

Telangana Advocates' Clerks Welfare Fund Act, 1992

TELENGANA

India

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Act 13 of 1992

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Telangana Advocates' Clerks Welfare Fund Act, 1992(Act No. 13 of 1992)Last Updated 17th January, 2020The Andhra Pradesh Advocates' Clerks Welfare Fund Act, 1992 received the assent of the Governor on the 15th April, 1992. The said Act in force in the combined State, as on 02.06.2014, has been adapted to the State of Telangana, under section 101 of the Andhra Pradesh Reorganisation Act, 2014 (Central Act 6 of 2014) vide. Telangana Adaptation of Laws Order issued in G.O.Ms.No.45, Law (F) Department, dated 01.06.2016.

1. Short title, extent and commencement.

(1)This Act may be called the [Telangana] [Substituted by G.O.Ms.No.45, Law (F) Department, dated 01.06.2016.] Advocates' Clerks Welfare Fund Act, 1992.(2)It extends to the whole of the [state of Telangana] [Substituted by G.O.Ms.No.45, Law (F) Department, dated 01.06.2016.].(3)It shall come into force on such date as the Government may, by notification, appoint.

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 Andhra Pradesh under section 17 of the Advocates' Act, 1961 (Central Act 25 of 1961) and who is practising as an advocate in the State of Andhra Pradesh;(b)'Bar Association' means an Association of Advocates recognised by the Bar Council under section 13;(c)'Bar Council' means the Bar Council of Andhra Pradesh constituted under section 3 of the Advocates' Act, 1961 (Central Act 25 of 1961);(d)'Cessation of Employment' means removal of the name of an Advocates' Clerk from the State roll maintained by the Committee on account of his retirement or on death;(e)'Committee' means Andhra Pradesh Advocates' Clerks Welfare Fund Committee constituted under section 4;(f)'Dependent' means wife, husband, father, mother [or children or legal heirs;] [The words 'and unmarried minor children or such of them as exist' substituted by Act No. 4 of 2003.](g)'Fund' means the Andhra Pradesh Advocates' Clerks Welfare Fund constituted under section

3;(h)'Government' means the State Government;(i)'Member of the Fund' means an Advocates' Clerk admitted to the benefit of the fund and continuing to be a member thereof under the provisions of this Act;(j)'Notification' means a notification published in the Telangana Gazette, and the word 'Notified' shall be construed accordingly;(k)'Prescribed' means prescribed by rules made under this Act;(l)'Recognised Clerk' means a clerk employed by an advocate and recognised by such authority and in such manner as may be prescribed;(m)'Retirement' means stoppage of employment as an Advocates' Clerk for reasons other than joining service or for carrying on any other gainful occupation, communicated to, and recorded in the manner prescribed;(n)'Stamp' means the Andhra Pradesh Advocates' Clerks Welfare Fund Stamp issued by the Government under section 12;(o)'Welfare Fund Committee' means the Committee established under section 4;(p)'legal representatives' means a Vakalatnama, memorandum of appearance or by any other document by which an Advocate or any other legal practitioner is empowered to appear and plead before any court, tribunal, authority or person.

3. Advocates' Clerks Welfare Fund.

(1)With effect on and from the commencement of this Act the Government shall, by notification constitute a fund to be called the Andhra Pradesh Advocates' Clerks Welfare Fund.(2)There shall be credited to the Fund, -(a)all amounts paid under section 12;(b)any voluntary donation or contribution made to the Fund by the Bar Council, any Bar Association, any other Association or Institution, any Advocate or any other person;(c)any grant made by the Central Government or the State Government to the Fund.(d)any sum borrowed under section 10;(e)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;(f)any interest or dividend or other return on any investment made of any part of the Fund;(g)all sums collected under section 15 by way or application fees and annual subscriptions and interest thereon.(3)The sums specified in sub-section (2) shall be paid to or collected by, such agencies, at such intervals and in such manner and the accounts of the Fund shall be maintained in such manner, as may be prescribed.

4. Establishment of Welfare Fund Committee.

(1)The Government may, by notification, establish with effect on and, from such date as may be specified therein, a Committee to be called the Andhra Pradesh Advocates' Clerks Welfare Fund Committee.(2)The Committee shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and shall, by the said name, sue and be sued.(3)The Committee shall consist, -(a)the Chairman of the Bar Council who shall be the Chairman of the Welfare Fund Committee, Ex-officio;(b)the Secretary to Government, Legal Affairs or his nominee not below the rank of a Deputy Secretary, Ex-officio;(c)the Secretary to Government, Legislative Affairs or his nominee not below the rank of a Deputy Secretary, Ex-officio;(d)the Secretary to Government, Revenue Department or his nominee not below the rank of a Deputy Secretary, Ex-officio;(e)the Registrar (Judicial), High Court of Andhra Pradesh or his nominee not below the rank of a Deputy Registrar, Ex-officio;(f)[three members to be nominated from among the recognised clerks by such authority and in such manner as may be prescribed of whom one shall be nominated by the Committee as the Treasurer of the Fund, who shall operate the Bank Accounts

of the Committee jointly with the Chairman;] [Substituted by Act 4 of 2003 and again substituted by Act No. 30 of 2006.](g)[a Secretary to be appointed by the Chairman in accordance with such regulations as may be made by the Committee in respect of the recruitment and conditions of service of such Secretary. He shall be paid out of the Advocates' Clerks Welfare Fund: [Substituted by Act No. 21 of 1994.]Provided that the Secretary appointed under this clause shall not have the right to vote at the meetings of the Committee:Provided further that a Secretary shall be appointed in accordance with this clause within a period of two months from the date of commencement of the Andhra Pradesh Advocates' Clerks Welfare Fund (Amendment) Act, 1994 and till such appointment is made the Secretary to the Bar Council shall continue to be the Secretary of the Committee.](4)A member nominated under clause (f) of sub-section (3) shall hold office [for a term of five years] [Substituted by Act 4 of 2003 and again substituted by Act No. 30 of 2006.] or until he ceases to be a recognised clerk which ever is earlier.

5. Disqualification and removal of nominated members of the Welfare Fund Committee.

- A member nominated under clause (f) of sub-section (3) of section 4 shall be disqualified to be a member of the Committee, and cease to be such member, if he,-(a)becomes of unsound mind;(b)is adjudged insolvent;(c)is absent without leave of the Committee for more than three consecutive meetings of the Committee;(d)is a defaulter to the Fund (in case he is a member of the Fund) or has committed breach of trust; or(e)is convicted by a criminal court for an offence involving moral turpitude, unless such conviction has been set aside.

6. Resignation by elected member of the Committee and filling up of casual vacancies.

(1)Any member nominated under clause (f) of sub-section (3) of section 4 may resign his office by giving [one month] [The words 'three months' are substituted by Act No. 4 of 2003.] notice in writing to the Chairman of the Committee and on such resignation being accepted by the said Chairman, he shall be deemed to have vacated his office;(2)Any casual vacancy in the office of a member referred to in sub-section (1) shall be filled up, as soon as may be, and a member so nominated to fill such vacancy shall hold office for the residue of the term of his predecessor.

7. Act of Committee not to be invalidated by defect etc.

- No act done or proceeding taken under this Act or the rules made thereunder by the Committee shall be invalidated merely by reason of, -(a)any vacancy or defect in the constitution of the Committee; or(b)any defect or irregularity in the election of any person as a member thereof;(c)any defect or irregularity in such act or proceeding not affecting the merits of the case.

8. Vesting and application of Fund.

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

9. Functions of the Committee.

(1)It shall be the duty of the Committee to administer the fund.(2)In the administration of the Fund, the Committee shall, subject to the provisions of this Act and the rules made thereunder, -(a)hold the amounts and assets belonging to the Fund;(b)receive applications for admission or re-admission to the Fund, and dispose of such applications within ninety days from the date of receipt thereof;(c)receive applications from the members of the Fund, their nominees or [dependants] [The words 'legal representatives' were substituted by Act No.4 of 2003.] as the case may be for payment out of the Fund, conduct such enquiry as it deems necessary for the disposal of such applications, and dispose of the applications within five months from the date of receipt thereof;(d)record in the minutes books of the Committee its decisions, on the application;(e)pay to the applicants amounts at the prescribed rates;(f)maintain such accounts and books and send such periodicals and annual reports to the Government and the Bar Council, as may be prescribed;(g)communicate to the applicants under certificate of posting the decisions of the Committee in respect of applications for admission or re-admission to the Fund or claims to the benefit of the Fund;(h)do such other acts as are, or may be, required to be done under this Act and the rules made thereunder.

10. Borrowing and investment of Funds.

(1)The Committee, may, with the prior approval of the Bar Council, borrow, from time to time, any sum required for carrying out the purposes of this Act.(2)The Committee shall deposit all moneys and receipts forming part of the Fund in any Scheduled Bank as defined in the Reserve Bank of India Act, 1934 (Central Act 2 of 1934), or invest the same in loans to any Corporation owned or controlled by the Central Government or the State Government or in loans floated by the Central Government or the State Government or in any other manner as the Bar Council; may, from time to time, direct with the prior approval of the 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.(4)The accounts and Books maintained by the Welfare Fund Committee shall be audited annually by a Chartered Accountant appointed by the said Committee.(5)The accounts, as certified by the Auditor together with the audit report thereon, shall be forwarded to the Bar Council by the Committee and the Bar Council may issue such directions as it deems fit to the Committee in respect thereof.(6)The Committee shall comply with the directions issued by the Bar Council under sub-section (5).

11. Powers and duties of Secretary.

- The Secretary of the Committee shall, -(a)be the Chief Executive Authority Committee and responsible for out its decisions;(b)represent the Committee in all suits and proceedings for and

against the Committee;(c)authenticate by his signature all decisions and instructions of the Committee;(d)[xxx] [Substituted by Act 4 of 2003 and omitted by Act No.30 of 2006.](e)convene meetings of the Committee and prepare its minutes;(f)attend the meetings of the Committee and with all the necessary records and information;(g)maintain such forms, registers and other records as may be prescribed, from time to time, and do all correspondence relating to the Committee;(h)prepare an annual statement of business transaction by the Committee during each financial year; and(i)do such acts as may be directed by the Committee.

12. [Printing, Custody and Distribution of the Andhra Pradesh Advocates and their Clerks Welfare Fund Stamp. [Substituted by Act No. 24 of 2011]

(1)There shall be printed or cause to be printed by the Commissioner & Inspector General of Registration and Stamps, Telangana, Hyderabad, in such manner as may be prescribed a combined stamp superscribed in Telugu language as "Nyayavadula mariyu vari Gumasthala Samkshema Nidhi" each of the value of [hundred] rupees through Government Security Printing Press, on an indent placed by the Telangana Advocates' Welfare Fund Committee in such form as may be prescribed.(2)Every Vakalat/Memo of Appearance filed before any Court, Authority, Tribunal, Forum or Commission including every Vakalat/Memo of Appearance filed by all the Law Officers appearing for the State and Central Governments and their instrumentalities shall be affixed with the Stamp worth of rupees [hundred] [Substituted by Act No.8 of 2018.] and no such Vakalat/Memo of Appearance shall be valid or accepted without such Stamp.(3)The person or authority receiving a Vakalat with such stamp shall forthwith, effect cancellation of the stamp by punching out the same.(4)The custody and distribution of stamps shall be with the Andhra Pradesh Advocate' Welfare Fund Committee and the sale of the stamps shall be through recognized Bar Associations.]

12A. [Apportionment of sale proceeds and the cost of printing of stamps. [Inserted by Act 19 of 1992 and later added by Act 21 of 1994 and substituted by Act No. 24 of 2011.]

(1)Notwithstanding anything contained in section 12, out of the sale proceeds of the stamps worth of [Rs.100/], a sum of [Rs.86/-] [Substituted by Act No.8 of 2018.] shall be credited to the Telangana Advocates' Welfare Fund and [Rs.14/-] [Substituted by Act No.8 of 2018.] shall be credited to the Andhra Pradesh Advocates' Clerks Welfare Fund and where such a stamp is affixed to Vakalat/Memo of Appearance, the provision sub-section (2) of section 12 shall be deemed to have been complied with.(2)The cost of the printing of the Stamps under sub-section (1) of section 12 shall be apportioned between the Andhra Pradesh Advocates' Clerks Welfare Fund constituted under section 3 of the Telangana Advocates' Clerks Welfare Fund Act, 1992 and the Andhra Pradesh Advocates' Welfare Fund constituted under section 3 of the Telangana Advocates' Welfare Fund Act, 1987 in such manner as may be prescribed.]

13. Recognition and Registration of Advocates' Clerks Association.

(1)All associations of Advocates' Clerks known by any name functioning in any court headquarters may, before a date to be notified by the Committee in this behalf, apply to the Committee in such form as may be prescribed, for recognition and registration as an Advocates' Clerks Association under this Act, subject to such rules as may be made in this behalf.(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 an up-to-date list of the members of the association showing the name, address, age, date of enrollment and the ordinary place of employment of such member.(3)The Committee may, after such enquiry as it deems necessary recognize the association as an Advocates' Clerks Association and issue a certificate of registration in such form as may be prescribed.(4)The decision of the Committee regarding the recognition and registration of an Association shall be final.

14. Duties of Advocates' Clerks Associations.

(1)Every Advocates' Clerks Association shall, on or before the 15th April, of every year, intimate to the Committee a list of its members as on the 31st March of that year.(2)Every Association shall intimate to the Committee,-(a)any changes of the office bearers of the association within fifteen days from such change,(b)any change in the membership including admission and re-admission within thirty days of such changes;(c)the death or retirement of any of its members within thirty days from the date of occurrence thereof; and(d)such other matter as may be required by the Committee from time to time.

15. Membership of the Fund.

- [(1) Every recognised clerk of the Advocate in the State below [the age of 45 years] [Substituted by Act No. 4 of 2003.] and being a member of any Advocates' Clerks Association recognised by the Committee may apply to the Committee for admission as a member of the fund in such form as may be prescribed.](2)On receipt of an application under sub-section (1) the 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:Provided that no order rejecting an application shall be passed unless the applicant has been given an opportunity of being heard.(3)[xxx] [Omitted by Act No.4 of 2003.](4)In the event of rejection of the application, [the amount] [The words 'the admission fee' are substituted by Act No.4 of 2003.] paid alongwith the application shall be refunded to the applicant.(5)[Every recognised clerk of the Advocate in the State shall pay to the fund an admission fee of rupees fifty along with an amount of rupees five hundred towards subscription for life membership.] [Substituted by Act No. 4 of 2003.](6)Every member shall, at the time of admission to the membership of the Fund make a nomination conferring on one or more [nominees] [The word 'dependents' substituted by Act No. 4 of 2003.] the right to receive the amount which may be due to him from the fund in the event of his death before the amount has been paid to him.(7)If a member nominated more than one person under sub-section (6), he 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 paid to him.(8)A member may at any time cancel a nomination by sending a

notice in writing to the Committee along with a fresh nomination.(9)Every member who retires shall, within three months of such retirement, intimate that fact to the Committee and if any member fails to do so without sufficient reason, the Committee may reduce in accordance with such principles as may be prescribed the amount due to that member.(10)[Where on receipt of a complaint or otherwise the Committee has reason to believe that any Advocates' Clerk secured admission as a member of the Fund by misrepresentation, fraud or undue influence, it shall be competent for the Committee to remove the name of such Advocates' Clerk from the membership of the Fund:Provided that no order under this sub-section shall be passed unless the person likely to be adversely affected has had an opportunity of being heard.] [Inserted by Act No. 19 of 1992.]

15A. [Retired person is not eligible for membership. [Inserted by Act No. 4 of 2003.]

- A person retired from any service and drawing pension shall not be admitted to the Membership of the Fund.]

16. Payment from the Fund on cessation of employment.

(1)A member of the Fund shall on cessation of employment, be entitled to receive from an out of the Fund an amount at such rate as may be notified from time to time by the Committee depending upon the total period of employment of the member:[Provided that a member who completed 30 years of service as an Advocate's Clerk and who is on the rolls of Advocates' Clerks Welfare Fund for a period of not less than 10 years, opts for retirement, be entitled to receive half of the existing Death Benefit towards Retirement Benefit on production of certificate of service issued by the Judicial Registrar or District Judge, as the case may be.] [Added by Act No. 24 of 2008.](2)In the event of death of a member, a consolidated amount as determined by the Committee in the manner prescribed shall be paid to the nominee or where there is no nominee to his dependants.[XXX] [Explanation omitted by Act No. 4 of 2003.](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:Provided that a member suffering from permanent disablement shall be allowed to retire within five years of his admission to the Fund.(4)For calculating the period of completed years of employment for the purpose of payment under this Act, every four years of employment under an Advocate, if any, before the admission of a member to the Fund shall be computed as one year of employment and added on to the number of years of employment after such admission. The number of years of employment shall be decided in respect of each member in the manner prescribed.(5)[xxx] [Omitted by Act No. 4 of 2003.](6)An application for payment from the Fund shall be preferred to the Committee in such form as may be prescribed.(7)An application received under sub-section (6), shall be disposed of by the Committee after such enquiry as it deems necessary.

17. Group Life Insurance for members and other benefits.

- The Welfare Fund Committee may, for the welfare of the members of the Fund, -(a)obtain from the Life Insurance Corporation of India Policies of Group Insurance for the members of the Fund;(b)provide for a policy of Provident Fund for the members of the Fund;(c)provide for medical facilities for the member of the Fund and heir spouses; and(d)provide for such other benefits as may be prescribed.

17A. [Restriction on alienation, attachment etc of interest of member in Fund. [Inserted by Act No. 4 of 2003.]

(1)The interest of any member in the fund, or the right of a member or his or her nominee or dependents to receive any amount from funds, shall not be assigned, alienated or charged and shall not be liable to attachment under any decree or order of any Court, Tribunal, Financial Institutions or other authority.(2)No creditor shall be entitled to proceed against the fund or the interest therein of any member or his or her nominee or dependents.]

18. Meetings of the Committee.

(1)The Committee shall meet atleast the once in three months or more often if found necessary to transact business under this Act or the rules made thereunder.(2)Five members of the Committee shall form the quorum for a meeting of the Committee.(3)The Chairman or in his absence a member elected by the Members present at the meeting shall preside over a meeting of the Committee.(4)Any matter coming up before a meeting of the Committee shall be decided by a majority of the members present and voting at the meeting and, in the case of any equality of votes, the Chairman or the member presiding over the meeting shall have and exercise a casting vote.

19. Travelling and Daily Allowances to Members of Committee.

- The nominated members of the committee shall be eligible to get such travelling allowance and daily allowance as may allowances be prescribed.

20. Review.

- The Committee may suo motu at any time or on an application received from any person interested within ninety days of the passing of any order under the provisions of this Act, review any such order, if it was passed by them under any mistake, whether of fact or of law or in ignorance of any material fact:Provided that the Committee shall not pass any order adversely affecting any person unless such person has been given an opportunity of making his representation.

21. Protection of action taken in good faith.

(1) No suit, prosecution or other legal proceedings shall lie against any person for anything which in good faith done or intended to be done in pursuance of this Act or any rule made thereunder. (2) No suit or other legal proceedings shall lie against the 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 rule made thereunder.

22. 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, decide or deal with or to be determined by the Committee.

23. Power to summon witnesses and take evidence.

- The Committee 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 5 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 affidavit; and (d) issuing Commissions for the examination of witnesses.

24. Power to make rules.

(1) The Government may, by Notification make rules for carrying out the purpose of this Act. (2) Every rule made under the Act, shall immediately after it is made, be laid before the Legislature of the State if it is in session, and if it is not in session, in the session immediately following, for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiration of the session in which it is so laid or the session immediately following, the Legislature agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified have effect only in such modified form or shall stand annulled, as the case may be ; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.