

The U.P. Advocates Welfare Fund Act, 1974

UTTAR PRADESH

India

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Act 6 of 1974

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012.

[17th April, 1974] An Act to provide for the establishment and operation of a fund for the promotion of welfare of Advocates in Uttar Pradesh Received the assent of the Governor on April 17, 1974, published in U.P. Gazette (Extra.), dated 17th April, 1974, pp. 3-5. It is hereby enacted in the Twenty-fifth year of the Republic of India as follows:

1. Short title and extent.

(1) This Act may be called the Uttar Pradesh Advocates Welfare Fund Act, 1974. (2) It extends to the whole of Uttar Pradesh.

2. Definitions.

- In this Act, unless the context otherwise requires - (a) "Advocate" means an Advocate enrolled on the roll of the State Bar Council; (b) "State Bar Council" means the State Bar Council of Uttar Pradesh constituted under Section 3 of the Advocates Act, 1961; (c) "Fund" means the Fund referred to in Section 3; (d) "Trustees Committee" means the Committee constituted under Section 3; (e) ["Welfare Stamp" means the stamp referred to in Section 9 ; [Instituted by U.P. Act 21 of 1988, vide Section 2 (w.e.f. 14-4-1989)] (f) "Vakalatnama" includes a memorandum of appearance or any other document by which an advocate is empowered to appear, act or plead before any court, tribunal, authority or person but does not include any Vakalatnama or memorandum of appearance filed on behalf of the State Government or an officer representing the State Government.]

3. Object of the fund.

(1) For the following objects of general public utility, a charitable trust shall be created in respect of a Fund, to be constituted as hereinafter provided and to be called the Uttar Pradesh Advocates Welfare Fund, namely -(a) obtaining from the Life Insurance Corporation of India a policy of group life insurance of Advocates up to the age of 60 years; (b) the provision of buildings or halls and libraries, canteens and other facilities for District Bar Associations, or the making of contributions to District Bar Associations or the purposes of making such provision; (bb) [the organization of Advocate Social Security Fund Scheme hereinafter referred to as the Scheme, for such advocates as become members of the Scheme;] [Instituted by *ibid*, vide Section 3 (a) (w.e.f. 14-4-1989)]; (c) the organization of other schemes for the welfare of needy Advocates; and (d) such other objects as would, in the opinion of the Trustees Committee, improve the working conditions and facilities of Advocates. (2) The Fund shall consist of-(a) all monies transferred to it under Section 4; (b) all contributions made to it by the State Bar Council; (c) any voluntary donation or contribution made to the Fund by any Advocate, including any sum received from the Life Insurance Corporation of India on the death of an Advocate insured under the group life insurance policy where such Advocate had nominated the Trustees Committee as the person to whom the money secured by the policy shall be paid in the event of his death; (d) any grants made to the Fund by the State Government; (e) any sum borrowed under Section 5; (f) any profits or dividends received from the Life Insurance Corporation of India in respect of the policy of group life insurance of Advocates; (g) any interest or dividend or other return or any investment made in respect of any part of the Fund; (h) [the sale proceeds of stamps transferred by the State Government in accordance with Section 19; [Instituted by U.P. Act 21 of 1988, vide Section 3 (b) (w.e.f. 14-4-1989)]]; (i) all admission fees and annual subscriptions, for membership of the Scheme received in accordance with Section 11 and interest, if any, thereon]. (3) The Fund shall vest in and be held and administered by a Trustees Committee to be named the Uttar Pradesh Advocates Welfare Fund Trustees Committee, of which the following shall be the members, namely -(a) the Advocate General of Uttar Pradesh, ex officio, who shall be chairman; (b) the chairman, State Bar Council, ex officio or where that office is for the time being held by the Advocate General, an Advocate nominated by the State Bar Council; (c) the Secretary to the State Government in the Judicial Department, ex officio, who shall be Member-Secretary. (4) A member nominated under clause (b) of sub-section (3) shall hold office for a term of three years, but he may at any time by writing under his hand addressed to the Chairman, resign his membership. (5) The Trustees Committee shall be a body corporate with the name aforesaid, having perpetual succession and a common seal, with power to acquire and hold property, and may sue and be sued by that name. (6) No act or proceeding of the Trustees Committee shall be questioned or deemed to be invalid by reason merely of any vacancy in or any defect in the constitution thereof.

4. Transfer of certain monies to the Fund.

- As soon as may be after the commencement of this Act, an amount equivalent to the sums received by the State Bar Council on account of the deposits of stamp duty on certificates of enrolment paid by Advocates, together with interest actually earned thereon, shall be paid by it to the credit of the Fund, and such credit to the Fund shall discharge the State Bar Council of the liability in respect thereof to the State Government.

5. Financial provisions.

(1)The Trustees Committee may, from time to time, borrow any sum required for the purposes of this Act.(2)The monies in the Fund may be deposited in any scheduled bank or invested by the Trustees Committee in loans and advances to any Corporation owned or controlled by the State Government, or in such other manner as the State Government may from time to time direct.(3)The Fund shall be deemed to be a local fund and be audited by the Examiner, Local Fund Accounts, Uttar Pradesh.

6. Execution and authentication of instruments, etc.

- All decisions' and other instruments made and executed by the Trustees Committee may be authenticated by the signature of the Member-Secretary, who shall also have the power to operate any bank account on behalf of the said Committee.

7. Power of the State Government to issue directions.

- The State Government may from time to time issue to the Trustees Committee such directions as in its opinion are necessary or expedient for carrying out the purposes of this Act, and it shall be the duty of the Trustees Committee to comply with such directions.

8. [Contribution by State Bar Council.]

[Substituted by U.P. Act 21 of 1988. vide Section 4 (w.e.f. 14-4-1989)] - The State Bar Council shall contribute to the Fund rupees one lakh on the date of commencement of the Uttar Pradesh Advocates Welfare Fund (Amendment) Act, 1988 and thereafter annually, an amount equal to twenty-five per centum of the fees realised by it on account of enrolment of Advocates during the year.

9. Welfare stamp on Vakalatnama.

(1)Every member of the Scheme shall affix on the Vakalatnama accepted by him a Welfare Stamp of the value of five rupees in the case of Vakalatnama filed in the High Court or a Tribunal or any other authority or person and two rupees in any other case and no court, tribunal, authority or person shall receive any Vakalatnama in favour of such member unless it is so stamped in addition to any stamp required under any other law for the time being in force.(2)The value of the Welfare Stamp shall neither be taxable cost in the suit or proceeding nor be collected in any event from a party to such suit or proceeding.(3)Any contravention of the provisions of sub-section (2) by any member shall disentitle him to the benefits of the Scheme and shall be deemed to be a misconduct and the Trustees Committee shall report the matter to the State Bar Council for appropriate action..(4)Every Welfare Stamp affixed on a Vakalatnama under sub- section (1) shall be cancelled in the manner provided in Section 30 of the Court Fees Act, 1870.

10. Printing and sale of Welfare Stamps.

(1)The State Government shall cause to be printed Welfare Stamps for the purposes of this Act, in such design and such denomination as it thinks fit with the words "Welfare Stamp" printed thereon.(2)The State Government shall control the distribution and sale of Welfare Stamps through stamp vendors appointed by it for the sale of court fee stamps or through such other agency as it may deem fit.(3)The State Government shall, at the close of every financial year transfer the sale proceeds of the Welfare Stamps after deducting the costs incurred in printing, sale and distribution of the stamps to the account of the Fund.(4)The State Government shall furnish to the Trustees Committee a statement containing the number of Welfare Stamps printed and sold, the details of costs deducted and the amount transferred under this section to the account to the Fund, within three months of such transfer.

11. Membership of the Scheme.

(1)Any advocate may apply to the Secretary, Trustees Committee in such form as may be prescribed, for admission as a member of the Scheme.(2)Every applicant shall pay in the prescribed manner an admission fee of one hundred rupees in lump sum with the application.(3)The Trustees Committee may, on receipt of the application and the admission fee, make such inquiry as it deems fit and shall either admit the applicant to the membership of the Scheme, or for reasons to be recorded in writing, reject the application and refund the amount paid towards admission fee :Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.(4)The membership of an applicant so admitted shall be deemed to have commenced on the first day of January of the year in which the application was made or the day of enrolment of the applicant as an Advocate, whichever is later.(5)Every member of the Scheme shall pay in the prescribed manner an annual subscription for every calendar year on or before the thirty-first day of December of that year at the rate of -(a)fifty rupees, where he has practised as an advocate for not more than five years;(b)one hundred rupees, where he has practised as an advocate for more than five years but not more than ten years ;(c)two hundred and fifty rupees, where he has practised as an advocate for more than ten years.Explanation. - For the purposes of this sub-section -(i)practice as an advocate includes practice as a pleader or other legal practitioner enrolled under the Legal Practitioners Act, 1879 or as an Advocate on the roll of any Bar Council constituted under the Advocates Act, 1961;(ii)the period of practice shall be reckoned as on the first day of the calendar year for which the subscription is payable or the date of enrolment as legal practitioner or an Advocate, whichever is later.

12. Cessation of membership and re-admission.

(1)A member of the Scheme shall cease to be such member, if -(a)he dies,(b)his name is removed from the State Roll maintained by the State Bar Council;(c)he resigns the membership ;(d)he is in arrears of annual subscription for a period of two years or more and the Trustees Committee after giving him an opportunity to show cause, terminates his membership.(2)An advocate who has ceased to be a member of the Scheme may, on his written application and on payment of the arrears of annual subscription which he would have paid, if his membership had continued, together with

interest thereon at the rate of eighteen per centum per annum, be readmitted to the membership of the Scheme, provided his name is restored or, as the case may be, continues on the State Roll maintained by the State Bar Council.

13. Payment from the Fund on cessation of membership.

(1) A member of the Scheme shall on ceasing to be such member, be entitled to receive from the Fund - (a) an amount equal to the aggregate of annual subscriptions paid by him, if he has been a member for a period of less than five years; (b) an amount calculated at the rate of Rs. 1,000 for every completed year of his membership, if he has been a member for a period of five years or more subject to a maximum of Rs. 50,000. (2) In the even of death of a member the amount payable under sub-section (1) shall be paid to his nominee, or where there is no nominee, to his legal heirs. Explanation. - For the purposes of this sub-section, the term member includes a person who dies after ceasing to be a member before receiving payment under subsection (1).

14. Restriction on alienation, attachment, etc. of interest of members.

- Notwithstanding anything contained in any other law for the time being in force, the right or interest of any member of the Scheme or his nominee or legal heirs to receive any amount from the Fund under Section 13 shall not be alienated or charged and shall not be liable to attachment under any decree or order of any court.

15. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the Trustees Committee, or any member or officer thereof in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

16. Power to make rules .

(1) The State Government may, by notification, make rules for carrying out the purposes of this Act. (2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: (a) the form and the manner in which application for membership of the Scheme may be made ; (b) the manner of payment of admission fee and annual subscription for the membership of the Scheme ; (c) the form and the manner in which the list of members of the Scheme shall be maintained, and copies or extracts shall be communicated to courts to enable them to ensure compliance of the provision of Section 9 ; (d) the form and the manner in which application for payment under Section 13 shall be made and the procedure of inquiry, if any, to be made by the Trustees Committee for such payment; (e) the form and the manner in which nomination to receive payment under Section 13 may be made ; and (f) any other matter which has to be or may be prescribed.