

THE RAJASTHAN ADVOCATES WELFARE FUND ACT, 1987

[As Amended Up-to-date]

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THE BAR COUNCIL OF RAJASTHAN, JODHPUR

LIST OF MEMBERS OF 9TH BAR COUNCIL OF RAJASTHAN : 1998 - 2003

1. Shri Sagar Mal Mehta , (Advocate General, (Ex-officio Member), 9, Vivek Marg, C-Scheme, JAIPUR	2515757 (R) 2701558 (R) 2380540 (O)
2. Shri Ram Ratan Nagori , Advocate C-10, 1st Ext. Kamla Nehru Nagar, Behind E.S.I. Hospital, JODHPUR	2750977 (R) 2751213 (R) 2551620 (Chamber)
3. Shri Muni Lal Garg , Advocate 'P' Road, Paota, JODHPUR	2545244 (R) 2542244 (R)
4. Shri Sajjan Raj Surana , Advocate S-6, Jyoti Marg, Bapu Nagar, JAIPUR	2515014, 2515508 (R) 2366718 (O)
5. Shri N.K. Joshi , Advocate S-1, Nand Puri Mahadeo Nagar, Civil Lines, JAIPUR	2213545 (R)
6. Shri Syed Zahoor Ahmad Naqvi , Advocate 860, Ghat Gate, JAIPUR	2611419 (R) 2661325 (R)
7. Shri R.K. Das Gupta , Advocate Sadul Colony, BIKANER	2542068 (R)
8. Shri Mahesh Chandra Gupta , Advocate 440, Gumanpura, KOTA	2324940 (R) 2434242 (O)
9. Shri Narpal Mal Lodha , Advocate 17 'B' Paota, JODHPUR	2544165, 2545143 (R) 98290 - 24165 (M)
10. Shri Bhawani Singh Shaktawat , Advocate Kishangarh House, Jaipur Road, AJMER	2432580 (O) 2442608 (R)
11. Shri Santosh Kumar Jain , Advocate 282, Vasundhara Colony, JAIPUR	2711376, 2511756 (R) 94140 - 42458 (M)
12. Shri Jai Ram Beniwal , Advocate Plot No. 6, Paota 'B' 2 Road, JODHPUR	2544826 (R) 2545396 (R)
13. Shri Harsh Kumar Mehta , Advocate 'Shree Bhawan', Opp. Fateh Memorial, UDAIPUR	2420191 (R) 2418802 (R)
14. Shri Jai Singh Rathore , Advocate 688/27, RPF Street, Behind Post Office, Ramganj, AJMER	2440286 (R)
15. Shri Hardev Singh Sidhu 'Kharlia' , Advocate '97, Central School Scheme, JODHPUR	2430097, 2433097 (R) 98290 - 27097 (M)
16. Shri R.S. Rathore , Advocate 5, Nehru Path, Krishna Nagar, II, Lal Kothi, JAIPUR	2741140 (R) 2741226 (R)
17. Shri Ravi Kiran Mathur , Advocate 63, Gopal Nagar-A, Gopalpura Bye Pass, JAIPUR	2502618, 2503961 (R) 98290 - 15318 (M)
18. Shri Satyendra Kumar Gupta , Advocate C-79, Hari Marg, Malviya Nagar, JAIPUR	2522445, 2522627 (R) 2381274 (C) 98290 - 67879 (M)
19. Shri Suresh Chandra Shrimali , Advocate Shastri Nagar Ext. New Housing Board Road, BHILWARA	252313 (O) 98291 - 26279 (M)
20. Shri Mahendra Singh Singhvi , Advocate Paota 'C' Road, Near A.I.R., JODHPUR	2544220 (R) 2544187 (O) 94141 - 29187 (M)
21. Shri Yogendra Singh Tanwar , Advocate 30 Ram Gali No. 8, Adarsh Nagar, JAIPUR	2616677, 2610055 (R) 2200817 (C) 94140 - 56677 (M)
22. Shri Jagdish Chandra 'Gathala' , Advocate Near Godown, Anand Nagar, SIKAR	250647 (R) 94140 - 38647 (M)
23. Shri Biri Singh Sinsinwar , Advocate A-50, Nehru Nagar, Pani Pech, JAIPUR	2300061 (R) 94140 - 46714 (M)
24. Shri Nasir Naqvi , Advocate 1, Kidwai Nagar, Imliwala Phatak, JAIPUR	2593275 (O) 2594966 (R) 2383008 (C) 98290 - 59496 (M)
25. Shri Praveen Balwada , Advocate L-4, Krishna Marg, C-Scheme, JAIPUR	2554632, 2549736 (R) 2374110, 2377039 (O) 94140 - 75001 (M)
26. Shri Om Prakash Gupta , Secretary, Bar Council of Raj. 21/50, Chopasni Housing Board, JODHPUR	2621162 (R) 2545251 (O)

THE RAJASTHAN ADVOCATES WELFARE FUND ACT, 1987

[Raj. Act No. 15 of 1987]

Received the Assent of the Governor on the 20th day of April, 1987 and Assent first published in the Rajasthan Gazette, Ext., Part 4(A), dated April 21, 1987.

As amended subsequently by—

1. Rajasthan Act No. 20 of 1995 enforced w.e.f. 24.5.1995
2. Rajasthan Act No. 9 of 2003, enforced w.e.f. 5.4.2003 and as corrected by corrigendum dated 21.4.2003.

Note.—In the Footnotes, hereinafter appearing the amending Acts are shown by Serial no. as given to them above.

An Act to provide for the constitution of an Advocates Welfare Fund And utilization thereof for payment of certain death and retirement benefits to the advocates in the State of Rajasthan and for matter connected therewith and incidental thereto.

Be it enacted by the Rajasthan State Legislature in the Thirty-eighth Year of the Republic of India as follows:—

CHAPTER - I

Preliminary

1. Short title, extent and commencement.—(1) This Act may be called the Rajasthan Advocates Welfare Fund Act, 1987.

(2) It extends to the whole of the State of Rajasthan.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.¹

STATEMENT OF OBJECTS AND REASONS

Average lawyer faces hazards and hardships, the rigours of which can be reduced and softened with purposeful social security and social insurance. The legal profession is no doubt affluent at the top and the upper middle levels, but there are many in the profession whose earnings are meagre and whose savings are negligible.

To ensure social security to the members of the legal profession in the State of Rajasthan, it has been considered expedient to constitute by law an Advocate Welfare Fund to be managed by a statutory trustee committee so that in the event of removal of the name of an advocate from the State Roll maintained by the Bar Council on account of his retirement or death. He or his nominee or his dependents, as the case may be, may get from the said fund a lump sum amount calculated on the basis of years of his standing. This measure would provide social security to the members of legal profession.

1. Enforced w.e.f. 14.11.1989 vide Notfn. No. F. 32(9) Judi/83, dt. 13.11.1989, pub. in Raj. Gaz., Ext., Pt. 4(c)(ii), dated 13.11.1989, p. 291.

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 Rajasthan State under Section 17 of the Advocates Act, 1961 (Central Act 25 of 1961) and who is a member of a bar association;
- ¹[(aa) “Bar Association” means an association of lawyers registered and recognized by the Bar Council;]
- (b) “Fund” means the Advocates Welfare Fund constituted under section 3;
- (c) “Bar Council” means the Bar Council of Rajasthan State constituted under the Advocates Act, 1961 (Central Act 25 of 1961);
- (d) “cessation of practice” means removal of the name of an advocate from the State roll of advocates maintained by the Bar Council on account of his retirement or death;
- (e) “dependents” means wife, husband, father, mother and unmarried minor children of a member of the Fund and includes his widowed daughter and major children who suffer from physical disability or insanity and who are maintained by him or such of them who survive on his death;
- (f) “member of the Fund” means an advocate who is admitted to the benefits of the fund under the provisions of this Act and continues to be a member thereof;
- (g) “nominee” means nominee appointed by a member of the Fund to receive the benefits arising from such membership in the event of his death;
- (h) “prescribed” means prescribed by the Bar Council by rules made under this Act;
- (i) “stamp” or “Welfare Fund Fee Stamp” means stamp printed and distributed under section 19;
- (j) “State” means the State of Rajasthan;
- (k) “suspension of practice” means voluntary suspension of practice as an advocate or suspension by the Bar Council for professional or other misconduct;
- (l) “Trustee Committee” means the Committee established under section 4; ²[* * *]
- (m) “Vakalatnama” means 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 legally authorised by any law to take evidence or to adjudicate or decide any dispute ³[but does not include a memorandum of

¹ Ins. by No. 1 (w.e.f. 24.5.1995).

² Word “and” deleted by No. 2 (w.e.f. 5.4.2003).

³ Subs. by No. 2 (w.e.f. 5.4.2003).

appearance authorising an advocate to appear on behalf of another advocate for the purpose of seeking adjournment only, and];

¹[(n) "year" means a period of twelve months commencing from 1st day of July and ending on the 30th day of June next.]

CHAPTER - II

Constitution of Advocates Welfare Fund

3. Constitution of Advocates Welfare Fund.—(1) The State Government shall constitute a Fund to be called the "Advocates Welfare Fund".

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

- (a) an initial amount of fifty thousand rupees to be contributed by Bar Council to the Fund at the time of its constitution;
- (b) Any further contribution that may be made by the Bar Council;
- (c) the amount paid by the Bar Council under section 13;
- (d) 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;
- (e) any grant which is made by the State Government to the Fund under appropriation duly made in this behalf;
- (f) any sum borrowed under section 10;
- (g) all sums received from the Life Insurance Corporation of India on the death of a member of the Fund under any 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 under section 16 ²[towards] ³[admission fees,] annual subscription and interest thereon; and
- (k) all sums collected by way of sale of stamps under section 19.

⁴[(3) & (4) * * *]

CHAPTER - III

Establishment of Trustee Committee

4. Establishment of the Trustee Committee.—(1) The State Government shall, by notification in the Official Gazette, establish with effect from

¹ Added by No. 2 (w.e.f. 5.4.2003).

² For the words "by way of application fees and" substituted by No. 1 (w.e.f. 24.5.1995).

³ Ins. by No. 2 (w.e.f. 5.4.2003).

⁴ Deleted by No. 2 (w.e.f. 5.4.2003).

such date as may be specified therein a committee to be called the "Rajasthan Advocates Welfare Fund Trustee Committee".

(2) The Trustee Committee shall be a body corporate by the aforesaid name having perpetual succession and a common seal with power to acquire, hold and dispose of property and to enter into contract and shall by the said name sue and be sued.

(3) The Trustee Committee shall consist of-

- (a) the chairman of the bar council of Rajasthan who shall be the Chairman of the Trustee Committee, ex-officio;
- (b) the Advocate General of Rajasthan, ex-officio member;
- (c) the Law Secretary, Government of Rajasthan, ex-officio member;
- (d) the Chairman of the Executive Committee, Bar Council of Rajasthan, ex-officio member;
- (e) three other members of the Bar Council nominated by the Bar Council; and
- (f) the Secretary of the Bar Council who shall also be the Secretary of the Trustee Committee, ex-officio.

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

5. Disqualification and removal of nominated member of Trustee Committee.—No person shall be nominated and continue to be as a member of Trustee Committee under clause (e) of sub-section (3) of section 4 if he-

- (a) is of unsound mind and stands so declared by a competent court; or
- (b) is, or at any time has been, adjudicated insolvent; or
- (c) is or has been convicted by a criminal court for an offense involving moral turpitude, unless such conviction has been set aside; or
- (d) is a defaulter to the fund; or
- (e) is debarred from practicing on the ground of professional or other misconduct; or
- (f) ceases to be an advocate under the Advocates Act, 1961 (Central Act 25 of 1961).

6. Resignation and casual vacancy of Nominated Member.—(1) Any member nominated under clause (e) of sub-section (3) of section 4 by the Bar Council may resign his office by giving three months, notice in writing to the Chairman of the Trustee Committee and on such resignation being accepted by the Chairman, Trustee Committee, the said member shall be deemed to have vacated his office.

(2) If any member nominated under clause (e) of sub-section (3) of section 4.—

- (a) becomes subject to any of the disqualifications mentioned in section 5; or

- (b) is absent without leave from the Trustee Committee for more than three consecutive meetings of Trustee Committee,

his seat shall thereupon become vacant.

(3) A casual vacancy of a nominated member arising under sub-section (1) and sub-section (2) shall be filled in as soon as possible in the same manner and for the same term or duration as is mentioned in section 4.

7. Act of Trustee Committee not to be invalidated by vacancy, defect or irregularity.—No act done or proceedings 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 Trustee 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 proceedings not affecting the merit of the case.

8. Vesting and application of Fund.—The fund shall vest in and be held and applied by the Trustee Committee subject to the provisions and for the purposes of this Act.

9. Functions of Trustee Committee.—(1) The Trustee Committee shall administer the Fund.

(2) In the administration of the Fund, the Trustee Committee shall, subject to the provisions of this Act and the rules made thereunder,—

- (a) collect, preserve, manage and utilise the Fund;
- (b) hold the amounts and assets belonging to the Fund in trust;
- (c) receive applications for admission or re-admission to the fund and dispose of such applications within ninety days from the date of receipt thereof;
- (d) receive applications from the members of the Fund, their nominee, dependents or legal representatives, as the case may be, for payment out of the Fund, and conduct such enquiry as it deems necessary for the disposal of such applications and shall dispose of the applications within ninety days from the date of receipt thereof;
- (e) record in the minutes book of the Trustee Committee its decision on the applications received under clauses (c) and (d);
- (f) pay to the applicant amounts at the rates specified in the Schedule;
- (g) send such periodical and annual reports, as may be prescribed, to the State Government and the Bar Council;
- (h) communicate to the applicant by registered post with acknowledgment due its decision on the applications for admission or re-admission to the Fund or claims to the benefit of the Fund;
- (i) appoint such officers and servants as it may think necessary for

carrying out the purposes of this Act on such terms and conditions as may be prescribed; and

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

¹[(3) & (4) * * *]

10. Funds, 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 receipt forming part of the Fund in any Scheduled Bank ²[or post office] or invest the same in loan to any corporation owned or controlled by the Central Government or the State Government or in loan floated by the Central Government or the State Government or in any other manner as the Trustee committee may, from time to time, decide with the 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 shall be paid out of the Fund.

11. Accounts and Audit.—(1) The Trustee Committee shall keep and maintain books of accounts and other books in such form and in such manner as may be prescribed.

(2) The accounts of the Trustee Committee shall be audited annually by a Chartered Accountant appointed by the Bar Council.

(3) The accounts of the Trustee Committee as audited by the Chartered Accountant together with his audit report 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.

(4) The Trustee Committee shall comply with the directions issued by the Bar Council under sub-section (3).

(5) The Trustee Committee shall pay from the Fund the charges for the audit.

³[(6) A copy of annual audit report and the audited accounts shall be sent every year to all the Bar Associations recognised and registered under the provisions of this Act.]

12. Powers and duties of Secretary.—The Secretary of the Trustee Committee shall,—

- (a) be the chief executive authority of the Trustee Committee and responsible for carrying out its decisions;
- (b) represent the Trustee Committee in all suits and proceeding for and against the Trustee Committee;

¹ Deleted by No. 2 (w.e.f. 5.4.2003).

² Inserted by No. 2 (w.e.f. 5.4.2003).

³ Added by No. 2 (w.e.f. 5.4.2003).

- (c) authenticate by his signatures all decisions and instructions of the Trustee Committee;
- (d) operate the bank accounts of the Trustee Committee jointly with the Chairman of the Trustee Committee or his nominee;
- (e) convene meetings of the Trustee Committee and record its minutes;
- (f) attend the meetings of the Trustee Committee with all necessary records and information;
- (g) maintain such forms, registers and other record as may be prescribed from time to time and do all correspondence relating to the Trustee Committee;
- (h) prepare an annual statement of business transacted by the Trustee Committee during each financial year, and
- (i) do such other acts as may be directed by the Trustee Committee and the Bar Council.

13. Transfer of Certain Money to the Fund.—The Bar Council shall pay to the Fund annually an amount equal to twenty-five percent of the enrollment fees realised by it.

CHAPTER - IV

Recognition and Registration of Bar Associations

14. Recognition and Registration of Bar Associations.—(1) All associations of advocates known by any name functioning in any part of the State 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.

¹[Provided that it shall be necessary for every Bar Association seeking recognition and registration with Bar Council to be registered under the Rajasthan Societies Registration Act, 1958 (Act No. 28 of 1958) :

Provided further that existing Bar Associations recognised and registered by the Bar Council shall, if not already registered, get themselves registered under the Rajasthan Societies Registration Act, 1958 (Act No. 28 of 1958) within six months from the date of commencement of the Rajasthan Advocates Welfare Fund (Amendment) Act, 2003 (Act No. 9 of 2003) failing which the Bar Council may take action under sub-sec. (5) against such Association :

Provided also that the Bar Council may, for good and sufficient reasons, extend the said period of six months for a further period not exceeding one year.]

(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 upto 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 thereof.

(3) The Bar Council may, after such enquiry as it deems necessary, recognise the 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 a Bar Association shall be final.

¹[(5) The Bar Council may derecognize a Bar Association for neglect of its duties under this Act :

Provided that no order under sub-séc. (5) shall be passed without affording an opportunity of being heard to the concerned Bar Association.]

15. Duties of Bar Associations.—(1) Every Bar Association shall, on or before the 15th day of April of each year, furnish to the Bar Council and the Trustee Committee a list of its members as on the 31st March of that year.

(2) Every Bar Association shall intimate to the Bar Council and Trustee Committee about,-

- (a) any change of the office bearers of the association within fifteen days from such change;
- (b) any change in the membership including admissions and re-admissions ²[and the change in the address of the member] within thirty days of such change;
- (c) the cessation of practice or voluntary suspension of practice ²[or death] of any of its members within thirty days from the date of such cessation or suspension of practice ²[or death];
- ²[(cc) undertaking of any other business, profession or vocation by any of its members as soon as it comes to the knowledge of the Bar Association;] and
- (d) such other matters as may be required by the Bar Council or the Trustee Committee from time to time.

CHAPTER - V

Membership in the Fund and payment therefrom

16. Membership in the Fund.—(1) every advocate practising before any Court, Tribunal or other authority legally authorised by any law to take evidence or to adjudicate or decide any dispute in the State shall apply to the Trustee Committee for admission as a member of the fund in such form as may be prescribed.

³[Provided that such Advocate has not attained the age of 45 years on the date of submission of application seeking admission to the Fund.]

(2) On receipt of an application under sub-section (1), the Trustee Committee shall make such enquiry as it deems fit and either admit the applicant to the Fund or, for reasons to be recorded in writing, reject the application:

¹ Added by No. 1 (w.e.f. 24.5.1995).

² Ins. by No. 2 (w.e.f. 5.4.2003).

³ Added by No. 2 (w.e.f. 5.4.2003).

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

¹[(3) Every applicant shall pay an admission fee of Rs. 400/- in lump-sum alongwith application for membership which shall be credited to the account of Trustee Committee.]

(4) In the event of rejection of the application, the admission fee paid shall be refunded to the applicant.

¹[(5) Every member shall pay ²[in advance] an annual subscription to the Fund on or before the 30th June of every year at the following rates, namely:-

- | | |
|--|-----------|
| (i) Where the standing of the Advocate at the Bar is less than five years— | Rs. 200/- |
| (ii) Where the standing of the Advocate at the Bar becomes five years or is less than ten years— | Rs. 500/- |
| (iii) Where the standing of the Advocate at the Bar is ten years or more— | Rs. 750/- |

Provided that a member of the Fund may deposit in lump-sum a sum of Rs. ³[10,000]/- and in that event he shall not be required to pay annual subscription ³[:]

⁴[Provided further that the prospective member shall pay the full subscription of the current year alongwith the admission fee to the Fund.]

(6) Any member who fails to remit the annual subscription on or before the due date mentioned in sub-section (5) shall, upon notice in writing of one month being ³[issued to him under postal certificate] by the Trustee Committee, be liable to be removed by the Trustee Committee from the membership of the Fund.

³[(7) A person removed from the membership of the Fund under sub-section (6) shall be re-admitted by the Trustee Committee to the Fund on payment of the arrears of subscription due against him alongwith interest thereon at the rate of 1.50 rupees per hundred per month from the date the subscription became due and 100/- rupees as re-admission fees within one year from the date of removal :

Provided that where a member does not move application for re-admission within stipulated period the amount deposited by way of subscription shall be refunded to him if he has not been granted any ex-gratia under Section 25 or he is not entitled for any benefit under Section 17.]

(8) A member of the Fund may, at any time after his admission to the membership of the Fund, make a nomination in the prescribed form appointing one or more person to receive the benefits arising from his membership of the Fund in the event of his death.

(9) If a member nominates more than one person under sub-section (8), he

¹ Subs. by No. 1 (w.e.f. 24.5.1995).

² Inserted by No. 2 (w.e.f. 5.4.2003).

³ Subs. by No. 2 (w.e.f. 5.4.2003).

⁴ Added by No. 2 (w.e.f. 5.4.2003).

shall specify in the nomination the amount or share payable to each of the nominees in such manner as to cover the whole of the amount that may be due to him.

(10) A member may at any time cancel his nomination by sending notice in writing to the Trustee Committee and in that event, he shall be entitled to make a fresh nomination during the continuance of his membership in accordance with sub-section (8).

(11) 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 such member fails to do so without sufficient reason, the Trustee Committee may reduce, in accordance with such principles as may be prescribed, the amount due to that member.

¹[(12) A member who ceases to practice in Rajasthan shall automatically cease to be a member of the Fund and such member shall be entitled to receive the amount of subscription deposited by him, if has not been granted any ex-gratia under Section 25 or, as the case may be, the benefits under Section 17 upto the date of such cessation.

(13) A member of the Fund, who is punished for professional misconduct under the Advocates Act and is suspended from practice, shall not be entitled to benefits of the Fund for the period of such suspension nor shall be required to pay yearly subscription for such period.]

17. Payments from the Fund on cessation of Practice.—(1) A member of the Fund who completes a period of five years' practice after he becomes member of the Fund shall, subject to the provisions of this Act, be entitled on cessation of practice to receive out of the Fund an amount corresponding to the number of years of his standing at the rate specified in the Schedule.

Explanation.— (i) For the purpose of calculating the number of years of standing of a member of the Fund for the purpose of this sub-section, every four years, practice as an advocate before the admission of a member to the Fund shall be counted as one year's standing and every year of practice over and above four years before such admission shall be counted equivalent to three months' standing and the total number of years of standing so counted shall be added to the number of years of practice after such admission.

(ii) The period during which a member of the Fund remained under suspension shall not be considered for the purpose of counting the years of standing:

²[Provided that a member shall be entitled to claim an amount of Rs. 500/- for a fraction, if any, remaining after dividing the number of years of practice by four as per explanation (i) ³(:)]

¹[Provided further that in the event of death of a member the sum

1 Added by No. 2 (w.e.f. 5.4.2003).

2 Subs. by No. 1 (w.e.f. 24.5.1995).

3 Subs. by No. 2 (w.e.f. 5.4.2003).

payable under this sub-section shall be the amount as specified in the Schedule or rupees one lac whichever is higher :

Provided also that the member admitted to the Fund after the commencement of the Rajasthan Advocate Welfare (Amendment) Act, 2003 (Act No. 9 of 2003) shall not be entitled to the benefit of Explanation (i).]

(2) In the event of death of a member of the fund, the amount to which the member was entitled shall be paid to his nominee or where there is no nominee, to his dependents and in absence thereof, to his legal heirs subject to their obtaining a succession certificate from the competent court.

¹[(3) The amount payable as per sub-section (1) can be claimed after completion of fifteen years practice as an advocate or on attaining fifty years of age, whichever is ²[later], but the member will have to seek retirement as an advocate and shall not be entitled to be enrolled as an advocate and to become member of the fund :]

²[Provided that a member suffering from permanent disablement shall be allowed to draw the amount before completing fifteen years of membership or fifty years of age or, as the case may be, both.]

(4) An application for payment of the amount from the Fund admissible to a member shall be made by him to the Trustee Committee in such form as may be prescribed. In the case of a member who voluntarily ceases to be in practice (otherwise than on account of his death) within five years of his admission to the Fund, he shall be entitled to the refund of the annual subscription paid by him under sub-section (5) of section 16 on his making an application therefor in such form as may be prescribed.

(5) An application received under sub-section (3) or sub-section (4) shall be disposed of by the Trustee Committee after such enquiry as it deems necessary.

²[18. Restriction on benefits from Fund.—(1) Notwithstanding anything to the contrary contained in this Act, if any Advocate after his admission to the Fund joins an employment he shall cease to be a member of the Fund and if he, thereafter, gets re-admission to the Fund within a period of fifteen years, he shall be entitled to the benefit as per the schedule appended to Section 17 for such number of years of standing as he remains member of the Fund before joining such employment and after such re-admission.

(2) Notwithstanding anything contained in this Act, a person who gets himself enrolled or resumes as an Advocate after serving under any employer for a period of not less than fifteen years, shall not be entitled to become a member of the Fund nor to receive any benefit of the Fund.

(3) A person who is in full time service gets himself enrolled by virtue of the provisions of the Advocates Act, 1961 (Central Act No. 25 of 1961) and rules framed thereunder by the Bar Council of India and State Bar Council shall not be entitled to become a member of the Fund.]

¹ Subs. by No. 1 (w.e.f. 24.5.1995).

² Subs. by No. 2 (w.e.f. 5.4.2003).

CHAPTER - VI

Printing and Distribution of Stamps

19. Printing and distribution of stamps by ¹[Trustee Committee/Bar Council].—(1) ¹[Trustee Committee/Bar Council] shall cause to be printed and distributed Welfare Fund stamps of the value of ²[ten rupees] with the ¹[Trustee Committee/Bar Council] emblem and its value ³[alongwith serial number] inscribed thereon.

(2) The stamps shall be of the size 1" X 2" and sold only to members of the Fund.

(3) The custody of the stamps shall be with the ¹[Trustee Committee/Bar Council].

(4) The ¹[Trustee Committee/Bar Council] shall control the distribution and sale of the stamps through Bar Associations.

(5) The ¹[Trustee Committee/Bar Council] and the Bar Associations shall keep proper accounts of the stamps in such form and in such manner as may be prescribed.

(6) The Bar Associations shall purchase the stamps from the ¹[Trustee Committee/Bar Council] after paying the value thereof less ten percent of such value towards incidental expenses.

⁴(7) The Stamp Vendor may also purchase stamps directly from the Bar Council/Trustee Committee on payment of the face value of the stamps less commission of 5% on such face value.]

20. Vakalatnama to bear stamp.—(1) ¹[Every Advocate] shall affix ⁵[* * *] Welfare Fund fee ¹[Stamps of rupees ²{ten}] referred to in sub-section (1) of Section 19 on every Vakalatnama filed by him and no Vakalatnama shall be filed before or received by any Court, Tribunal or other authority or person referred to in Section 16 unless it is so stamped.

(2) The value of the stamp shall neither be the cost in the case nor be received or collected in any event from the client.

(3) In case a member of the Fund receives or collects the value of stamp from his client, he shall be deemed to be guilty of misconduct and the provisions contained in section 35 of the Advocates Act, 1961 (Central Act No. 25 of 1961) shall mutatis mutandis apply against such member of the Fund.

21. Cancellation of stamps.—Every Stamp affixed on Vakalatnama under sub-section (1) of section 20 filed in any Court or Tribunal or before any other authority shall be cancelled in the manner provided under section 68 of the Rajasthan Court Fees and Suits Valuation Act, 1961 (Rajasthan Act No. 23 of 1961).

¹ Subs. by No. 1 (w.e.f. 24.5.1995).

² Subs. by No. 2 (w.e.f. 5.4.2003).

³ Ins. by No. 2 (w.e.f. 5.4.2003).

⁴ Added by No. 1 (w.e.f. 24.5.1995).

⁵ Deleted by No. 1 (w.e.f. 24.5.1995).

CHAPTER - VII

Miscellaneous

22. Meeting of Trustee Committee.—The Trustee Committee shall meet, at least once in three calendar months or more often, if found necessary, to transact business under this Act or the rules made thereunder.

23. Manner of holding Meeting.—(1) One-fourth members of the Trustee Committee shall form the quorum for the meeting of the committee.

(2) The Chairman or in his absence a member elected by the members of the Trustee Committee present shall preside over a meeting of the Trustee Committee.

(3) The meetings of the Trustee Committee shall ordinarily be held at the office of the Bar Council.

(4) Any matter coming up before the meeting of the Trustee Committee shall be decided by a majority vote 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.

(5) The secretary of the Trustee Committee shall not have a voting right in the meeting.

24. Travelling and daily allowances to the members of the Trustee Committee.—The members of the Trustee Committee shall be eligible to get such travelling allowances and daily allowances as are admissible to the members of the Bar Council.

25. Ex-Gratia grant to a member of the Fund.—(1) The Trustee Committee, on an application submitted to it, and after being satisfied about the genuineness of the claim, may allow ex-gratia grant to a member from the fund—

(a) in the case of hospitalisation ¹[* * *] involving a major surgical operation; or

(b) if he is suffering from tuberculosis, leprosy, paralysis, cancer, unsoundness of mind or from such other serious diseases or disabilities ²[;].

³[(c) * * *]

⁴[(2) The grant so allowed shall not exceed a sum of Rs. 20,000/- in cases falling under clause (a) and Rs. 50,000/- in cases falling under clause (b) :

Provided that the claim shall not be more than once in a period of five years.]

26. Group life insurance for members and other benefits.—The Trustee Committee may, for the welfare of the members of the Fund,-

¹ Deleted by No. 1 (w.e.f. 24.5.1995).

² Subs. by No. 1 (w.e.f. 24.5.1995).

³ Deleted by No. 2 (w.e.f. 5.4.2003).

⁴ Subs. by No. 2 (w.e.f. 5.4.2003).

- (a) obtain from the Life Insurance Corporation of India, policies of Group Insurance for the members of the Fund;
- (b) provide for medical and educational facilities for the members of the Fund and their dependents including an insurance for that purpose; or
- (c) provide for such other benefits and amenities as may be prescribed.

27. 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 or his nominee, dependents 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 of a member of the fund shall be entitled to proceed against the Fund or the interest therein of such member or his nominee, dependents or legal heirs.

Explanation.—For the purpose of this section, 'creditor' includes the State or an official assignee or receiver appointed under any of the insolvency laws or any other law for the time being in force.

28. 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 rules 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 rules made thereunder.

29. 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 Trustee Committee or the Bar Council.

30. Power to summon witnesses and to 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 (Central Act V of 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 oath by affidavit; and
- (d) issuing commissions for the examination of witnesses.

31. Appeal against decision of the Trustee Committee.—(1) An appeal against any decision of the Trustee Committee shall lie to the Bar Council. The appeal shall be in the prescribed form and shall be accompanied with

a copy of the decision appealed against. The appeal shall be filed within thirty days from the date of the receipt of the order appealed against.

(2) The decision of the Bar Council on appeal shall be final.

32. 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 carrying out the purposes of this Act.

¹[SCHEDULE

(See Section 17)

5 years membership	:	Rs. 15,000/-
6 years membership	:	Rs. 17,000/-
7 years membership	:	Rs. 19,000/-
8 years membership	:	Rs. 21,000/-
9 years membership	:	Rs. 23,000/-
10 years membership	:	Rs. 26,000/-
11 years membership	:	Rs. 29,000/-
12 years membership	:	Rs. 32,000/-
13 years membership	:	Rs. 35,000/-
14 years membership	:	Rs. 38,000/-
15 years membership	:	Rs. 41,000/-
16 years membership	:	Rs. 45,000/-
17 years membership	:	Rs. 50,000/-
18 years membership	:	Rs. 55,000/-
19 years membership	:	Rs. 60,000/-
20 years membership	:	Rs. 65,000/-
21 years membership	:	Rs. 72,000/-
22 years membership	:	Rs. 79,000/-
23 years membership	:	Rs. 86,000/-
24 years membership	:	Rs. 93,000/-
25 years membership	:	Rs. 1,00,000/-
26 years membership	:	Rs. 1,15,000/-
27 years membership	:	Rs. 1,30,000/-
28 years membership	:	Rs. 1,45,000/-
29 years membership	:	Rs. 1,60,000/-
30 years membership	:	Rs. 1,75,000/-
31 years membership	:	Rs. 1,95,000/-
32 years membership	:	Rs. 2,15,000/-
33 years membership	:	Rs. 2,35,000/-
34 years membership	:	Rs. 2,55,000/-
35 years membership	:	Rs. 2,75,000/-
36 years membership	:	Rs. 3,05,000/-
37 years membership	:	Rs. 3,35,000/-
38 years membership	:	Rs. 3,65,000/-
39 years membership	:	Rs. 3,95,000/-
40 years membership	:	Rs. 4,25,000/-

²[* * *]

¹ Subs. by No. 1 (w.e.f. 24.5.1995).

² Proviso deleted by No. 2 (w.e.f. 5.4.2003).

THE RAJASTHAN ADVOCATES WELFARE FUND RULES, 1988¹

In exercise of the powers conferred under section 32 of the Rajasthan Advocates Welfare Fund Act, 1987 (Act No.15 of 1987) the Bar Council of Rajasthan after previous approval of the State Government make the following rules for the purpose of the Act.

CHAPTER-I

Preliminary

1. Short title and commencement.-(1) These rules may be called the Rajasthan Advocates Welfare Fund Rules, 1988.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.-(1) In these rules unless the context otherwise requires,-

(a) "Act" means the Rajasthan Advocates Welfare Fund Act, 1987 (Act No.15 of 1987);

(b) "Bank" means any Scheduled Bank; and

(c) "Form" means a form prescribed under these rules.

(2) Words and expression used, but not defined in these rules, shall have the same meaning as assigned to them in the Rajasthan Advocates Welfare Fund Act, 1987.

CHAPTER - II

Register of the Fund

1. The Committee shall maintain a Fund register of the amount received in the fund under the separate heads provided in Section 3 of the Act. This will be in the following form:—

S.No.	Date	R.No.	From whom received	Amount	Notice
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CHAPTER - III

Establishment of Trustee Committee

1. The Trustee Committee shall subject to the provisions of the Act and these rules administer the fund and other aspects.

2. The Secretary shall be responsible for the day to day administration of the office of the Committee.

3. The Committee shall make rules for the recruitment, appointment etc. of the officers and servants of the trustee committee. In the mean time, till such rules are framed, the rules framed by the Bar Council in this respect shall be applicable.

4. The trustee committee shall maintain the following registers for the purpose of Accounts:—

(1) Fund register

(2) Register of Admission Fees and Annual subscription

(3) Cash Book

(4) Stamp sale register and expenses incurred in stationery, printing

(5) Voucher file

5. The registers etc. shall be maintained in the Form as directed by the Com-

mittee in consultation with the Chartered Accountant appointed as Auditor of the fund.

6. The Secretary shall maintain the following registers:-

(1) Members registers in following form:-

S. No.	Date of admission as member	Name and Father's Name	Age	Nominees	Address	Date since practising with Enrol No.	Remarks
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(2) Register of Recognised Bar Association in the following form:—

S. No.	Name and address of Associate	Date of recognition	Number of Members	File No. of the Associates
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(3) Register of Members under suspension:—

S. No.	Name and address & serial number in the register of members	Date of suspension and cause in brief	Date of revival
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(4) Register of payments to Members/heirs of members:—

S. No.	Date Name and Address Amount	DD or Cheque No.	Paid on a/c of
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(5) The other registers and files for day to day use shall be maintained as per requirement under the directions of the Secretary subject to supervision of the Committee.

CHAPTER-V

(12) Application for admission as member:—

Every advocate shall apply for admission as member to the fund within 30 days from the commencement of the Act in the following form.

The delay in applying after the expiry of the time may be condoned for sufficient cause being shown by the applicant.

Application form under section 16 of the Advocates Welfare Fund Act, 1987(Act No.15/1987)

The Secretary
Trustee Committee
Jodhpur

Sub: Application u/s 16

Sir,

I apply to be admitted as member of the fund:—

- 1 Name
- 2 Father's name
- 3 Age
4. Address
5. Enrolment No. and date in the Bar Council
6. Date since practising as

- (A) Pleader
- (B) Advocate
- 7. Name of Bar Association of which the applicant is member
- 8. Period of suspension of practice from to
- 9. Reason of suspension
- 10. Whether the applicant was convicted by a court of law for an offence of moral turpitude
- 11. Particulars of nomination:
 - A. Name and age of the nominee/s
 - B. Relationship
 - C. Address
 - D. Name of other legal heirs of I class as per succession law.

(If there are more than one nominee, please specify the amount or share payable to each of them as to cover whole of amount payable).
- 12. Amount of fees Rs.
- 13. Cheque or D.D. No. (A/c Payee)
- 14. Whether the applicant was ever removed from membership of fund, if so:
 - When
 - Why
 - Date of revival
- 15. Any other details

Declarations

- (A) I hereby declare that the above particulars are true to my personal knowledge.
- (B) I hereby undertake to abide with the provisions of Act, Rules and direction etc. made thereunder.
- (C) I hereby undertake to pay subscription as required by the Act or Rules.

Signature of applicant
Date.....Advocate

- (13) The form may be submitted directly to the Trustee Committee office or through the Bar Association concerned. If this form is submitted through the Bar Association, the Bar Association shall forward immediately with an endorsement that the particulars in column No..... have been checked from the record of the Association.
- (14) The Bar Association will issue the acknowledgment of the form on behalf of the Secretary.
- (15) The Trustee Committee shall intimate the applicant within 30 days the decision taken on the application under section 16. If the Trustee Committee admits the applicant as member it will issue a certificate in the following form.

Certificate of admission to the Fund

[Section 16(1)]

- 1. Name and Address of Member

2. Date since practising
3. Name/Names with respective share of the nominee/s
4. Any other particulars.

Signature of the authorised
Signatory

(16) If the application u/s 16 after hearing the advocate is rejected, the committee shall intimate the details of its finding with reasons under the seal and signatures of the Secretary by Regd. post A.D.

(17) Change or cancellation of nomination:—

any member desiring to cancel or change the nomination made previously, he shall notify under registered post to the Secretary in the following form:

For change/cancellation of Nomination

[Section 16(10) of the Act]

1. Name & address of the member with serial number of membership
2. Date of nomination
3. Details of previous nomination
 - (A) Name with respective share
 - (B) Relationship
4. If cancellation is sought-
 - (A) Name of the nominee to be cancelled Nominees
 - (B)
5. If fresh nomination is sought:-
 - (A) Name with age and share
 - (B) Relation with member
 - (C) Address of the nominee/s

Date.....

Signature of member

This form shall be attested by the District Judge of the District in whose judgeship the member is ordinarily practising or residing.

(18) Application by member or Association of practice:-

Member on cessation of the practice shall submit application for payment of the amount in the following form:

Form of application by member u/s 17 for the payment

1. Name and address of member
2. Date of admission as member
3. Date since practising
4. Duration of practice before admission as member
5. Duration of practice after admission as member
6. Date of commencement of practice:

A. Date of discontinuance

B. Date of renewal

(If there are more periods than one, please state all)

7. If the member joined an (since after becoming member, details be given)

8. Total period of discontinuance of practice:

A. Before admission as member

B. After admission as member

9. Amount claimed and details in short for it.

A photostat copy duly attested by the member should be affixed with this form.

I hereby declare that the particulars are true to my personal knowledge.

Date

(19) Payment in case of death of the member:

Any nominee, dependent or legal heir, as the case may be, may submit application for the payment of amount in the following form:

1. Name and address of the deceased member

2. Serial No. (Date of admission of the member)

3. Date since practising
(as written in the certificate of membership)

4. Period or periods of discontinuance
of practice, if any.

5. If the deceased member joined any service
after becoming member, please give details.

6. Date of death of the member
(A death certificate must be enclosed)

7. Details of applicant-

A. Name/Names with age and address
of each applicant.

B. If nominee, specify the share/shares
of each nominee.

C. If the applicant is not nominee:

I. Relation with the deceased.

II. Succession certificate must be
annexed with the application form.

8. Amount claimed and its details in short.

Date

Signature

(20) Application for payment to be disposed expeditiously:

The trustee committee shall dispose off the application u/s 17 of the Act very expeditiously and within a month of its receipt in the office of the committee. If there is any enquiry to be made by the committee in this respect the same shall be made expeditiously.

Even under all the circumstances the application shall be disposed off within 3 months from the date of receipt in the office of such application:

Provided that this period of one month or 3 months may be extended by a further period of one month with a resolution of the Committee for reasons to be recorded and intimated to the applicant or if more applicants then one to all the applicants.

COPIES

Copy of judgment or order to be sent:

- (21) **Copies.**—The committee shall send a copy of the order or judgment passed or pronounced on any matter under this Act and send a copy of such order or judgment immediately to the applicant or person having interest in the or aggrieved by such order or judgment by Regd. Post (free of cost).

- (22) Other copies to be issued:

The Secretary shall issue copy of any application, any entry of register of members or Register of Bar Association etc. to any person on payment of fees as prescribed in the High Court Rules. The fees shall be paid in cash or in stamps printed by the Committee:

Provided also that the Committee may refuse the issue of copy of any document for reasons to be recorded in writing.

Certified that Page No. 1 to 7 Photo copy of approved Rules conveyed by the Secretary to Government Law and Legal Affairs Department, Govt. of Raj. Jaipur vide his letter No.F.15(17)S/C/88, dated 27-5-1988.

ANNEX. I

**APPLICATION BY THE BAR ASSOCIATION FOR RECOGNITION AND
REGISTRATION UNDER SECTION 14 CHAPTER IV OF THE
RAJASTHAN ADVOCATES WELFARE FUND ACT, 1987**

1. Name of the Association :
2. Year of incorporation (with Rules & Bye Laws of Association):
3. Place and District :
4. Whether previously registered under any law :
5. Name and address of the present office bearers (Schedule 'A'):
6. Name and Address of all the members including office bearers of the association (with R. No. or date of enrollment, Date of Birth and ordinary place of practice) (Schedule 'B') :
7. The applicant association undertakes to abide with the provisions of the Act, Rules and directions given from time to time under the Act and Rules :
8. This application form must be accompanied by Schedule A and B attested photo-copy of certificate of incorporation/registration as in Column No. 4 :

PRESIDENT

SECRETARY

VERIFICATION :

It is hereby verified that the contents of this application form, Schedule 'A' & 'B' and other enclosures are correct on the basis of the record and information collected from the Members.

Date

PRESIDENT

SECRETARY

(Full Name)

(Full Name)

Annex. II

Application Form under section 16

The Secretary

Trustee Committee

JODHPUR

Sub. : Application under Section 16

Sir,

I apply to be admitted as Member of the Fund :

1. Name
2. Father's Name
3. Date of Birth
4. Address
5. Enrollment No. and date in the Bar Council
6. Date since practicing as :
 - (a) Pleader
 - (b) Advocate
7. Name of Bar Association of which the applicant is member (Certificate of Recognised Bar Association be enclosed).
8. Period of Suspension of Practice from to
9. Reason of Suspension.
10. Whether the applicant was convicted by a Court of law for an offence of moral turpitude.
11. Particulars of nomination :
 - A. Name and Age of the nominee/s
 - B. Relationship
 - C. Address
 - D. Name of other legal heirs of Class I as per succession law.
(If there is more than one nominee, please specify the amount or share payable to each of them as to cover whole of amount payable).
12. Amount of Fees
13. P.O. or Cheque or D/D No. Rs. (A/c Payee)
14. Whether the applicant was ever removed from membership of fund, if so :

When

Why

Date of revival
15. Any other details :

DECLARATION

- (A) I hereby declare that the above particulars are true to my personal knowledge;
- (B) I hereby undertake to abide with the provisions of Act, Rules and directions etc. made thereunder;
- (C) I hereby undertake to pay subscription as required;
- (D) I have not been enrolled/resumed practice after serving 15 years under any employer.

Date

Signature of Applicant Adv.

Forwarded by President/Secretary certifying that applicant is a member of Bar Association.

(President/Secretary)