
Kerala Advocates Welfare Fund (Amendment) Act, 1995**15 of 1995****CONTENTS**

1. Short Title And Commencement
2. Amendment Of Section 2
3. Amendment Of Section 9
4. Amendment Of Section 15
5. Amendment Of Section 16
6. Amendment Of Section 19
7. Amendment Of Section 22
8. Amendment Of Section 23

Kerala Advocates Welfare Fund (Amendment) Act, 1995**15 of 1995**

An Act further to amend the Kerala Advocates Welfare Fund Act, 1980. WHEREAS it is expedient further to amend the Kerala Advocates Welfare Fund Act, 1980, for the purposes hereinafter appearing; BE it enacted in the Forty-sixth Year of the Republic of India as follows:-

1. Short Title And Commencement :-

- (1) This Act may be called the Kerala Advocates Welfare Fund (Amendment) Act, 1995.
- (2) Clause (ii) of section 5 shall be deemed to have come into force on the 5th day of April, 1981 and the remaining provisions of this Act shall come into force at once.

2. Amendment Of Section 2 :-

In section 2 of the Kerala Advocates Welfare Fund Act, 1980 (21 of 1980) (hereinafter referred to as the principal Act),--

- (i) in clause (a), the words and who is a member of a Bar Association shall be omitted;
- (ii) for clause (d), the following clause shall be substituted, namely:--
 - (d) cessation of practice means removal of the name of an advocate

from the state roll maintained by the Bar Council on account of his retirement or death and includes any disentitlement of a member to practise in the State under article 220 of the Constitution of India or any other law for the time being in force;

3. Amendment Of Section 9 :-

In sub-section (2) of section 9 of the principal Act,-

(i) after sub-clause (b), the following sub-clause shall be inserted, namely:-

(bb) remove a member from the Fund for contravention of any of the provisions of this Act or the rules framed thereunder after giving the member concerned an opportunity of being heard;;

(ii) in sub-clause (e), for the words in the Schedule, the words and figures in section 16 shall be substituted.

4. Amendment Of Section 15 :-

In section 15 of the principal Act,--

(i) in sub-section (5), for the words one hundred rupees and two hundred rupees, the words two hundred and fifty rupees and five hundred rupees shall, respectively, be substituted;

(ii) to sub-section (5), the following proviso shall be added, namely:--

Provided that an advocate designated as senior Advocate under the Advocates Act, 1961 (Central Act 25 of 1961) shall pay an annual subscription to the Fund at the rate of one thousand and five hundred rupees before the 30th June of every year;

(iii) sub-section (6) shall be omitted;

(iv) for sub-sections (7) and (8), the following sub-sections shall be substituted, namely:--

(7) A member who fails to remit the annual subscription for a year on or before the 30th June of that year may, within a period of six months from the said date, remit the amount in arrears together with fine at the rate of five rupees per month or part thereof.

(8) Where a member fails to remit the annual subscription together with fine within the period specified in sub-section (7), the Trustee Committee shall issue a notice to such member by registered post in the address as entered in the register of members of the fund directing him to show cause, if any, why he should not be removed from the membership of the Fund for nonpayment of the subscription. Where the defaulter, within one month from the date of such notice, furnishes sufficient cause to the satisfaction of the

Trustee Committee for the nonpayment and also remits the entire arrears of subscription together with fine till the date of payment and notice charge, the Trustee Committee may abstain from taking or proceeding with any action against him in respect of such nonpayment, and in other cases, the Trustee Committee shall remove the defaulter from the membership of the Fund.

(8A) Notwithstanding anything contained in the foregoing provisions of this section, where, on receipt of a complaint or otherwise, the Trustee Committee is satisfied after such enquiry as they may think fit, that a member has voluntarily suspended practice or ceased to practice without intimation to the Trustee Committee, or has become disqualified to practice under any law for the time being in force, they may, after giving such member a reasonable opportunity for showing cause against the proposed action and after considering the cause, if any, shown, remove him from the membership of the Fund.

5. Amendment Of Section 16 :-

In the principal Act, in section 16,--

(i) to sub-section (1), the following proviso shall be added, namely:--

Provided that a member removed under sub-section (8) or sub-section (8A) of section 15 or a member who has not continued his membership of the Fund at least for five years shall be entitled, on cessation of practice

(a) after the commencement of Kerala Advocates Welfare Fund (Amendment) Act, 1995, to fifty percentage of the amount at the rate of three thousand and one hundred and twenty-five rupees calculated for every completed year of practice; and

(b) before the commencement of the said Act, fifty percentage of the amount at the rate specified in sub-section (1A) calculated for every completed year of practice.;

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

(1A) Notwithstanding anything contained in sub-section (1) or in any judgment, decree or order of any court, tribunal or other authority, a member on cessation of his practice on, or before the 2nd day of March, 1993 shall be entitled to receive from out of the fund an amount calculated at the rate of one thousand rupees for every completed year of practice for the period up to 5th May, 1989 and at the rate of two thousand rupees for every completed

year of practice for the remaining period;

(iii) for sub-section (4), the following sub-section shall be substituted, namely:--

(4) For calculating the period of completed year of practice for the purpose of payment

(i) under sub-section (1), every two years of practice at the bar, and

(ii) under sub-section (1A), every four years of practice at the bar 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:

Provided that in computing the period of practice, the period of suspension of practice, either voluntary or otherwise, shall be excluded:

Provided further that in the case of a person who resumes practice after being in government service or in any other employment, the period of practice counted for retirement benefit or other service benefits therein, if any, shall not be taken into account:

Provided also that in the case of a person who does not apply to become a member of the Fund within six months from the commencement of the Kerala Advocates Welfare Fund (Amendment) Act, 1995 or within six months of his enrolment as Advocate, as the case may be, the period of practice, if any, before admission of such person to the Fund shall not be taken into account.

6. Amendment Of Section 19 :-

In sub-section (2) of section 19 of the principal Act, for the words Three members, the words Five members shall be substituted.

7. Amendment Of Section 22 :-

In section 22 of the principal Act,--

(1) in sub-section (1), for the words two rupees, the words, five rupees and ten rupees shall be substituted;

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

(2) The stamps shall be of such size and colour as may be decided by the Bar Council from time to time.

8. Amendment Of Section 23 :-

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

(1) Every vakalath filed by an advocate shall, in addition to the court fee stamps affixed thereon, be affixed with the welfare fund stamp of the value of ten rupees in the case of vakalath filed before the High Court, and of the value of five rupees in the case of vakalath filed before subordinate courts, tribunals or other authorities, and no vakalath shall be valid unless it is so stamped: Provided that nothing contained in this sub-section shall apply in respect of any memorandum of appearance filed by an advocate appearing on behalf of the Government.

Explanation.- If three or more advocates jointly appear by a single vakalath, the maximum number of stamps that may be affixed thereon shall be three.