) of section 1 of the Karnataka Advocates' Welfare Fund Act, 1983, (Karnataka Act 2 of 1985) the Government of Karnataka hereby appoints the 1st day of November, 1986(1-11-1986) as

the date on which the Karnataka Advocates' Welfare Fund Act, 1983, (Karnataka Act 2 of 1985) shall come into force.

By Order and in the name of the Governor of Karnataka,
Sd/-
Under Secretary to Government,
Law Department

(Published in Part IV-2c(ii) of the Karnataka Gazatte dated 16.10.1986.)

II

Bangalore, dated 20th March 1997. [No.I LAW 3 LGR 97]

In exercise of the powers conferred by sub-section (2) of section 1 of the Karnataka Advocates' Welfare Fund (Amendment) Act, 1993, (Karnataka Act 21 of 1993) (hereinafter referred to as the said Act), the Government of Karnataka hereby appoints the 2nd day of April, 1997 to be the day from which all provisions of the said Act shall come into force.

By Order and in the name of the Governor of Karnataka, (K.S. Sadashivaiah)
Under Secretary to Government,
Law Department (Admn. II)

III

Bangalore, dated 20th March 1997. [No.II LAW 3 LGR 97]

In exercise of the powers conferred by sub-section (2) of section 1 of the Karnataka Advocates' Welfare Fund (Amendment) Act, 1996, (Karnataka Act 6 of 1996) (hereinafter referred to as the said Act), the Government of Karnataka hereby appoints the 2nd day of April, 1997 to be the date from which all provisions of the said Act shall come into force.

By Order and in the name of the Governor of Karnataka, (K.S. Sadashivaiah)
Under Secretary to Government,
Law Department (Admn. II)

IV

Bangalore, dated 11th April 2005. [No. LAW 35 LAD 99 (p-111)]

In exercise of the powers conferred by Sub-Section (2) of Section 1 of the Karnataka advocates Welfare Fund (Amendment) Act, 2002 (Karnataka Act No.18 of 2002), the Government of Karnataka hereby appoints the 15th April, 2005 as the date on which the said Act shall come into force.

By Order and in the name of the Governor of Karnataka, **B.S. Eswara Prasad**
Under Secretary to Government,
Law Department (Admn. II)

V

No.LAW 134 LCL 2009, Bangalore, Dated:6TH August, 2010

In exercise of the powers conferred by sub-section (2) of Section 1 of "The Karnataka Advocates' Welfare Fund (Amendment) Act, 2010" (Karnataka Act No.28 of 2010) the Government of Karnataka hereby appoints the 6th August 2010 , as the date on which all the provisions of the said Act, shall come into force.

By order and in the name of
Governor of Karnataka,

[S.SIDDALINGESH]
Secretary to Government,
Department of Law, Justice & Human Rights

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THE KARNATAKA ADVOCATES' WELFARE FUND (AMENDMENT) ACT, 2017

(Received the assent of the Governor on the 03rd day of March, 2017)

An Act further to amend the Karnataka Advocates' Welfare Fund Act, 1983.

Whereas, it is expedient further to amend the Karnataka Advocates' Welfare Fund Act, 1983 (Karnataka Act 2 of 1985) for the purposes herein after appearing.

Be it enacted by the Karnataka State Legislature in the Sixty-eighth year of the Republic of India as follows:

1. Short title and commencement.- (1) This Act may be called the Karnataka Advocates' Welfare Fund (Amendment) Act, 2017.

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

(Section 3,15,16,16A,16B,21,23,23A and schedule are incorporated in the principal Act)

11. Transitory provision.- Notwithstanding anything contained in the principal Act as amended by this Act, the Trustee committee shall not entertain any application under sub-section (6) of section 16 of Principal Act in respect of claims due to cessation of practice on the ground of voluntary retirement for a period of one year from the date of commencement of this Act.