

The Bar Council of Gujarat

GUJARAT ADVOCATES' WELFARE FUND ACT, 1991

AND

GUJARAT ADVOCATES' WELFARE FUND REGULATIONS, 1991



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GUJARAT ADVOCATES' WELFARE FUND ACT, 1991

GUJARAT ACT NO. 14 OF 1991

(First published after having received the assent of the President in the *Gujarat Government Gazette* on the 31st August, 1991.)

An Act to provide for the constitution of an Advocates' Welfare Fund and utilisation thereof for payment of certain retirement and other benefits to the advocates in the State of Gujarat.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :

CHAPTER - I

Preliminary

1. *Short, title, extent and commencement* : (1) This Act may be called the Gujarat Advocates' Welfare Fund Act, 1991:

(2) It Extends to the whole of the State of Gujarat.

Notes :

(1) The Government of Gujarat has appointed 1st day of July, 1992 as the date on which the Act shall come into force. (Vide Notification bearing No. GK/92/20/APF-1078-265-D-II dated 30-6-1992 of the Government of Gujarat in its Legal Department.

(2) Similar enactment, viz. M. P. Adhivakta Kalyan Nidhi Adhiniyam (Act 9 of 1982) is held not to be ultra vires, the relevant provisions of the Constitution of India; R. C. Pandey v. State of M. P. and Others, AIR 1988 MP 60 (DB).

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

2. *Definitions* : In this Act, unless the context otherwise requires,

(a) "Administrative Committee" means the Administrative Committee constituted under Section 5;

(b) "advocate" means a person whose name has been enrolled on the roll of advocates prepared and maintain by the Bar Council under Section 17 of the Advocates Act;

(c) XXV of 1961: "Advocates Act" means the Advocates Act, 1961;

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

(e) "Bar Association" means an association of advocates attached to any court or any tribunal or such other authority or person as is legally authorised to take evidence or to adjudicate or to decide any dispute in the State of Gujarat

and recognised by the Bar Council under Section 14;

- (f) "Bar Council" means the Bar Council of Gujarat constituted under Section 3 of the Advocates Act;
- (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;
- (h) "dependants" means wife, husband, father, mother, unmarried daughter and minor child or such of them as exist;
- (i) "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;
- (j) "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;
- (k) "prescribed" means prescribed by regulations;
- (l) "regulations" means regulations made by the Bar Council under this Act;
- (m) "retirement" means giving up of practice as an advocate which is communicated to an recorded by the Bar Council;
- (n) "stamp" means the Gujarat Advocates; Welfare Fund Stamp printed and distributed by the Bar Council under Section 20;
- (o) "standing" means the period of actual practice after the commencement of this Act;
- (p) "suspension of practice" means suspension of practice as an advocate voluntarily or otherwise.

CHAPTER - II

Constitution and Management of Advocates' Welfare Fund

3. Constitution of Fund :

- (1) The State Government shall constitute a fund called the Gujarat Advocates' Welfare Fund.
- (2) There shall be credited to the Fund—
 - (a) an initial amount of rupees one lakh to be contributed by the Bar Council to the Fund;
 - (b) all the amounts to be contributed by the Bar Council annually from the year 1991 onwards under sub-section (3);

- (c) any other contribution made by the Bar Council;
 - (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;
 - (j) any interest or dividend or other return on any investment made of any part of the fund.
- (3) The Bar Council shall contribute to the Fund annually an amount at such rate not exceeding thirty per cent of the enrolment fees realised by it as the Bar Council may from time to time think fit.
4. *Bar Council to manage Fund* : For the purpose of management and utilisation of the Fund under this Act, the Fund shall vest in the Bar Council and the Fund shall be held and applied by the Bar Council in accordance with the provisions of this Act and the regulations.
5. *Constitution of Administrative Committee* :
- (1) There shall be an Administrative Committee, consisting of the following members, namely—
 - (a) The Advocate-General, Gujarat State... *Ex-Officio*
 - (b) The Secretary and Remembrancer of Legal Affairs to Government of Gujarat, Legal Department.... *Ex-Officio*
 - (c) The Chairman of the Bar Council of Gujarat... *Ex-Officio*
 - (d) The Chairman of the Executive Committee of the Bar Council... *Ex-Officio*
 - (e) Three members to be nominated by the Bar Council from amongst its members.
 - (2) The powers, functions and duties of the Administrative Committee shall be provided by this Act and by regulations.
6. *Term of office of nominated members of Administrative Committee* : A person nominated as a member of an Administrative Committee under clause (e) of sub-section (1) of Section 5 (hereinafter in Sections 7, 8 and 9 referred to as "the nominated member") shall hold office for such period as may be prescribed or for the duration of his membership in the Bar Council whichever is less, unless he is removed under sub-section (2) of Section 7 or resigns his office and his resignation is accepted by the Bar Council under Section 8.

7. *Disqualification and removal of nominated 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 State Government involves moral turpitude; or
 - (d) has in the opinion of the State Government committed a breach of trust or where he is a member of the Fund committed persistent default in payment of his contribution to the Fund under Section 19.
- (2) The State Government may remove any nominated member who is or has become disqualified under sub-section (1) from his office as a member of the Administrative Committee :

Provided that no order removing any member shall be made unless that member and the Bar Council have been given an opportunity of being heard.

8. *Resignation by nominated members :* A nominated member may resign his office by giving one month's notice in writing to the Bar Council and on such resignation being accepted by the Bar Council, the nominated member shall be deemed to have vacated his office.
9. *Filling up of casual vacancies :* A casual vacancy in the office of a nominated member occurring on account of death, resignation or removal of the member shall be filled up, as soon as may be, by nomination of a person by the Bar Council under clause (e) of sub-section (1) of Section 5 and the person so nominated shall hold office so long as the member in whose place he is nominated would have been entitled to hold office, if the vacancy had not occurred.
10. *Appointment of officers and servants :* For carrying out the provisions of this Act the Bar Council may appoint such officers and servants on such terms and conditions as may be prescribed.
11. *Amount 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.
12. *Periodical and annual reports to be sent to Government :* The Bar Council shall send to the State Government such periodical and annual reports as may be prescribed.
13. *Maintenance of Accounts and audit :*
 - (1) The Bar Council shall cause to be maintained such books of account and other books in such form and in such manner as may be prescribed.
 - (2) *Guj XLIX of 1963 :* The accounts of the Fund shall be audited annually by the Examiner of Local Fund Accounts or by any other person empowered by

the State Government to perform the functions of an auditor under the Gujarat Local Fund Audit Act, 1963 as if the Fund were a local fund and the Bar Council were a local authority within the meaning of those expressions in the said Act.

- (3) After the account of the Fund is so audited, the Bar Council shall send a copy of the auditor's report and balance-sheet to the State Government.
- (4) The Bar Council shall comply with the report of the auditor and may issue such direction in that behalf to the Administrative Committee as it may think fit.

CHAPTER - III

Recognition and Registration of Bar Associations

14. *Recognition and registration of Bar Association :*

- (1) Any association of advocates known by any name functioning in any court or before any tribunal or before any other authority or person legally authorised to take evidence or to adjudicate or decide any disputes may apply to the Administrative Committee in the prescribed form for recognition and registration.
- (2) Every application for recognition and registration shall be accompanied by the rules or by-laws of the Association, the names and addresses 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 enrolment and the ordinary place of practice of each member.
- (3) The Administrative Committee may after such enquiry as it deems necessary recognise or refuse to recognise the association.
- (4) On recognition of such an association, Administrative Committee shall issue a certificate of registration in the prescribed form.
- (5) Any association aggrieved by the decision of the Administrative Committee under sub-section (3), may prefer an appeal against the said decision to the Bar Council.
- (6) The appeal shall be accompanied by—
 - (a) the order appealed against;
 - (b) a fee of the 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.
- (8) The decision of the Bar Council on the appeal shall be final.

15. *Duties of Bar Association :*

- (1) Every Bar Association shall, on or before the 31st January every year, intimate

to the Bar Council a list of its members as on the 31st December of the previous year.

- (2) Every Bar Association shall intimate to the Bar Council—
 - (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 in 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 Bar Council from time to time.

CHAPTER - IV

Membership in the Fund and Payment Therefrom

16. *Membership of Fund :*

- (1) Any Advocate who permanently resides in the State of Gujarat and practises before any Court or any Tribunal, or any other authority or person legally authorised to take evidence or to adjudicate or decide any disputes in the State of Gujarat and is a member of a Bar Association recognised under Section 14 may apply in the prescribed form to the Administration Committee for admission as a member of the Fund.
- (2) On receipt of an application under sub-section (1), the Administrative Committee shall make such inquiries as it deems fit and either admit the applicant 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.
- (3) The applicant whose application is rejected under sub-section (2) may prefer an appeal to the Bar Council.
- (4) The appeal shall be accompanied by the order appealed against.
- (5) The appeal shall be filed within thirty days from the date of receipt of the order appealed against.
- (6) The decision of the Bar Council on the appeal shall be final.

17. *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 Administrative Committee, provided that a member shall alongwith such notice send a fresh nomination.

- (3) Every member who voluntarily suspends practice or ceases to practise or retires shall, within sixty days of such suspension, cessation or retirement, intimate that fact to the Administrative Committee.

18. *Payment of retiring benefit from Fund :*

- (1) A member of the Fund shall, on cessation of practice, be entitled to receive from out of the Fund an amount at the rate specified in sub-section (4).
- (2) In the event of death of a member, the amount shall be paid to his nominee, or, where there is no nominee, to his dependants :
- (3) 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.
- (4) Payments shall be made under this section at the rate specified in the Schedule.
- (5) An application for payment from the Fund shall be preferred to the Administrative Committee in the prescribed form.
- (6) An application received under sub-section (5) shall be disposed of by the Administrative Committee after such inquiry as it deems necessary.

CHAPTER - V

Contribution by Members to the Fund and the Mode of Payment Thereof

19. *Advocates to pay contribution to Fund :*

- (1) Every member of the Fund shall pay to the Fund a contribution at the rate and in the manner hereinafter provided.
- (2) The contribution to be paid by the member shall be at the rate of four rupees in respect of every *Vakalatnama* presented by him to any court, including the High Court, Tribunal or other authority or person in the State before which or whom the member is entitled to practise under Section 30 of the Advocates Act.
- (3) The payment of contribution shall be indicated by affixing to the *vakalatnama* a stamp of the value of four rupees specially printed under this Act.

20. *Printing and sale of stamps :*

- (1) The Bar Council shall cause to be printed and distributed the Gujarat Advocates' Welfare Fund Stamps each of the value of **FIVE** rupees with the Bar Council Emblem and its value inscribed thereon.
- (2) The stamps shall be of the size 2 c.m. x 4 c.m. and be sold only to the members of the Fund.
- (3) The custody of the stamps shall be with the Bar Council.

- (4) The Bar Council shall control the distribution and sale of the stamps through the Bar Associations.
 - (5) The Bar Council and 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 Bar Council after paying the value thereof less ten per cent of such value towards incidental expenses.
 - (7) The Bar Council 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 Administrative Committee within fifteen days after the end of every quarter.
21. *Vakalatnama not acceptable unless stamped* : No member of the Fund shall present to any court, tribunal or other authority or person his *Vakalatnama* unless a stamp is fixed to it under sub-section (3) of Section 19 and no court, tribunal or other authority or person shall accept the *Vakalatnama* so presented unless it is so stamped.
22. *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 provisions of sub-section (2), he shall be liable to the Bar Council for appropriate action.
23. *BOM. XXXVI of 1959* : Every stamp affixed to a *Vakalatnama* under sub-section (3) of Section 19 shall be cancelled in the manner provided in Section 42 of the Bombay Court-fees Act, 1959.

CHAPTER - VI Miscellaneous

24. *Group Life Insurance for members and giving other benefits* : The Administrative Committee 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 dependants including an insurance for that purpose;
 - (c) provide for such other benefits and amenities as may be prescribed.
25. *Restriction on alienation, attachment, etc. of interest of members 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, dependants 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.

26. *Vacancy in Administrative Committee not to invalidate acts or proceedings* : No act or proceeding of the Administrative Committee shall be called in question on the ground merely of the existence of any vacancy in or any defect in the constitution of the Committee.
27. *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 proceeding shall lie against the Administrative 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 purpose of this Act or any regulation.
28. *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 Administrative Committee or the Bar Council.
29. *Administrative Committee and Bar Council to have powers of Civil Court* : The Administrative Committee and the Bar Council 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.
30. *Power to make regulations* :
- (1) The Bar Council may, with the previous approval of the State 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 regulation may be made to provide for all matters expressly required or allowed by this Act to be prescribed by the regulations.
- (3) All regulations made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

- (4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

31. Power to amend Schedule in certain circumstances :

- (1) If the Bar Council recommends to the State Government to increase the rate of benefit specified in the Schedule, the State 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.
- (2) Every such notification shall, as soon as possible after it is issued, be laid before the State Legislature.

SCHEDULE

(See. sub-section (4) of Section 18.)

Period of standing 1	Rate of benefit 2	Period of standing 1	Rate of benefit 2
30 Years' standing	Rs. 45,000	17 Years' standing	Rs. 25500
29 Years' standing	Rs. 43500	16 Years' standing	Rs. 24000
28 Years' standing	Rs. 42000	15 Years' standing	Rs. 22500
27 Years' standing	Rs. 40500	14 Years' standing	Rs. 21000
26 Years' standing	Rs. 39000	13 Years' standing	Rs. 19500
25 Years' standing	Rs. 37500	12 Years' standing	Rs. 18000
24 Years' standing	Rs. 36000	11 Years' standing	Rs. 16500
23 Years' standing	Rs. 34500	10 Years' standing	Rs. 15000
22 Years' standing	Rs. 33000	9 Years' standing	Rs. 13500
21 Years' standing	Rs. 31500	8 Years' standing	Rs. 12000
20 Years' standing	Rs. 30000	7 Years' standing	Rs. 10500
19 Years' standing	Rs. 28500	6 Years' standing	Rs. 9000
18 Years' standing	Rs. 27000	Upto 5 Years' standing	Rs. 7500

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GUJARAT ADVOCATES' WELFARE FUND REGULATIONS, 1991
BY THE BAR COUNCIL OF GUJARAT
 Ahmedabad, dated the 14th September, 1991
GUJARAT ADVOCATES' WELFARE FUND ACT, 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—

REGULATIONS

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 these 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) "practise" 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 the 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. I.
- (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) An 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 he 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 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 of 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 readmission under sub-section (3) of Section 18 shall be in Form VIII.
- (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. I 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. 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	(d) Receipt
(b) Date	(e) Issue
(c) Opening Stock	(f) Balance
- III. Day Book
- IV. 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 | (d) Receipt |
| (b) Date | (e) Issue |
| (c) Opening Stock | (f) Balance |

II. Day Book

III. Ledger

IV. Cash Book

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. 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 the 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 Associations 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 Associations 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 Sections 14 and 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 purpose of the Act.

GUJARAT ADVOCATES' WELFARE FUND ACT, 1991

FORM No. I
[See Regulation 5 (1).]

APPLICATION FOR RECOGNITION AND REGISTRATION

1. Name of the Association : _____
2. Whether registered under the Societies Registration Act or other similar Act (Give details.) : _____
3. Name and place of Court, Tribunal Authority or person in which the Association is functioning : _____

4. Number of members of the Association at the time of application (List of names, address, date of enrolment, age of members) (Supply details by separate annexure.) : _____

5. Names and addresses of the President, Vice-President and Secretary and office bearers at time of presentation of the application (Supply details by separate annexure.) : _____

6. Memorandum of Association Regulations and bye-laws of Association, if yes, annex copy thereof. : _____

DECLARATION

We have read regulations of recognition and registration and abide by the same. We shall furnish details as required under Section 15(1)(2).

We, _____ solemnly affirm that the particulars stated above are true and correct.

Place :

Date :

President/Vice-President
(Seal of the Association)

Secretary

GUJARAT ADVOCATES' WELFARE FUND ACT, 1991

FORM No. II
[See Regulation 5 (2).]

CERTIFICATE OF REGISTRATION

The Administrative Committee do hereby certify that the

Association is registered under Section 14 of the Gujarat Advocates' Welfare Fund Act, 1991 and its Registration No. is _____.

Give under my hand and seal of the Administrative Committee.

Dated this, the _____ day of _____ 199

Seal

Chairman

GUJARAT ADVOCATES' WELFARE FUND ACT, 1991

FORM No. III
[See Regulation 6 (1).]

APPLICATION FORM FOR THE MEMBERSHIP OF THE FUND UNDER SECTION 16 OF THE GUJARAT ADVOCATES' WELFARE FUND ACT (ACT No. 14 OF 1991)

The Secretary,
Administrative Committee,
Bar Council of Gujarat,
Ahmedabad.

Sub. : Application under Section 16

Sir,

I apply to be admitted as Member of the Fund :

1. Name : _____
(Beginning with surname in CAPITAL letters)
2. Father's Name : _____
3. Date of Birth : _____
4. Address : _____

5. Enrolment Number and its date with the Bar Council : _____

6. Date since practising as —
(A) Pleader : _____
(B) Advocate : _____
in the State of Gujarat
7. Name of the Bar Association of which the applicant is member through which applicant claims benefit under the Act. : _____
(Certificate of recognised Bar Association be enclosed.)
8. Reason of Suspension, if any : _____

9. Whether the applicant was ever : _____
convicted by a Court of Law for an
offence involving moral turpitude ? _____
10. Whether the applicant was ever : _____
removed from membership of fund ? _____
If 'so' _____
- When : _____
- Why : _____
11. Usual Place / Places of practice : _____
12. Whether the applicant is in part-full : _____
time service; if yes, give particulars. _____
13. Any other details : _____

DECLARATION

- (a) I hereby declare that the above particulars are true to my personal knowledge.
- (b) I hereby undertake to abide by the provision of Act, Regulations and Directions, etc. made thereunder.
- (c) I further declare that if any statement of fact stated in Columns Nos. 5, 8, 9, 10, 11 and 12 of this Application is found to be false at any time, my name 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.

Dated :

Signature of the Applicant Advocate

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

President / Vice-President / Secretary

GUJARAT ADVOCATES' WELFARE FUND ACT, 1991

FORM No. IV
[See Regulation 6 (6).]

FORM OF REGISTER OF MEMBERS ADMITTED TO THE WELFARE FUND

Sr. No.	Membership No. Name & address of the member	Name of Bar Association in which he is a member	Date of Birth	Date of Enrolment as an Advocate	No. in the State Roll of Advocates	Date of admission to Fund	Remarks
1	2	3	4	5	6	7	8

GUJARAT ADVOCATES' WELFARE FUND ACT, 1991

FORM No. V
[See Regulation 7.]

NOMINATION

I, _____ hereby nominate person / persons mentioned below who is/are member of my family and confer on her/him/them the right to receive to the extent specified below the benefits which may be authorised by the Administrative Committee in the event of my death/cessation of practice or retirement and the right to receive on my death, to the extent specified below any benefit which having become admissible to me on my retirement may remain unpaid at my death.

Name, age and address of Nominee	Proportion of share to be paid to each of them	Relationship of Nominee with the member
----------------------------------	--	---

This nomination supersedes the nomination made by me earlier on which stands cancelled.

Dated this _____ day of _____ 199 _____

Signature of Witnesses

1. _____

2. _____

Signature of Member

GUJARAT ADVOCATES' WELFARE FUND ACT, 1991

FORM No. VI
[See Regulation 8.]

APPLICATION FORM FOR VOLUNTARY RETIREMENT

1. Name and address of member : _____
(Beginning with surname in CAPITAL letters) _____
2. Age of member on the date of the application : _____
3. Date of admission to the fund : _____
4. Date of enrolment as an Advocate : _____
5. Whether any benefits or amenities : _____
availed of under this Act and
Regulations ? If yes, state details
thereof.
6. Reasons for retirement, certificate in : _____
support of the reasons, if any. _____
7. Certificate of the Bar Council of : _____
removal of his name from the roll of
Advocates _____
8. Whether any other notice of : _____
retirement given to the
Administrative Committee ? If yes,
annex copy.
9. Reasons for delay in giving notice of : _____
retirement, if any.

I, _____
do hereby solemnly affirm that the particulars furnished above are true and correct.

Place :

Dated :

Signature of the Applicant

GUJARAT ADVOCATES' WELFARE FUND ACT, 1991

FORM No. VII
[See Regulation 9(1).]

APPLICATION FOR RE-ADMISSION TO THE WELFARE FUND

The Secretary,
Administrative Committee,
Bar Council of Gujarat,
Ahmedabad.

Sir,

I apply to be admitted as Member of the Fund :

1. Name : _____
(Beginning with surname in CAPITAL letters)
2. Father's Name : _____
3. Date of Birth : _____
4. Address : _____

5. Enrolment Number and its date in the Bar Council : _____

6. Date since practising as —

(A) Pleader : _____

(B) Advocate : _____

in the State of Gujarat
7. Name of the Bar Association of which the applicant is member through which applicant claims benefit under the Act. : _____

(Certificate of recognised Bar Association be enclosed.)
8. Reason of Suspension, if any : _____

9. Whether the applicant was convicted : _____
by a Court of Law for an offence _____
involving moral turpitude ?
10. Whether the applicant was ever : _____
removed from membership of fund ? _____
If yes, give particulars.
- When : _____
- Why : _____
11. Usual Place / Places of practice : _____
12. Whether the applicant is in part-full : _____
time service ? if yes, give _____
particulars.
13. Date and details of receipt of : _____
benefits along with interest, as _____
required by Regulation 9
14. Date of previous admission to the : _____
membership of the Fund
15. Grounds for re-admission under : _____
Section 18(3) _____
16. Any other details : _____

I, _____
do hereby solemnly affirm that the particulars furnished above are true and correct.

Place :

Dated :

Signature of the Applicant

GUJARAT ADVOCATES' WELFARE FUND ACT, 1991

FORM No. VIII
[See Regulation 10(1).]

APPLICATION FOR PAYMENT FROM THE FUND

1. Name and address of the Applicant : _____
(Beginning with surname in CAPITAL letters) _____
2. Age and date of birth of the applicant : _____
3. Date of enrolment under the Gujarat Advocates' Welfare Fund Act, 1991 : _____
4. Membership number under the Gujarat Advocates' Welfare Fund Act, 1991. : _____
5. Date of retirement : _____
6. Date of death of member and death certificate : _____
7. Details regarding nomination : _____
 - (i) Relation of applicant to the deceased member : _____
 - (ii) Relation certificate or such other to the deceased member : _____
8. Succession Certificate or such other certificate, if any : _____
9. Other necessary facts required for consideration of application : _____

Place : _____

Dated : _____

Signature of the Applicant

Where the person entitled to the amount is minor his/her natural guardian may apply.

NOTIFICATIONS

GUJARAT ADVOCATES' WELFARE FUND ACT, 1991 - NOTIFICATION - No. GK/92/20/APF/1078/265/D/II — In exercise of the power conferred by sub-section (3) of Section 1 of the Gujarat Advocates' Welfare Fund Act, 1991 (Guj. XIV of 1991) the Government of Gujarat hereby appoints the 1st day of July 1992, as the date on which the said Act shall come into force.

(Published in Gujarat Government Gazette, Extraordinary, Part IV-B, dated 8-7-92 at page 163-1)

GUJARAT ADVOCATES' WELFARE FUND ACT, 1991 - Resolution passed by the Bar Council of Gujarat in its extraordinary Meeting held on July 25, 1992

"Considered the question of nominating three members from amongst the members of the Bar Council of Gujarat on the ADMINISTRATIVE COMMITTEE as required under Clause (e) of sub-section (1) of Section 5 of the Gujarat Advocates' Welfare Fund Act, 1991. Resolved that the following three Members are unanimously nominated on the Administrative Committee :

1. Shri Girish D. Bhatt, Member
2. Shri Ashok D. Shah, Member, and
3. Shri Ghanshyam H. Amin, Member

and accordingly the Administrative Committee consisting of following Members is duly constituted as required under Section 5(1) of the Gujarat Advocates' Welfare Fund Act, 1991 :

- | | |
|--|-----------------|
| 1. Shri J. M. Thakore,
Advocate General, Gujarat State.. | Ex-Officio |
| 2. Shri B. K. Shah,
Secretary and Legal Remembrancer of Legal Affairs to
Government of Gujarat, Legal Deptt... | Ex-Officio |
| 3. Shri N. C. Shah,
Chairman, Bar Council of Gujarat | Ex-Officio |
| 4. Shri J. M. Patel,
Chairman, Executive Committee of
the Bar Council of Gujarat | Ex-Officio |
| 5. Shri Girish D. Bhatt
Member, Bar Council of Gujarat | |
| 6. Shri Ashok D. Shah
Member, Bar Council of Gujarat | |
| 7. Shri Ghanshyam H. Amin
Member, Bar Council of Gujarat | |

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પ્રજ્ઞાન દ્વારા પ્રજ્ઞાન

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ବିଭାଗ, 'ସଂସଦ' ଓ 'ସଂସଦ' ମଧ୍ୟସ୍ଥର ପାଠ୍ୟ

ਪਾਟਕੀਂ ਕੋਲ ਮਸ਼੍ਰੂਘਾਤ ਹੋਇਆ

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ଆମର ସମସ୍ତ ସ୍ୱପ୍ନ ସାକ୍ଷ୍ୟ ହେଉ।

• ୧ ଡିଗ୍ରୀ ପଞ୍ଚମି ମହାଲୟ ପ୍ରତି ପ୍ରାୟ ୧୫ ମିନିଟ୍

୧. ଆମ୍ଭମାନଙ୍କ ଉପରେ ଏହି କାର୍ଯ୍ୟକ୍ରମର

ପ୍ରଶାନ୍ତ କୁମାର ମହାନ୍ତି ମାଧ୍ୟମିକ ଶିକ୍ଷା ଓ ଉଚ୍ଚ ଶିକ୍ଷା ବିଭାଗର ସାମାଜିକ ଶିକ୍ଷା ଓ ଶିଳ୍ପ ଶିକ୍ଷା ଶାଖାରେ ଉପାଧ୍ୟକ୍ଷ ଭାବେ କାର୍ଯ୍ୟ କରୁଛନ୍ତି ।

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ਮਾਛੇਦਯੋਗ ਮਿਮਾਮਸਾਸ਼ਾਸਤਰ . ੬

: ਪ੍ਰਾਇਮਰੀ ਪ੍ਰਾਇਮਰੀ (ਪ੍ਰ)

‘‘ଆମିନିଆ ଓ ଡ୍ରାମା ନାଟକର ଗପ ପ୍ରାୟତଃ ସମସ୍ତ ନାଟକର ମଧ୍ୟ ପାଠ୍ୟ’’

કોલે ેસ્ટ્રીય ટાભ ુગિભાબઢ મિમપ ુનુકે ભમલ કટાકટમલ નનુ બકડૂ મહત્વશ્ચલ નલ (૨)

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GUJARAT LAW HERALD

Gujarat Law Herald is a law journal of the lawyers, by the lawyers and for the lawyers. It is jointly sponsored by the Bar Council of Gujarat and The Ahmedabad Lawyers' Benevolent Fund which is a public trust registered under the provisions of the Bombay Public Trust Act. It reports reportable judgments of the High Court of Gujarat and gives copious notes unreported judgments of the High Court. It also covers important judgments of the Supreme Court with special references to judgments pertaining to local Acts of the State of Gujarat. Its noteworthy and special feature is that comparatively old judgments which are hitherto not reported and which still hold the field are also covered. It may be stated that the Journal gives head-notes and index-notes of the judgments in Gujarati language as well.

The Journal is highly appreciated by the members of the Bar and the Bench. Several Judges of the High Court and the Supreme Court have paid encomium to the Journal.

Its subscription for 2001 is Rs. 1,000/- rupees one thousand only.

Kindly subscribe to GUJARAT LAW HERALD. Your active co-operation is solicited.



The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLIV

SATURDAY, APRIL 5, 2003/CAITRA 15, 1925

Separate paging is given to this Part in order that it
may be filed as a Separate Compilation.

PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by
the Governor on the 4th April, 2003 is hereby published for general
information.

V. M. KOTHARE,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 19 OF 2003.

(First published, after having received the assent of the Governor in
the "Gujarat Government Gazette", on the 5th April, 2003).

AN ACT

further to amend the Gujarat Advocates Welfare Fund Act, 1991.

It is hereby enacted in the Fifty-fourth Year of the Republic of India
as follows :-

1. (1) This Act may be called the Gujarat Advocates Welfare Fund
(Amendment) Act, 2003.

Short title and
commencement.

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

2. In the Gujarat Advocates Welfare Fund Act, 1991 (hereinafter referred to as "the principal Act"), in section 3, in sub-section (2), -

(a) in clause (d), the words "or any other association or institution or any other person" shall be added at the end;

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

"(i) any amount by way of award of cost directed to be deposited in the Fund by the Bar Council of Gujarat, Bar Council of India, High Court of Gujarat or any other Court, Tribunal or Authority."

3. In the principal Act, in section 6, for the words, brackets and figure "removed under sub-section (2)", the words, brackets and figure "disqualified under sub-section (1)" shall be substituted.

4. In the principal Act, in section 7, -

(1) in sub-section (1), for the word "nominated", the words "nominated or for being a" shall be substituted;

(2) sub-section (2) shall be deleted.

5. In the principal Act, in section 9, for the word "removal", the word "disqualification" shall be substituted.

6. In the principal Act, in section 13, for sub-section (2), the following shall be substituted, namely :-

"(2) The accounts of the Fund shall be audited annually by the Auditors duly qualified to act as Auditor under sub-section (1) of section 226 of the Companies Act, 1956 who shall be appointed by the Bar Council of Gujarat."

7. In the principal Act, in section 16, in sub-section (1), for the words "may apply in the prescribed form", the words "shall required to be a member of the Fund and shall apply in such form, in such manner and on payment of such fee as may be prescribed" shall be substituted.

8. In the principal Act, after section 16, the following new section shall be inserted, namely :-

Membership,
subscription and
cessation of
membership.

"16A. (1) Every member admitted to the Fund shall pay such subscription to the Fund as may be prescribed, at the end of block period of five years.

(2) The block period of five years shall commence from such date as may be specified by the Bar Council;

(3) Where any advocate fails to pay the subscription, as provided under sub-section (1), the Secretary of the Bar Council shall issue a notice for payment of subscription and after giving him a reasonable opportunity of being heard may pass such order regarding cessation of his membership or otherwise as he deems proper."

9. In the principal Act, in section 18, after sub-section (6), the following shall be inserted, namely :-

Amendment of
section 18 of Guj.
14 of 1991.

"(7) The amounts becoming payable to the member under section 24 shall be paid in such manner as may be prescribed."

10. In the principal Act, for section 19, the following section shall be substituted, namely :-

Substitution of
section 19 of Guj
14 of 1991.

Vakalatnama to
bear stamps.

"19. (1) Every Advocate shall affix a stamp of value of -

(a) five rupees on every *Vakalatnama* filed by him in a District Court or a court subordinate to the District Court;

(b) ten rupees on every *Vakalatnama* filed by him in a Tribunal or other authority or High Court:

Provided that the Bar Council may prescribe the value of the stamps to be affixed under this sub-section:

Provided further that the Bar Council may prescribe different value of stamps to be affixed on every *Vakalatnama* to be filed in a District Court or a court subordinate to the District Court or a Tribunal or other authority or High Court.

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

- (3) Any contravention of the provisions of sub-section (1) or (2), by any Advocate, shall disentitle him either in whole or in part to the benefits of the Fund and the Administrative Committee shall report such contravention to the Bar Council for appropriate action.
- (4) Every stamp affixed on every *Vakalatnama* filed before a District Court or a court subordinate to the District Court or a Tribunal or other authority or High Court shall be cancelled in such manner as may be prescribed."

Amendment
of section 20
of Guj. 14 of
1991.

11. In the principal Act, in section 20, in sub-section (1), for the words "of four rupees with the Bar Council Emblem and its value inscribed thereon", the words "prescribed in section 19 with the Emblem of Bar Council" shall be substituted.

Deletion of
sections 21,
22 and 23 of
Guj. 14 of
1991.

12. In the principal Act, sections 21, 22 and 23 shall be deleted.

Amendment
of section 24
of Guj. 14 of
1991.

13. In the principal Act, in section 24, after clause (b), the following shall be added, namely :-

"(bb) to organise workshops, seminars, conferences and such other programmes for the benefit of the junior members of the Bar."

Government Central Press, Gandhinagar.