

THE KERALA ADVOCATES' WELFARE FUND  
(AMENDMENT) BILL, 2010  
(Act 2 of 2011)

(As passed by the Assembly)

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*BILL*

*further to amend the Kerala Advocates' Welfare Fund Act, 1980.*

*Preamble.*—WHEREAS, it is expedient further to amend the Kerala Advocates' Welfare Fund Act, 1980 for the purposes hereinafter appearing ;

BE it enacted in the Sixty-first year of the Republic of India, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Advocates' Welfare Fund (Amendment) Act, 2010.

(2) Clauses (i), (ii) and (vii) of section 7, section 8 and Clause (i) of section 9 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 10th day of June, 2008.

2. *Amendment of section 2.*—In section 2 of the Kerala Advocates' Welfare Fund Act, 1980 (21 of 1980) (hereinafter referred to as the principal Act),—

(i) clause (a) shall be renumbered as clause (aa) and before clause (aa) as so renumbered, the following clause shall be inserted, namely :—

“(a) “actual practice” means carrying on the profession of an Advocate and filing of at least five vakalath per year in case of Advocates other than Senior Advocates, under the Advocates Act, 1961 (Central Act 25 of 1961) ;”;

(ii) in clause (aa) as so renumbered, the words “and who is a member of the Bar Association” shall be added at the end ;

(iii) in clause (d),—

(a) after the words “on account of his retirement” the words “on completion of fifteen years of continuous membership in the Fund or due to permanent disablement” shall be substituted ;

(b) the words “and includes any disentitlement of a member to practice in the State under Article 220 of the Constitution of India or any other law for the time being in force” shall be omitted ;

(iv) after clause (g), the following shall be inserted, namely :—

“(gg) “permanent disablement” means such physical or mental disablement which totally incapacitates an Advocate to continue his professional practice for ever ;”.

3. *Amendment of section 3.*—In sub-section (2) of section 3 of the principal Act, after clause (k), the following clause shall be inserted, namely :—

“(1) the sum repaid under item (a) of rule 4 in Chapter 5 of the Bar Council of Kerala Rules issued under the Advocates Act, 1961 (Central Act 25 of 1961).”.

4. *Amendment of section 9.*—In sub-section (2) of section 9 of the principal Act, after clause (g), the following clause shall be inserted, namely :—

“(gg) issue pass book with photograph to the members of the Fund, on payment of such fee as may be fixed by the Trustee Committee from time to time ;”.

5. *Amendment of section 11.*—In section 11 of the principal Act, after clause (h), the following clause shall be inserted, namely :—

“(hh) on request issue duplicate copy of membership certificate in lieu of original to members on payment of such charges as may be fixed by the Trustee Committee from time to time ;”.

6. *Amendment of section 14.*—After sub-section (2) of section 14 of the principal Act, the following sub-sections shall be inserted, namely :—

“(3) Every Bar Association shall with proper acknowledgement receive subscriptions mentioned in sub-section (5) of section 15 from its members who are in actual practice and remit the same to the Fund forthwith.

(4) Every Bar Association shall issue certificates of recommendations as mentioned in sub-section (6) of section 15 to its members on request made to that effect :

Provided that the Bar Association shall not issue any certificate of recommendation unless the Association is satisfied that the member is having actual practice as an Advocate.”.

7. *Amendment of section 15.*—In section 15 of the principal Act,—

(i) for sub-section (1a) the following sub-section shall be substituted, namely :—

“(1A) An Advocate who is eligible for or availed of any kind of retirement benefits for the service under the Central or State Government or any Public or Private Sector Undertaking, shall not be admitted as a member of the Fund or permitted to resume membership in the Fund ;

(ii) after sub-section (1A), the following sub-section shall be inserted, namely :—

“(1B) A person who received retirement benefit from the Fund shall not be re-admitted as member of the Fund.”;

(iii) in sub-section (3), for the words “three hundred”, the words “five hundred” shall be substituted ;

(iv) for sub-section (5), the following sub-section shall be substituted, namely :—

“(5) Every member shall pay an annual subscription to the Fund on or before the 30th June of every year at the following rates, namely:—

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|-------|--|--------------------------------------|
| (i)   | Where the standing of the Advocate at the Bar is less than five years                                  | three hundred rupees                 |
| (ii)  | Where the standing of the Advocate at the Bar is five years and more but less than ten years           | seven hundred and fifty rupees       |
| (iii) | Where the standing of the Advocate at the Bar is ten years and more but less than fifteen years        | one thousand and five hundred rupees |
| (iv)  | Where the standing of the Advocate at the Bar is fifteen years and more but less than twenty years     | two thousand rupees                  |
| (v)   | Where the standing of the Advocate at the Bar is twenty years and more but less than twenty five years | two thousand and five hundred rupees |
| (vi)  | Where the standing of the Advocate at the Bar is twenty five years or above                            | three thousand rupees :              |

Provided that an Advocate designated as Senior Advocate under the Advocates Act, 1961 (Central Act 25 of 1961), shall pay an annual subscription at the rate of five thousand rupees.”;

(v) after sub-section (5), the following sub-sections shall be inserted, namely :—

“(6) The payment referred to in sub-section (5) shall be made through the Bar Association in which the contributor is a member or directly to the Fund along with a letter of recommendation from the respective Bar Association.

(6A) All members of the Fund shall furnish before the Trustee Committee every year, along with the payment of subscription, a declaration in such form as may be prescribed to the effect that he is in actual practice and not in any other employment and not engaged in any other profession or calling.”;

(vi) in sub-section (7), for the words “at the rate of five rupees per month or part thereof”, the words “at the rate of twelve percent per annum” shall be substituted ;

(vii) after sub-section (12), the following sub-section shall be inserted, namely :—

“(13) A member who voluntarily suspended his membership may on resumption of his practice as an Advocate, resume his membership in the Fund on payment of two thousand rupees as resumption charges unless he is not eligible for or not availed of any kind of retirement benefits for the service under the Central or State Government or any Public or Private Sector Undertakings.”.

8. *Amendment of section 16.*—In section 16 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) A member of the Fund shall on cessation of practice on completion of fifteen years of continuous membership in the Fund be entitled to receive from and out of the Fund an amount at the rate of rupees fourteen thousand two hundred and eighty five for every completed actual years of practice subject to a maximum amount of rupees five lakhs in aggregate :

Provided that a member who opts voluntary retirement other than due to permanent disablement before the completion of the fifteen years of continuous

membership in the Fund shall be entitled to receive the aggregate of the subscription remitted by him to the Fund with interest at the rate of six percentage thereof :

Provided further that a member who opts cessation due to permanent disablement before attaining the age of fifty-five years shall be entitled to receive from and out of the Fund an amount of rupees one lakh in aggregate or at the rate specified in sub-section (1) whichever is higher.

(ii) for sub-section (2), the following sub-section shall be substituted, namely :—

“(2) In the event of death of a member while in actual practice his nominee or where there is no such nominee his legal heirs, as the case may be, shall be entitled to receive from and out of the Fund an amount of three lakh rupees or at the rates specified in sub-section (1) for every completed year of practice with the maximum aggregate amount of five lakh rupees whichever is higher ;

(iii) sub-section (2A) shall be omitted ;

(iv) in sub-section (4),—

(a) for clause (i), the following clause shall be substituted, namely :—

“(i) under sub-section (1) and (2), every two years of practice at the Bar prior to the commencement of the Kerala Advocates’ Welfare Fund Act, 1980 and”;

(b) second proviso shall be omitted ;

(v) sub-section (5) shall be omitted ;

(vi) after sub-section (7), the following sub-section shall be inserted, namely :—

“(8) A person who had availed the entire welfare fund benefits on cessation of practice and thereafter remitted the said amount with interest in the Welfare Fund as per item (a) of rule 4 of Chapter 5 of the Bar Council of Kerala Rules, shall be eligible for refund of the amount received from and out of the Fund with six percent interest from the date of remittance on his removal from the roll of the Bar Council of Kerala :

Provided that in the event of death of the remitter the amount shall be paid to the nominee or where there is no such nominee to his legal heirs.”.

9. *Amendment of Section 18.*—In Section 18 of the principal Act,—

(i) for the words “Bar Council” the words “Trustee committee” shall be substituted ;

(ii) in clause (b), after the words “and their dependents”, the words “a maximum amount of five thousand rupees” shall be inserted.

10. *Amendment of Section 22.*—In section 22 of the principal Act,—

(i) in sub-section (1), for the words “five rupees and ten rupees”, the words “fifteen rupees and twenty five rupees” shall be substituted ;

(ii) in sub-section (4), after the words “through Bar Associations”, the words “or through the outlets setup by the Bar Council for the purpose” shall be added.

11. *Amendment of Section 23.*—In sub-section (1) of section 23 of the principal Act,—

(i) the words “who is a member of the Fund” shall be omitted ;

(ii) for the words “fifteen rupees” and “ten rupees”, the words “twenty five rupees” and “fifteen rupees” shall respectively be substituted ;

(iii) after the existing proviso, the following proviso shall be added, namely:—

“Provided further that no Court, Tribunal or other Authority shall receive any vakalath filed by an Advocate unless it is so stamped, and that any person found to be responsible for causing loss to the Fund may be held liable for making good such loss.”.

12. *Repeal and saving.*—(1) The Kerala Advocates’ Welfare Fund (Amendment) Ordinance, 2010 (47 of 2010), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

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