



The Karnataka Advocates' Welfare Fund Act, 1983

Act 2 of 1985

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Advocate, Bar Association, Bar Council, Cessation of Practice, Dependents, Fund, Retirement, Registered Clerk, Stamp, Suspension of Practice, Trustee Committee, Vakalath

Amendments appended: 18 of 2002, 15 of 2005, 28 of 2010, 15 of 2015

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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.

(Published in the Karnataka Gazette (Extraordinary), Part IV 2-A, dated 12th day of August 1983, No.718)

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 enhanced from rupees one hundred 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 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;
- (iii) 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)

KARNATAKA ACT No. 2 OF 1985

(First published in the Karnataka Gazette Extraordinary on the Tenth day of January, 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 and 15 of 2005)

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

(iii) voluntary retirement due to old age ;]¹

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

¹[(1) "Chairman" means the chairman of the Trustee Committee]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 children 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 w.e.f. 1.6.2005 by notification.

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

(ga) "permanent disability" means disability which renders an advocate totally incapable from practising as such. A certificate to that effect by such authority, as may be prescribed, shall be produced;]¹

1. Substituted by Act 21 of 1993 w.e.f. 2.4.1997

(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 committee;]¹

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.

(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 w.e.f. 1.6.2005 by notification.

(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 ¹[and other benefits to the advocates and their dependents, in the State.]¹

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

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

¹[(a)xxx]¹

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

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

(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;

¹[(k) amounts collected under section 15 by way of admission fee.]¹

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

(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.

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 who shall be a Member *Ex-officio*.]¹

1. Substituted by at 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*.]¹and

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 four years.

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

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 in accordance with section 16]¹

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

(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.

(2) The trustee committee shall deposit all moneys and receipts 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 rules or bye-laws of the association, names and addresses of the office bearers of the association and with an upto date 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.- ¹[(1) Every Advocate on the roll of the Karnataka State Bar Council practicing in the State of Karnataka shall be a member of the Fund and shall file a declaration in such form as may be prescribed along with an admission fee of rupees two thousand within one month,-

- (i) in case of an Advocate who is enrolled on or after the commencement of the Karnataka Advocates Welfare (Amendment) Act, 2004 (hereinafter referred to as Amendment Act 2004); or
- (ii) within one month from the date of commencement of Amendment Act, 2004 in the case of Advocates already enrolled:

Provided that this provisions shall not apply to Advocates who are already members of the fund]¹

1. Substituted by Act 15 of 2005 w.e.f. 1.6.2005 by notification.

Provided that the advocates other than those who have already become Members, shall file such declarations as may be prescribed and pay ¹[rupees one thousand]¹ within six months from the date of coming into force of the Karnataka Advocates Welfare Fund (Amendment) Act, 1993.

1. 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.

¹[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.]¹

1. Inserted by Act 6 of 1996 w.e.f. 02.04.1997.

¹[(1A) If any Advocate who has failed to pay the balance of the admission fee referred to in the second proviso to sub-section (1) or fails to pay the admission fee within the time specified in sub-section (1) of section 15, may pay such balance admission fee or as the case may be, the admission fee with a late fee of rupees fifty per month or part of a month from the Second day of April 1997 or next after the expiry of one month from the date of commencement of the Amendment Act, 2004 or one month from the date of enrollment, as the case may be.]¹

1. Substituted by Act 15 of 2005 w.e.f. 1.6.2005 by notification.

(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

1. Section 15 with sub-sections (1) (2) and (3) substituted by Act 21 of 1993 w.e.f. 02.04.1997.

¹[(4) Every member shall pay a fee of rupees five hundred within one month next after the completion of every five years from the date of his becoming member of the fund failing which he shall be deemed to have voluntarily suspended his practice for the purpose of this Act:

Provided that a member may pay such fee within three months from the expiry of the period specified above along with a penalty of fifty rupees per month and if he files such declaration along with the penalty it shall not be construed as deemed suspension:

Provided further that a member who on the date of commencement of the Amendment Act, 2004 has completed five years of practice after becoming a member shall pay such fee within six months from the date of such commencement.

(5) If a member fails to pay the fee within the time allowed under sub-section (4) the period of each year till he pays the fee including the year in which he pays the fee shall be treated as period of deemed suspension of practice for the purpose of this Act.

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

1. Substituted by Act 15 of 2005 w.e.f. 1.6.2005 by notification.

16. Payment from the Fund on cessation of practice.-¹[(1) A member shall on cessation of practice arising out of voluntary retirement due to old age, be entitled to receive from out of the fund, an amount at the rate of ²[rupees three thousand]² for every completed year of practice, subject to a maximum of ²[rupees one lakh fifty thousand.]²]¹

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

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

¹[Provided that where an Advocate has become member on or after the First day of August 2000 and has attained the age of sixty years on the date of such admission an amount at the rate of rupees three thousand for every completed year of practice subject to a maximum of rupees fifty thousand shall be payable to the member in the event of cessation of practice due to reason other than death and to his nominee or where there is no nominee to his legal heirs, if the cessation of practice is due to death:

Provided further that if an Advocate who had become member prior to the Second day of April, 1997 has not paid the balance admission fee as required under the second proviso to sub-section (1) of section 15 and has not been readmitted to the fund after such date, an amount at the rate of

rupees one thousand for every completed year of practice, shall be paid to him on cessation of practice due to reason other than death and to his nominee or where there is no nominee, to his legal heirs, if the cessation of practice is due to death.]¹

1. Inserted by Act 15 of 2005 w.e.f. 1.6.2005 by notification.

(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 in equal share.

¹[(3) xxx]¹

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

(4) For calculating the period of completed years of practice for the purpose of payment under this Act, every four years of practice at the Bar, if any, before the admission of a member to the Fund shall be computed as one year of practice and added on to the number of years of practice after such admission.

¹[Provided that while, calculating the period of completed years of practice for the purpose of payment under this Act, the fraction of three months and more before admission, and fraction of six months and more after admission shall be treated as one full year:

Provided further that the period of suspension of practice as a result of misconduct under section 35 of the Advocates Act, 1961 (Central Act 25 of 1961) shall be excluded for the purpose of calculation of the period of completed years of practice.]¹

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

¹[xxx]¹

1. Third Proviso inserted by Act 18 of 2002 w.e.f. 15.04.2005 and omitted by Act 15 of 2005 w.e.f. 1.6.2005 by notification.

¹[(5) A sum of ²[rupees one lakh and fifty thousand]² shall be paid to the member on cessation of practice due to permanent disability ³[or in the event of death of a member, to his nominee or where there is no nominee, to his legal heirs, as the case may be.]³

⁴[Provided that lumpsum amount shall not be paid to a member, who has voluntarily suspended and resumed practice for purposes of either employment, avocation or business, or who had been enrolled as an Advocate either on retirement or dismissal from service or employment or who enrolls as an advocate after the age of forty years, or who is transferred from other States to the roll of the Karnataka State Bar Council after the age of forty years, so however such member shall be paid from out of the fund an amount at the rate of rupees two thousand for every completed year of practice on the roll of the Karnataka State Bar Council.

Provided further that a Member shall not be eligible to claim amount under this Act on cessation of practice arising out of voluntary retirement within ten years from the date of admission to the Fund.]⁴

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

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

3. Inserted by Act 6 of 1996 w.e.f. 02.04.1997.

4. Substituted by Act 15 of 2005 w.e.f. 1.06.2005 by notification.

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

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

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 w.e.f. 1.6.2005 by notification.

(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

(b) a receipt evidencing payment of one hundred rupees to the credit of the Bar Council, in any of the branches in Karnataka of any Scheduled Bank.

(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.

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.- (1) Every ¹[Advocate]¹ shall affix ²[welfare Fund stamps of the value of rupees ten]² on every vakalath filed by him and

no vakalath shall be filed before or received by any court, tribunal or other authority unless it is so stamped.

³[(1A) Every Advocate shall affix Welfare Fund stamp of the value of rupees five on every interlocutory application.]³

1. Substituted 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. Sub-section (1A) inserted by Act 15 of 2005 w.e.f. 1.6.2005 by notification.

(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**23A. Contribution by Senior Advocate.**- (1) Every designated Senior Advocate shall contribute ²[rupees five thousand 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.]³¹

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. Inserted by Act 15 of 2005 w.e.f. 1.6.2005 by notification.

¹[(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.]¹

1. Inserted by Act 15 of 2005 w.e.f. 1.6.2005 by notification.

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. The Advocates Family Welfare Fund.- (1) Subject to such rules as may be prescribed, the State Government shall constitute a Fund called the Karnataka Advocates' Family Welfare Fund, for payment of family welfare benefits to the nominees or legal heirs of the deceased advocates;

1. Inserted by Act 21 of 1993 w.e.f. 2.4.1997.

(2) The contribution for the membership of the fund shall be a sum of rupees one thousand:

Provided that the State Government may prescribe a lesser amount for contribution by persons belonging to Scheduled Castes or Scheduled Tribes for the membership of the fund;

- (3) There shall be credited to the fund,--
 - (a) contributions made by the members of the fund;

¹[(aa)contribution made by the State Government;]¹

1. Inserted by Act 6 of 1996 w.e.f. 2.4.1997.

(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 or institution.

(4) The State Government shall constitute a Committee for the administration of the fund;

(5) Every advocate practising in any Court in the State and being a member of the Bar Association, may apply to the Committee constituted for the Administration of the fund for admission as a member of the fund, in such form as may be prescribed;

(6) Upon the death of an Advocate who is a member of the fund, his nominee or as the case may be, legal heirs shall be paid such sum not exceeding rupees one lakh as may be prescribed;

(7) All matters relating to the fund including its membership, administration and conditions subject to which payment from the fund shall be made, shall be as may be prescribed.]'

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".

¹[**SCHEDULE xxx**]¹

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

* * * *

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 Gazette 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**Bangalore, dated 1st June 2005. [No. LAW 35 LAD 99 (P-III)]**

In exercise of the powers conferred by Sub-Section (2) of Section 1 of the Karnataka advocates Welfare Fund (Amendment) Act, 2004 (Karnataka Act No.15 of 2005), the Government of Karnataka hereby appoints the first June 2005 as the date on which the said Act shall come into force.

By Order and in the name of the Governor of Karnataka,

C.A. BABU RAVINDRANATH PATEL

Under Secretary to Government, I/c
Law Department (Admn-2)

KARNATAKA ACT No. 18 OF 2002
THE KARNATAKA ADVOCATE'S WELFARE FUND
(AMENDMENT) ACT, 2002

Arrangement of Sections

Sections:

1. Short title and commencement
2. Amendment of section 2
3. Amendment of section 4
4. Amendment of section 6
5. Amendment of section 9
6. Amendment of section 11
7. Amendment of section 15
8. Amendment of section 16
9. Amendment of section 22
10. Amendment of section 23
11. Amendment of section 23A

STATEMENT OF OBJECTS AND REASONS

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)

KARNATAKA ACT No. 18 OF 2002

(First published in the Karnataka Gazette Extraordinary on the Ninth Day of September 2002)

**THE KARNATAKA ADVOCATE'S WELFARE FUND
(AMENDMENT) ACT, 2002**

(Received the assent of the Governor on the Sixth day of September, 2002)

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

Whereas it is expedient further to amend the Karnataka Advocate's Welfare Fund Act, 1983 (Karnataka Act 2 of 1985) for the purposes hereinafter appearing;

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

1. Short title and commencement.- (1) This Act may be called the Karnataka Advocate's Welfare Fund (Amendment) Act, 2002.

(2) It shall come into force on such date as the State Government may by notification appoint and different dates may be appointed for different provisions of this Act.

2. Amendment of section 2.- In section 2 of the Karnataka Advocates Welfare Fund Act, 1983 (Karnataka Act 2 of 1985) (hereinafter referred to as the principal Act),-

(1) after clause (d) , the following clause shall be inserted, namely,-

“(d1) “chairman” means the chairman of the Trustee Committee;”

(Published in the Karnataka Gazette Part IV-A Extra Ordinary No.1291 dated 9-9-2002 in Notification No. ಸಂವತ್ಸಾೞ 40 ಶಾಸನ 1999)

(2) in clause (e), for the words “unmarried minor” the word “minor” shall be substituted.

(3) in clause (m), the words, figures and brackets “and includes deemed voluntary suspension of practice referred to in sub-section (4) of section 16” shall be inserted at the end.

3. Amendment of section 4.- In section 4 of the principal Act, in sub-section (3),-

(i) for clauses (a) and (b), the following clauses shall be substituted, namely:-

“(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 who shall be a Member Ex-officio.

(ii) for clause (e), the following shall be substituted, namely,-

“(e) the Vice Chairman of the Bar Council who shall be the Treasurer of the Trustee Committee – Ex-officio.”

4. Amendment of section 6.- In section 6 of the principal Act, in sub-section (1), for the words “three months” the words “one month” shall be substituted.

5. Amendment of section 9.- In section 9 of the principal Act, in sub-section (2), in clause (c), for the words “five months” the words “three months” shall be substituted.

6. Amendment of section 11.- In section 11 of the Principal Act, in clause (d), for the word “Treasurer” the word “Chairman” shall be substituted.

7. Amendment of section 15.- In section 15 of the principal Act ,-

(1) in sub-section (1), the words, figures and brackets “ other than an Advocate coming under proviso to sub-section (5) of section 16” shall be omitted;

(2) in sub-section (1A), for the words “late fee of rupees ten per month or part of a month subject to a maximum of rupees one hundred” the words, “late fee of rupees twenty per month or part of a month “ shall be substituted.

8. Amendment of section 16.- In section 16 of the principal Act,-

(1) in sub-section (1), for the words “rupees one thousand” and “rupees fifty thousand” the words “ rupees three thousand” and “rupees one lakh fifty thousand “ shall, respectively be substituted;

(2) in sub-section (4), after the second proviso, the following proviso shall be inserted, namely:-

“Provided also that an Advocate who is enrolled as an Advocate and has become member after the First day of April, 1997 shall file declarations in the prescribed form during the last month of fifth and tenth year of his becoming member, failing which he shall be deemed to have voluntarily suspended practice for the purpose of this section immediately after the last date of the last month of fifth year or tenth year, as the case may be.”

(3) in sub-section (5),-

(a) for the words "rupees fifty thousand" the words "rupees one lakh and fifty thousand" shall be substituted;

(b) in the proviso, the following shall be inserted at the end, namely:-

"but such member shall be paid an amount at the rate of rupees two thousand for every completed year of practice".

9. Amendment of section 22.- In section 22 of the principal Act, in sub-section (1), for the words " five rupees" the words "five rupees or ten rupees" shall be substituted.

10. Amendment of section 23.- In section 23 of the principal Act,

(1) In sub-section (1), for the words "one welfare fund stamp" the words "welfare fund stamps of the value of rupees ten" shall be substituted.

(2) After sub-section (1), the following shall be inserted, namely:-

"(1A) Every Advocate shall affix welfare fund stamp of rupees five on every interim application filed in all the proceedings".

11. Amendment of section 23A.- In section 23A of the principal Act, in sub-section (1) for the words "rupees two thousand five hundred per year" the words " rupees five thousand in every financial year " shall be substituted;

(2) in sub-section (2), for the words "rupees twenty five per month or part of a month subject to a maximum of rupees five hundred" the words " rupees two hundred and fifty per month or part of a month" shall be substituted.

KARNATAKA ACT NO. 15 OF 2005
THE KARNATAKA ADVOCATES WELFARE FUND (AMENDMENT) ACT, 2004
Arrangement of Sections

Sections:

1. Short title and commencement
2. Amendment of section 2
3. Amendment of section 15
4. Amendment of section 16
5. Amendment of section 18
6. Amendment of section 23
7. Amendment of section 23A

STATEMENT OF OBJECTS AND REASONS

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 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;
- (iii) by insertion of sub-section (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)

(Entry 23 & 26 of list III of list III of Seventh Schedule to the Constitution of India.)

KARNATAKA ACT NO. 15 OF 2005

(First published in the Karnataka Gazette Extra-ordinary on the Nineth day of May, 2005)

THE KARNATAKA ADVOCATES WELFARE FUND (AMENDMENT) ACT, 2004

(Received the assent of the Governor on the Fifth day of May, 2005)

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 hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the fifty-fifth 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, 2004.

(2) It shall come into force on such date as the State Government may by notification appoint and different dates may be appointed for different provisions of this Act.

2. Amendment of section 2.- In section 2 of the Karnataka Advocates Welfare Fund Act, 1983 (Karnataka Act 2 of 1985) (hereinafter referred to as the principal Act);

(1) after clause (f), the following clause shall be inserted, namely:-

“(ff)” interlocutory application includes all applications filed before any Court, Tribunal or Authority in respect of any pending or disposed of case or proceeding;”

(2) in clause (m), for the words, figures and brackets “ sub-section (4) of section 16 the words, figures and brackets “sub-section (4) of section 15 or sub-section (3) of section 23A” shall be substituted.

3. Amendment of section 15.- In section 15 of the principal Act,-

“(1) for sub-section (1), excluding the provisos, the following shall be substituted, namely:-

(1) Every Advocate on the roll of the Karnataka State Bar Council practicing in the State of Karnataka shall be a member of the Fund and shall file a declaration in such form as may be prescribed along with an admission fee of rupees two thousand within one month,-

(i) in case of an Advocate who is enrolled on or after the commencement of the Karnataka Advocates Welfare (Amendment) Act, 2004 (hereinafter referred to as Amendment Act 2004); or

(ii) within one month from the date of commencement of Amendment Act, 2004 in the case of Advocates already enrolled:

Provided that this provisions shall not apply to Advocates who are already members of the fund.”

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

“(1A) If any Advocate who has failed to pay the balance of the admission fee referred to in the second proviso to sub-section (1) or fails to pay the admission fee within the time specified in sub-section (1) of section 15, may pay such balance admission fee or as the case may be, the admission fee with a late fee of rupees fifty per month or part of a month from the Second day of April 1997 or next after the expiry of one month from the date of commencement of the Amendment Act, 2004 or one month from the date of enrollment, as the case may be.”

(3) after sub-section (3), the following sub-sections shall be inserted, namely:-

“(4) Every member shall pay a fee of rupees five hundred within one month next after the completion of every five years from the date of his becoming member of the fund failing which he shall be deemed to have voluntarily suspended his practice for the purpose of this Act:

Provided that a member may pay such fee within three months from the expiry of the period specified above along with a penalty of fifty rupees per month and if he files such declaration along with the penalty it shall not be construed as deemed suspension:

Provided further that a member who on the date of commencement of the Amendment Act, 2004 has completed five years of practice after becoming a member shall pay such fee within six months from the date of such commencement.

(5) If a member fails to pay the fee within the time allowed under sub-section (4) the period of each year till he pays the fee including the year in which he pays the fee shall be treated as period of deemed suspension of practice for the purpose of this Act.

(6) For every year of deemed suspension under sub-section (4) an amount of rupees three thousand per annum shall be deducted from out of the amount payable under sub-section (1) of section 16.”

4. Amendment of section 16.- In section 16 of the principal Act,-

(2) in sub-section (1), at the end, the following provisos shall be inserted, namely:-

“Provided that where an Advocate has become member on or after the First day of August 2000 and has attained the age of sixty years on the date of such admission an amount at the rate of rupees three thousand for every completed year of practice subject to a maximum of rupees fifty thousand shall be payable to the member in the event of cessation of practice due to reason other than death and to his nominee or where there is no nominee to his legal heirs, if the cessation of practice is due to death:

Provided further that if an Advocate who had become member prior to the Second day of April, 1997 has not paid the balance admission fee as required under the second proviso to sub-section (1) of section 15 and has not been readmitted to the fund after such date, an amount at the rate of rupees one thousand for every completed year of practice, shall be paid to him on cessation of practice due to reason other than death and to his nominee or where there is no nominee, to his legal heirs, if the cessation of practice is due to death.”

(1) in sub-section (4), third proviso shall be omitted;

(2) in sub-section (5), for the proviso the following shall be substituted, namely:-

“Provided that lump sum amount shall not be paid to a Member, who has voluntarily suspended and resumed practice for purposes of either employment, avocation or business or who had been enrolled as an Advocate either on retirement or dismissal from service or employment or who enrolls as an Advocate after the age of forty years, or who is transferred from other States to the roll of the Karnataka State Bar Council after the age of forty years, so however such member shall be paid from out of the fund an amount at the rate of rupees two thousand for every completed year of practice on the roll of the Karnataka State Bar Council.

Provided further that a Member shall not be eligible to claim amount under this Act on cessation of practice arising out of voluntary retirement within ten years from the date of admission to the Fund”

5. Amendment of section 18.- In section 18 of the principal Act, clause (b) shall be omitted.

6. Amendment of section 23.- In section 23 of the principal Act, for sub-section (1A), the following shall be substituted, namely:

“(1A) Every Advocate shall affix Welfare Fund stamp of the value of rupees five on every interlocutory application.”

7. Amendment of section 23A.- In section 23A of the principal Act,-

(1) in sub-section (1), the words “ before thirty first March” shall be inserted at the end.

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

“(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) after sub-section (2), the following shall be inserted, namely:-

“(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.”

By order and in the name of the Governor of Karnataka

G. Dakshina Moorhty

Secretary to Government,

Department of Parliamentary Affairs and Legislation.

KARNATAKA ACT NO. 28 OF 2010
THE KARNATAKA ADVOCATES' WELFARE FUND
(AMENDMENT) ACT, 2010

Arrangement of Sections

Sections:

1. Short title and commencement
2. Amendment of section 2
3. Amendment of section 4
4. Amendment of section 9
5. Amendment of section 13
6. Amendment of section 15
7. Amendment of section 16
8. Insertion of new sections 16 A and 16 B
9. Omission of section 26A
10. Insertion of new schedule
11. Transitional provision

STATEMENT OF OBJECTS AND REASONS

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.]

KARNATAKA ACT NO. 28 OF 2010

(First published in the Karnataka Gazette Extra-ordinary on the Twenty sixth day of July, 2010)

**THE KARNATAKA ADVOCATES' WELFARE FUND
(AMENDMENT) ACT, 2010**

(Received the assent of the Governor on the Twenty Third day of July, 2010)

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 hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the sixtyfirst 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, 2010.

(2) It shall come into force on such date as the State Government may, by notification, appoint, and different dates may be appointed for different provisions of this Act.

2. Amendment of section 2.- In the Karnataka Advocates' Welfare Fund Act, 1983 (Karnataka Act 2 of 1985) (hereinafter referred to as the principal Act) in section 2,-

(i) in clause (d), for sub-clause (iii), the following sub-clause shall be substituted, namely:-

“(iii) voluntary retirement on attaining an age of seventy five years or on completion of fifty years of practice whichever is earlier;”

(ii) for clause (ga), the following clause shall be substituted, namely:-

“(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;”

(3) after clause (j), the following clause shall be inserted, namely:-

“(jj) “schedule” means the schedule appended to this Act;”

3. Amendment of section 4.- In section 4 of the principal Act, in sub-sections (4) and (5), for the words “four years”, the words “three years” shall be substituted.

4. Amendment of section 9.- In section 9 of the principal Act, in sub-section (2), in clause (e), for the words and figures “in accordance with section 16”, the words “in accordance with this Act” shall be substituted.

5. Amendment of section 13.- In section 13 of the principal Act, in sub-section (2), for the words “rules or bye-laws of the association”, the words, figures and brackets “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)” shall be substituted.

6. Amendment of section 15.- (1) In section 15 of the principal Act,-

- (1) in sub-section (1),-
 - (a) after the words “Every Advocate on the roll of the Karnataka State Bar Council” the words “and every person holding pleadership certificate” shall be inserted;
 - (b) for the words “in such form as may be prescribed along with an admission fee of rupees two thousand within one month” the words “in such form along with such admission fee as may be prescribed” shall be substituted.
 - (c) clauses (i) and (ii) and the provisos shall be omitted;
- (2) sub-section (1A) shall be omitted;
- (3) for sub-sections (4) and (5) including the provisos, the following shall be substituted, namely:-

“(4) Every member who has completed fifteen years of practice shall pay a fee of rupees one thousand to the fund and who has not completed fifteen years of practice shall pay a fee of rupees five hundred 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 rupees fifty 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 rupees fifteen thousand.

- (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.”
- (4) in sub-section (6),-
 - (i) for the words “rupees three thousand”, the words “rupees five thousand” shall be substituted,
 - (ii) the following proviso shall be inserted, at the end, namely:-

“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 one lakh rupees.”

7. Amendment of section 16.- In section 16 of the principal Act,-

- (1) for sub-section (1) including the provisos, the following shall be substituted, namely:-

“(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 five thousand rupees for every completed year of practice subject to a maximum of rupees one lakh fifty thousand 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;
- (iii) an advocate who has voluntarily suspended practice for a period exceeding two years for the purposes of any employment, avocation or business;
- (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 three thousand rupees for every completed year of practice but not exceeding an amount of rupees fifty thousand 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) in sub-section (2), for the words “in equal share” the words “in accordance with the law of inheritance applicable to such member” shall be substituted.

(3) for sub-section (4) including the provisos, the following shall be substituted, namely:-

“(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.”

(4) sub-section (5) including the proviso shall be omitted.

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

“(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”.

8. Insertion of new sections 16 A and 16 B.- After section 16 of the principal Act, the following sections shall be inserted, namely:-

“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 rupees one lakh 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.

16B. Part payment from the fund during financial hardship.- (1) A member who has attained the age of seventy years 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 or one lakh rupees 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.”

9. Omission of section 26A .- Section 26A of the principal Act shall be omitted.

10. Insertion of new schedule.- In the principal Act, the following schedule shall be inserted at the end, namely:-

“Schedule

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

Completed years of practice	Entitlement
(1) Not exceeding ten years	Rupees one lakh fifty thousand
(2) Exceeding ten years but not exceeding twenty years	Rupees two lakhs
(3) Exceeding twenty years but not exceeding thirty years	Rupees two lakhs fifty thousand
(4) Exceeding thirty years but not exceeding forty years	Rupees three lakhs fifty thousand
(5) Exceeding forty years	Rupees four lakhs

”

11. Transitional provision.- Notwithstanding anything contained in the principal Act as amended by this Act where any claim for amount from the fund made during the period on or after the first day of June 2005 and before the commencement of the Karnataka Advocates' Welfare Fund (Amendment) Act, 2010, by a member who defaulted in payment of fees under sub-section (4) of section 15 of the principal Act as in force prior to such commencement, is pending on the date of such commencement, an amount at the rate of rupees three thousand for each year of the default shall be deducted in the amount payable under sub-section (5) of section 16 of the principal Act as in force prior to such commencement.

By Order and in the name of the Governor of Karnataka,

G.K.BOREGOWDA
Secretary to Government
Department of Parliamentary
Affairs and Legislation