

Goa Advocates Welfare Fund Act, 1995

2 of 1997

[07 March 1997]

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SCHEDULE 1 :- SCHEDULE I

Goa Advocates Welfare Fund Act, 1995

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[07 March 1997]

AN ACT to provide for the constitution of an Advocates' Welfare Fund and utilization thereof for payment of certain retirement and other benefits to the Advocates in the State of Goa. Be it enacted by the Legislative Assembly of Goa in the Forty-sixth Year of the Republic of India as follows:-

CHAPTER 1 Preliminary

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Goa Advocates Welfare Fund Act, 1995.
- (2) It extends to the whole of the State of Goa.
- (3) It shall come into force on such date as the Government may by notification in the Official Gazette, appoint.

2. Definitions :-

In this Act, unless the context otherwise requires,-

- (a) "Advocate" means a person whose name has been enrolled on the roll of Advocates prepared and maintained by the Bar Council under section 17 of the Advocates Act, 1961 (Central Act XXV of 1961);

(b) "Advocates Act" means the Advocates Act, 1961 (Central Act XXV of 1961);

(c) "Goa Advocates Welfare Fund" or "Fund" means the fund constituted under section 3 and maintained under the provisions of this Act;

(d) "Bar Association" means an association of Advocates attached to any Court or any Tribunal or such other authority or person as is legally authorized to take evidence or to adjudicate or to decide any dispute in the State and recognized by the Board under section 17;

1"(dd) One member of Bar Council elected from the State of Goa to be recommended by the said Council and whenever such member is not available, any other member of Bar Council recommended by the Bar Council.

(e) "Bar Council" means the Bar Council of Maharashtra and Goa constituted under section 3 of the Advocates Act, 1961 (Central Act XXV of 1961);

2"(f) "The Under Secretary (Establishment) to the Government-Ex-Officio Secretary."

(g) "cessation of Practice" in relation to an Advocate means discontinuance of practice by the Advocate by taking up any employment, trade, calling or other similar engagement or discontinuance of practice on account of death or disability;

(h) "dependents" means wife, husband, father, mother, unmarried daughter and minor children or such of them as exist;

(i) "Government" means the Government of Goa;

(j) "member of the Fund" means an Advocate who is admitted to the benefits of the Fund and who continues to be a member thereof under the provisions of this Act;

(k) "nominee" means a person nominated in the prescribed manner by a member of the Fund to receive the amount, which may be due to the member, from the Fund in the event of his death before the amount is paid to him;

(l) "prescribed" means prescribed by regulations;

(m) "regulations" means regulations made by the Board under this Act;

(n) "retirement" means giving up of practice as an Advocate which is communicated to and recorded by the Bar Council;

(o) "stamp" means the Goa Advocates Welfare Fund Stamp printed and distributed by the Board under section 23;

(p) "standing" means the period of actual practice from the date of enrollment as advocate and sanad obtained from the Bar Council or

appropriate authority;

(q) "State" means the State of Goa;

(r) "suspension of practice" means voluntary suspension of practice as an Advocate or suspension by the Bar Council for misconduct.

CHAPTER 2 Constitution and management of Advocates Welfare Fund

3. Constitution Of Fund :-

(1) The Government shall constitute a fund called the Goa Advocates Welfare Fund.

(2) There shall be credited to the Fund-

(a) an initial amount of rupees one lakh to be contributed by the Government;

(b) all the amounts to be contributed by the Bar Associations from the year 1995 onwards;

(c) any other contribution made by the Bar Association;

(d) any voluntary donation or contribution to the Fund made by the Bar Council of India or any other Bar Council or any Bar Association;

(e) any voluntary donation made to the Fund by any Advocate or his relatives;

(f) contributions paid by members of the Fund to the Fund under section 19;

(g) all sums received from the Life Insurance Corporation of India on the death of any member of the Fund under any Group Insurance Policy;

(h) any profit or dividend 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.

4. Constitution Of Board :-

(1) There shall be a Board to be known as Goa Advocates Welfare Fund Board consisting of the following members, namely:-

(a) The Advocate-General, Goa State-Ex-Officio-Chairman.

(b) The Law Secretary to the Government- Ex-Officio.

(c) Finance Secretary to Government or his nominee- Ex-Officio.

(d) One representative from each registered Bar Association to be recommended by the Executive Council or Managing Committee of

the Association concerned.

(e) One member to be elected from amongst the members of the Board, who shall be treasurer of the Board.

(f) The Under Secretary (Law) to the Government -Ex-Officio Secretary.

(2) The Board 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.

5. Term Of Office Of (Nominated) Members Of Board :-

A person elected or recommended as a member of the Board under 3 [clauses [(d), (dd) and (e)] of sub-section (1) of section 4 shall hold office for a period of four years or for the duration of his membership in the 4[Bar Association or Bar Council as the case may be] whichever is less.

6. Disqualification And Removal Of Members :-

(1) A person shall be disqualified to be a (nominated) member, if he-

(a) is adjudged by a competent court to be of unsound mind; or

(b) is adjudicated an insolvent and has not obtained his discharge; or

(c) is convicted of an offence which in the opinion of the Government involves moral turpitude; or

(d) has, in the opinion of the Board committed a breach of trust or where he is a member of the Fund and has committed persistent default in payment of his contribution to the Fund.

(2) The Board may remove any elected or recommended member, who is or has become disqualified under sub-section (1), from his office as a member of the Board: Provided that no order removing any member shall be made unless that member has been given an opportunity of being heard.

7. Resignation By An Elected Or Recommended Members :-

An elected or recommended member may resign his office by giving three months notice in writing to the Board and on such resignation being accepted by the Board, the elected or recommended member thereof shall be deemed to have vacated his office.

8. Filling Up Of Casual Vacancies :-

A casual vacancy in the office of a elected or recommended member occurring on account of death, resignation or removal of the member may be filled up, as soon as may be, by the executive

Council or managing committee of the concerned registered 5[Bar Association or by the Bar Council] as the case may be under 6[clauses (d), (dd) and (e)] of sub-section (1) of section 4 and the person so elected or recommended as the case may be shall hold office so long as the member in whose place he is elected or recommended would have been entitled to hold office, if the vacancy had not occurred.

9. Meetings Of Board :-

(1) The Board 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.

(2) Five members of the Board shall form the quorum for a meeting of the Board.

(3) The Chairman or, in his absence, member elected, shall preside over a meeting of the Board.

(4) Any matter coming up before a meeting of the Board 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.

10. Vesting And Application Of Fund :-

The Fund shall vest in, and be held and applied by the Board, subject to provisions, and for the purposes, of this Act.

11. Functions Of Board :-

(1) The Board shall administer the Fund.

(2) In the administration of the Fund, the Board shall, subject to the provisions of this Act and the regulations made thereunder,-

(a) hold the amount and assets belonging to the Fund in trust;

(b) receive applications for admission or re-admission to the Fund, and dispose of such applications within ninety days from the date of receipt thereof;

(c) receive applications from the members of the Fund, their nominees or legal representatives, as the case may be, for payment out of the Fund, conduct such enquiry as it deems necessary for the disposal of such applications within five months from the date of receipt thereof;

(d) record in the minute book of the Board, its decisions on the applications;

(e) pay to the applicants amounts at the rates specified in the

schedule;

(f) sanction employment of such officers and servants as it may think necessary for performance of its duties and functions under this Act and determine their conditions of service;

(g) communicate to the applicants by registered post with acknowledgement due the decisions of the Board in respect of applications of admission or re-admission to the Fund or claims to the benefit of the Fund.

(h) do such other acts as are, or may be, required to be done by it under this Act and the regulations made thereunder.

12. Powers And Duties Of Secretary :-

The Secretary of the Board shall-

(a) be the Chief Executive Authority of the Board and responsible for carrying out its decisions;

(b) represent the Board in all suits and proceedings for and against the Board;

(c) authenticate by his signature all decisions and instructions of the Board;

(d) operate the bank accounts of the Board jointly with the treasurer;

(e) convene meetings of the Board and prepare their minutes;

(f) attend the meetings of the Board 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 Board;

(h) inspect and verify periodically the accounts and registers of the Bar Associations regarding the stamps jointly with the treasurer;

(i) prepare an annual statement of business transacted by the Board during each financial year jointly with the treasurer;

(j) make appointments of the Officers and servants of the Board as sanctioned by the Board and have power to take disciplinary action against any such officer or servant;

(k) do such other acts as may be directed by the Board.

13. Appointment Of Officers And Servants :-

For carrying out the provisions of this Act, the Board may appoint such officers and servants on such terms and conditions as may be prescribed.

14. Amounts To Be Paid Out Of The Fund :-

All amounts due and payable under this Act and all expenditure

relating to the management and administration of the Fund shall be paid out of the Fund.

15. Periodical And Annual Reports To Be Sent To Government :-

The Board shall send to the Government such periodical and annual reports as may be prescribed.

16. Maintenance Of Accounts And Audit :-

(1) The Board shall cause to be maintained such books of accounts and other books in such form and in such manner as may be prescribed.

(2) The accounts of the Fund shall be audited annually by such person as may be prescribed or by any other person empowered by the Government to perform the functions of an auditor.

(3) After the account of the Fund is so audited, the Board shall send a copy of the auditors report and balance sheet to the Government.

(4) The Board shall comply with the report of the auditor.

CHAPTER 3 Recognition of Bar Associations

17. Recognition Of Bar Associations :-

(1) Any association of Advocates duly registered under the Societies Registration Act, 1860 (Central Act No. 21 of 1860) known by any name functioning in any Court or before any Tribunal or before any other authority or person legally authorized to take evidence or to adjudicate or decide any disputes may apply to the Board in the prescribed form for recognition and registration.

(2) Every application for recognition (and registration) shall be accompanied by the rules or bye-laws of the Association, the names and addressess of the office-bearers of the Association and an up-to-date list of the members of the Association showing the name, address, age, date of enrollment and the ordinary place of practice of each member.

(3) The Board may, after such inquiry as it deems necessary, recognize or refuse to recognize the association.

(4) On recognition of such an association, the Board shall issue a certificate of recognition in the prescribed form.

(5) Any association aggrieved by the decision of the Board under sub-section (3) may prefer an appeal against the said decision to such authority as may be prescribed and the decision of such

authority on the appeal shall be final.

(6) The appeal shall be accompanied by-

(a) the order appealed against;

(b) fee of two hundred rupees which shall not be refunded.

(7) The appeal shall be filed within thirty days from the date of receipt of the order appealed against.

18. Duties Of Bar Association :-

(1) Every recognized Bar Association shall, on or before the 31st January every year, intimate to the Board a list of its members as on the 31st December of the previous year.

(2) Every recognized Bar Association shall intimate to the Board-

(a) any change of the office-bearers of the Association within thirty days from such change;

(b) any change in the membership, including admissions and re-admissions, within sixty days of such change;

(c) the death, retirement, suspension, cessation of practice of any of its members within ninety days from the date of occurrence thereof; and

(d) such other matters as may be prescribed or required by the Board from time to time.

CHAPTER 4 Membership in the Fund and payment therefrom

19. Membership Of Fund :-

(1) Any Advocate who permanently resides in the State of Goa and practices before any Court or any Tribunal, or any other authority or person legally authorized to take evidence or to adjudicate or decide any disputes in the State and is a member of a Bar Association recognized under section 17, may apply in the prescribed form to the Board for admission as a member of the Fund.

(2) Every application shall be accompanied with a sum of Rs. 300/- towards admission fees.

(3) On receipt of an application under sub-section (2), the Board shall make such inquiries as it deems fit and either admit the application to the Fund or for reasons to be recorded in writing, reject the application:

Provided that no order rejecting the application shall be passed unless the applicant has been given an opportunity of being heard.

(4) In the event of rejection of an application the admission fee

paid alongwith application shall be refunded to the applicant;

(5) The applicant whose application is rejected under sub-section (3), may prefer an appeal to such authority as may be prescribed and the decision of such authority on the appeal shall be final.

(6) The appeal shall be accompanied by the order appealed against.

(7) The appeal shall be filed within thirty days from the date of receipt of order appealed against.

(8) Every member shall pay an annual subscription to the Fund on or before the 30th June of every year at the following rates, namely:- Where the standing of the Advocate at the Bar is Two hundred rupees. 5 years or more but less than 15 years. Where the standing of the Advocate at the Bar is Five hundred rupees. 15 years or more. Where standing of senior Advocate at the Bar One thousand rupees. practising before High Court is 10 years or more.

20. Member To Appoint Nominee And To Give Notice Of Cessation Of Practice, Etc :-

(1) Every member of the Fund shall, at the time of admission to the membership of the Fund, make a nomination appointing a nominee in the prescribed manner.

(2) A member may at any time cancel such nomination by sending a notice in writing to the Board, provided that the member shall, alongwith such notice, send a fresh nomination.

(3) Every member who voluntarily suspends practice or ceases to practice or retires shall, within sixty days of such suspension, cessation or retirement, as the case may be, intimate that fact to the Board.

21. Payment Of Retirement Benefit From Fund :-

(1) A member of the Fund shall, on cessation of practice, be entitled to receive from and out of the Fund an amount at the rate specified in the Schedule.

(2) 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:

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:

(3) In the event of death of a member, the amount shall be paid to his nominee, or, where there is no nominee, to his legal heirs: Provided that the Board may call for a succession certificate if circumstances so demand.

(4) A member of the Fund may opt for retirement benefits at any time after five years of his admission as a member of the Fund, but he shall be eligible for re-admission to the Fund as a new member subject to such conditions as may be prescribed.

(5) An application for payment from the Fund shall be preferred to the Board in the prescribed form.

(6) An application received under sub-section (5) shall be disposed of by the Board after such inquiry as it deems necessary.

CHAPTER 5 Collection by way of affixing welfare stamp

22. Advocate To Affix Welfare Stamp To Vakalatnama :-

Every member of the Fund shall affix Vakalatnama with a stamp of value of Rs. 5/- in addition to the Court fee stamp affixed thereon: Provided if two or more advocate members of the Fund jointly appear by a single Vakalatnama separate stamps shall be affixed by each of such members of Fund: Provided further that nothing contained in this section shall apply to Government Advocate, Public Prosecutor, Assistant Public Prosecutor appearing and defending on behalf of Government before any court.

23. Printing And Sale Of Stamps :-

(1) The Board shall cause to be printed the Goa Advocates Welfare Fund Stamps each of the value of five rupees with the Emblem and its value inscribed thereon as may be prescribed.

(2) The stamps shall be of the size 2 cm. x 4 cm. and to be sold only to the members of the Fund.

(3) The custody of the stamps shall be with the Secretary of Board.

(4) The Board shall control the distribution and sale of the stamps through the Bar Association.

(5) The Board and the Bar Association shall keep proper accounts of the stamps in such form and in such manner as may be prescribed.

(6) The Bar Association shall purchase the stamps from the Board after paying the value thereof less ten percent of such value

towards incidental expenses.

(7) The Secretary of Board shall, after deducting from the sale proceeds of stamps the actual cost of printing and distribution of stamps, pay the amount realised by sale of stamps to the Board within fifteen days after the end of every quarter.

24. Vakalatnama Not Valid Unless Stamped :-

No member of the Fund shall present to any Court, Tribunal or other authority or person his Vakalatnama unless a stamp is affixed to it under section 22 and no Vakalatnama so presented shall be valid unless it is so stamped.

25. Value Of Stamps Not To Be Included In Costs And Not To Be Collected From Clients :-

(1) The value of the stamp shall not be included in calculating the costs in the case.

(2) The value of the stamp shall not be collected by the member from his client.

(3) If any member contravenes the provision of sub-section (2), he shall be liable to the Board for appropriate action.

26. Cancellation Of Stamps :-

Every stamp affixed to a Vakalatnama under sub-section (3) of section 22 shall be cancelled in the manner provided in section 30 of the Court-Fees Act, 1870 (Central Act 7 of 1870).

CHAPTER 6 Miscellaneous

27. Group Life Insurance For Members And Other Benefits :-

The Board may, for the welfare of the members of the Fund,-

(a) obtain from the Life Insurance Corporation of India, policies of Group Life Insurance for the members of the Fund;

(b) provide for medical and educational facilities for the members of the Fund and their dependents including an insurance for that purpose;

(c) provide for such other benefits and amenities as may be prescribed.

28. Restriction On Alienation, Attachment, Etc. Of Interest Of Member In The Fund :-

(1) Notwithstanding anything contained in any other law for the time being in force, the interest of any member in the Fund, or the right of a member of the Fund 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 or person.

(2) No creditor shall be entitled to proceed against the Fund or the interest therein of any member or his nominee or legal heirs.

Explanation.- For the purpose of this section, creditor includes the State or any official assignee or receiver appointed under any law for the time being in force.

29. Vacancy In Board Not To Invalidate Acts Or Proceedings

:-

No act or proceeding of the Board shall be called in question on the ground merely of the existence of any vacancy in or any defect in the constitution of the Board.

30. 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 regulation.

(2) No suit or other legal proceedings shall lie against the Board 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 regulation.

31. Bar Of Jurisdiction Of Civil Court :-

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 Board.

32. Board To Have Powers Of Civil Courts :-

The Board shall be competent to take evidence on oath and shall exercise all powers of a Civil Court in the summoning of witnesses and the production of documents.

33. Power To Make Regulations :-

(1) The Board may, with the previous approval of the Government, by notification in the Official Gazette, make regulations for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may be made to provide for all matters expressly required or allowed by this Act to be prescribed

by this regulation.

34. Power To Amend Schedule In Certain Circumstances :-

If the Board recommends to the Government to increase the rate of benefit specified in the Schedule, the Government may, by notification in the Official Gazette, amend the said Schedule so as to increase the rate of benefit as recommended and on the issue of such notification, the said Schedule shall be deemed to be amended accordingly.

SCHEDULE 1

SCHEDULE I

[See sub-section (1) of section 21]

Period of standing Rate of benefit

30 Years standing Rs. 45000

29 Years standing Rs. 43500

28 Years standing Rs. 42000

27 Years standing Rs. 40500

26 Years standing Rs. 39000

25 Years standing Rs. 37500

24 Years standing Rs. 36000

23 Years standing Rs. 34500

22 Years standing Rs. 33000

21 Years standing Rs. 31500

20 Years standing Rs. 30000

19 Years standing Rs. 28500

18 Years standing Rs. 27000

17 Years standing Rs. 25500

16 Years standing Rs. 24000

15 Years standing Rs. 22500

14 Years standing Rs. 21000

13 Years standing Rs. 19500

12 Years standing Rs. 18000

11 Years standing Rs. 16500

10 Years standing Rs. 15000

9 Years standing Rs. 13500

8 Years standing Rs. 12000

7 Years standing Rs. 10500

6 Years standing Rs. 9000 Upto

5 Years standing Rs. 7500