

Fourteenth Kerala Legislative Assembly

Bill No. 25

**THE KERALA ADVOCATES' WELFARE FUND
(AMENDMENT) BILL, 2016**



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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-seventh 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, 2016.

(2) It shall come into force at once.

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

“(a) “actual practice” means carrying on the profession of an Advocate other than senior Advocate and filing of at least five vakalaths per year by an Advocate whose name is included in the list of practising Advocates published and maintained by the Bar Council in accordance with the rules made by it under section 27.”;

(ii) after clause (aa), the following clause shall be inserted, namely:—

“(ab) “Advocates Academy” means the academy constituted by the Bar Council for providing training to Advocates to enable them to give efficient legal service to the people.”;

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

“(ga) “non-practising Advocate” means an Advocate who is not in actual practice.”;

(gb) “practising Advocate” means an Advocate in actual practice.”.

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

“(gh) provide assistance to the Advocates Academy”.

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

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

“(1) Any practising Advocate in any court in the State may apply to the Trustee Committee for admission as a member of the Fund in such form as may be prescribed.”;

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

“(1A) No person enrolled as an Advocate after retirement from an employment shall be admitted as a member of the Fund if such person is eligible for, or availed, himself of any kind of retirement benefit from such employment:

Provided that this sub-section shall not be applicable to a person who was in employment for a period not exceeding five years or if the retirement benefits or pension does not exceed five thousand rupees per month.”;

(c) after sub-section (1B), the following sub-sections shall be inserted, namely:—

“(1C) A member of the Fund who is removed from the list of practising Advocates published and maintained by the Bar Council shall not be entitled to continue as a member of the Fund and during such period, such Advocate whose name is included in the list of non-practising Advocates maintained by the Bar Council shall be deemed to have been suspended from the Fund.

(1D) An Advocate who is included in the list of non-practising Advocates published and maintained by the Bar Council shall be entitled to continue as member of the Fund on inclusion of his name in the list of practising Advocates maintained by the Bar Council and shall be entitled to continue his membership in the Fund.”;

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

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

- (i) Where the standing of the Advocate at the bar is less than five years. .. Five hundred rupees
- (ii) Where the standing of the Advocate at the bar is five years and more, but less than ten years. .. One thousand rupees
- (iii) Where the standing of the Advocate at the bar is ten years and more, but less than fifteen years. .. Two thousand rupees
- (iv) Where the standing of the Advocate at the bar is fifteen years and more but less than twenty years. .. Two thousand and five hundred rupees
- (v) Where the standing of the Advocate at the bar is twenty years and more but less than twenty five years. .. Three thousand rupees
- (vi) Where the standing of the Advocate at the bar is twenty five years and more but less than thirty years. .. Three thousand and five hundred rupees
- (vii) Where the standing of the Advocate at the bar is thirty years or above. .. Four 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 to the Fund at the rate of six thousand rupees.”;

(e) for sub-section (13), the following sub-section shall be substituted, namely:—

“(13) A member of the Fund who voluntarily suspends his membership in the Fund may on resumption of his practice as an Advocate as allowed by the Bar Council resume his membership in the Fund on payment of two thousand rupees as resumption charges and his date of resumption shall be recorded in his Certificate of Membership.”.

EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA
ADVOCATES' WELFARE FUND ACT, 1980

(21 OF 1980)

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

(a) “actual practice” means carrying on the profession of an Advocate and filing of at least 5 vakalath per year in case of Advocates other than Senior Advocates, under the Advocates’ Act, 1961 (Central Act 25 of 1961)

(aa) “Advocate” means a person whose name has been entered in the State roll of Advocates prepared and maintained by the Bar Council of Kerala under section 17 of the Advocates’ Act, 1961 (Central Act 25 of 1961) and who is a member of the Bar Association.

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(g) “member of the Fund” means an advocate admitted to the benefit of the Fund and continuing to be a member thereof under the provisions of this Act.

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9. *Functions 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;

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(gg) issue passbook 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.

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15. *Membership in the Fund.*—(1) Every Advocate practising in any court in the State and being a member of a Bar Association recognised by the State Bar Council may apply to the Trustee Committee for admission as a member of the Fund, in such form as may be prescribed.

(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 may Public or Private Sector Undertaking, shall not be admitted as a member of the Fund or permitted to resume membership in the Fund.

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

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(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 the five thousand rupees..

(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.

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16. *Payment from the Fund on cessation of practice.*—(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 thereon.

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.

(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.

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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;

(b) provide for medical and educational facilities for the members of the Fund and their dependants a maximum amount of five thousand rupees.

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23. *Vakalath to bear stamps.*—(1) Every vakalath filed by an Advocate who is a member of the Fund shall in addition to the court fee stamps affixed thereon, be affixed with the Welfare Fund stamp of the value of fifteen rupees in the case of vakalath filed before the High Court, and of the value of ten rupees in the case of vakalath filed before subordinate courts, tribunals or other authorities, and no vakalath shall be valid unless it is so stamped:

Provided that nothing contained in this sub-section shall apply in respect of any memorandum of appearance filed by an Advocate appearing on behalf of the Government:

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.

Explanation.—If three or more Advocates jointly appears by a single vakalath, the maximum number of stamps that may be affixed thereon shall be three.

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