

GUJARAT ADVOCATES' WELFARE FUND REGULATIONS, 1991

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GUJARAT ADVOCATES' WELFARE FUND REGULATIONS, 1991

In exercise of the powers conferred by Section 30 of the Gujarat Advocates' Welfare Fund Act, 1991 (Gujarat Act No. 14 of 1991), and of all other powers enabling it in that behalf, the Bar Council of Gujarat, with the previous approval of the State Government, hereby makes the following Regulations, namely :-

1. Short title and commencement :-

(1) These regulations may be called the Gujarat Advocates Welfare Fund Regulations, 1991;

(2) They shall come into force with effect from such date as the Bar Council may appoint in this behalf and different dates may be appointed for different provisions of these Regulations.

2. Definitions :-

In this regulations, unless the context otherwise requires,-

(a) 'Act' means the Gujarat Advocates Welfare Fund Act, 1991 ;

(b) 'Form' means a form appended to these regulations;

(c) 'practice' means to appear, plead and act for a party before a Court of Law, a Tribunal or other authority or person authorised to take evidence on oath and to adjudicate or to decide any dispute;

(d) 'Secretary' means Secretary of the Bar Council;

(e) 'Section' means a section of the Act;

(f) 'Vakalatnama' includes a memorandum of appearance, other document by whatever named called, except proxy or transfer patra, by which an advocate is authorised to act, appear or plead before any Court, or any Tribunal or such other authority or person as is referred to in Section 16 legally authorised to take evidence or to adjudicate or decide any dispute;

(g) Words and expressions used in these regulations but not defined shall have the same meaning respectively assigned to them under the Act.

3. Powers, functions and duties of the Administrative Committee :-

(1) Chairman of the Bar Council shall be ex-officio Chairman of the Administrative Committee.

(2) The Administrative Committee shall meet, at least once in three calendar months or more often if found necessary to transact business under this Act or the regulations made thereunder.

(3) Four members of the Administrative Committee shall form the quorum for a meeting of the Committee.

(4) The Chairman or, in his absence, a member elected from amongst the members present shall preside over a meeting of the Administrative Committee.

(5) Any matter coming up before a meeting of the Administrative 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.

4. Notice of meeting of Administrative Committee :-

(1) Seven clear days' notice shall be given for an ordinary meeting of the Administrative Committee.

(2) An urgent meeting may be called by the Chairman in his discretion by giving at least notice of 24 hours and such notice may be given by telephone, telegram or letter.

(3) The meeting of the Administrative Committee shall ordinarily be held at the office of the Bar Council unless the Chairman otherwise directs.

5. Recognition and Registration of Bar Association :-

(1) An application under Section 14 may be made by any Association of Advocates functioning in any Court or before any Tribunal or any other authority or person legally authorised to take evidence or to adjudicate or decide any dispute to the Administrative Committee for recognition and registration of the Bar Association in Form No. 1.

(2) On recognition of such an Association, Administrative Committee shall issue a Certificate of Registration to the Association in Form No. II. Such Certificate shall be signed by the Chairman of the Administrative Committee and shall bear its seal.

(3) An order passed under Section 14(3) refusing to recognise, the Association shall be communicated by the Committee by registered post.

(4) An appeal filed under Section 14(4) shall be examined and duly registered by the Secretary and shall fix the date of hearing in consultation with the Chairman of the Bar Council and the Bar Council after giving an opportunity of hearing to the parties shall pass such order as it deems fit.

(5) A copy of every order passed on Appeal, duly certified as true and correct by the Secretary, shall be communicated to the appellant and to the Administrative Committee. Additional Certified copy of the order, however, may be supplied on application being filed along with the requisite fee as may be decided by the Administrative Committee from time to time.

6. Application for Membership of the Fund :-

(1) An application for membership of the Fund shall be made by Advocate to the Administrative Committee in Form No. III through any one Bar Association. Such application shall be signed by the applicant and attested by either President, Vice-President, or Secretary of the recognised Bar Association of which he is a

member.

(2) On being admitted as a member, the Secretary shall communicate membership number to such applicant.

(3) All order passed under Section 16(2) rejecting the application for membership shall be communicated by the Committee by registered post.

(4) An appeal filed under Section 16(4) shall be examined and duly registered by the Secretary and shall fix the date of hearing in consultation with the Chairman of the Bar Council and the Bar Council after giving an opportunity of hearing to the parties shall pass such order as it deems fit.

(5) A copy of every order passed on Appeal, duly certified as true and correct by the Secretary, shall be communicated to the applicant and the Administrative Committee. Additional Certified copy of the order however, may be supplied on application being filed along with the requisite fee as may be decided by the Administrative Committee from time to time.

(6) The Secretary shall maintain a register of members containing the date of the application of the applicant, the date of his admission and his membership number, the date of cessation of practice, date of retirement, date of death and other necessary columns. Such register shall also provide a blank column for remarks. The Register be maintained in Form No. IV.

(7) If any of the statement of fact in any of columns No. 5 and 8 to 12 of the said application for admission as a member of the Fund is found to be false at any time, the name of the applicant shall be liable to be struck off as a member of the fund and shall also not be entitled to all or any of the benefit under the Act.

7. Nomination :-

Every member of the fund shall make a nomination in Form No. V conferring on one or more persons the right to receive death retirement and or any other benefits for which he is entitled under the Act.

8. Failure to intimate about retirement in time :-

If a member voluntarily suspends or ceases practice or retires he shall forward the necessary intimation to the Administrative Committee in Form No. VI. If he fails to intimate, the fact thereof

to the Administrative Committee within 60 days of such suspension or cessation or retirement, as required by sub-section (3) of Section 17 the Administrative Committee may reduce the amount payable to such member under Section 18 according to the delay in giving such intimation at the rate of Rs. 50/- per month: Provided that if such member establishes sufficient circumstances to the satisfaction of the Administrative Committee, Administrative Committee may condone the delay in giving such intimation.

9. Re-admission of a member to the Fund :-

(1) A member who has opted for retirement benefits and has received payment of the fund under sub-section (3) of Section 18 may be re-admitted to the fund as a new member provided that alongwith the application for re-admission such a member repay to the fund the entire amount received by way of retirement benefits when opted, together with interest on the said amount at the rate of 12% from the date of receipt of the said amount till the date of application for re-admission to the Fund. The application for re-admission under sub-section (3) of Section 18 shall be in Form VII.

(2) The member so admitted under sub-clause (1) above shall be entitled to receive the entire amount paid by him under sub-clause (1) at the time of his cessation of practice or on his death in the manner specified in Section 18 .

10. Payments under Section 18 :-

(1) An application for payment out of the fund from any member or his nominee or nominees shall be made in Form No. VIII, as the case may be;

(2) All disbursements of amounts payable under Section 18 shall be by account payee cheques signed by the Chairman and the Secretary.

11. Printing and accounting of Welfare Fund Stamp :-

(1) The number of Welfare Fund Stamps to be got printed and the press in which they shall be got printed shall be determined by the Bar Council on each occasion having due regard to Security against excessive printing and other possible abuses.

(2) Before entrusting the printing work as in sub-rule (1) to any printing press the Bar Council shall ordinarily obtain from the person representing the press such sum of money, as in its opinion,

adequate in the form of an account payee demand draft drawn in its favour, as earnest money deposit to ensure safe and timely printing and delivery of the stamps. The earnest money deposit shall not be refunded and the bill for the work of printing shall not be paid for, unless the Bar Council is satisfied of the work of printing and safe and timely delivery of the stamps.

(3) The stamps received from the printing press shall be counted by the Secretary of the Bar Council and a statement shall be recorded to this effect in Register No. 1 and such other Registers as may be necessary. Such statement shall be signed by the Secretary and countersigned by the Chairman of the Bar Council.

(4) The custody of the stamps shall be held by the Chairman and Secretary of the Bar Council, in double lock receptacles.

12. 12 :-

The following Registers shall be maintained by the Secretary:

I. Register showing the order placed for the printing of stamps;

II. Register showing the stock of stamps with the following heads:

(a) Serial number

(b) Date

(c) Opening stock

(d) Receipt

(e) Issue

(f) Balance

III. Day Book

IV. Ledger

V. Cash Book

VI. Receipt book with inner folio, and

VII. Such other register and records as may be directed by the Bar Council from time to time.

13. Bar Association to keep records and accounts of Stamps :-

The President and the Secretary of every Bar Association shall be responsible to the Bar Council for the purpose of distribution of

stamps to its members and the Bar Association may make appropriate arrangements through any other agency for the distribution and sale of stamps and shall maintain proper accounts pertaining to the same, and for this purpose maintain the following records and registers namely:

I. Register showing the stock of stamps with the following heads:

(a) Serial number

(b) Date

(c) Opening stock

(d) Receipt

(e) Issue

(f) Balance

II. Day Book

III. Ledger

IV. Cash Book

14. 14 :-

(1) The Secretary of the Administrative Committee shall receive and collect all sums specified in sub-section (2) of Section 3 and deposit the same in the Fund Account in the Bank forthwith.

(2) Separate account shall be maintained for the receipts under each of the clauses (a) to (i) of sub-sec. (2) and under sub-sec. (3) of Section 3 .

15. 15 :-

For the purpose of management of the fund, the Bar Council shall authorise Administrative Committee or Secretary to make such investment of the fund as may be decided by the Bar Council.

16. Annual Report :-

The Annual report for the year beginning from 1st April to 31st March, of the next year shall be prepared before the end of 30th June of the following year and a copy of that report shall be submitted to the State Government within 15 days after such report has been approved by the Administrative Committee.

17. Records to be maintained by Secretary :-

The Secretary of the Bar Council shall keep and maintain the following records and register namely:

(i) The Register of the Registered Bar Association requiring the particulars under Section 14 , the number of members, increase or decrease in respect thereof and also the number of members of each Bar Association who have become the members of the Fund along with column for other remarks.

(ii) A minute book of every meeting of the Administrative Committee.

(iii) A register of the staff appointed by the Administrative Committee.

(iv) A record of the members who have retired and who have received benefits under Section 18 .

(v) Register showing the instances and cases reported to the Bar Council for appropriate action under sub-section (3) of Section 22 .

(vi) A record of each case decided by the Administrative Committee against which an appeal lies to the Bar Council under Section 14 and Section 16 together with the result of the appeal and other particulars.

(vii) A register for the group insurance of the members of the Fund giving various particulars of each member of the group together with the premium payable, amount paid by a member, etc. and benefits and compensation given to such member.

(viii) A register of enquiries instituted and conducted by the Administrative Committee for the purposes of the Act.