

The Bihar State Advocates' Welfare Fund Act, 1983

JHARKHAND

India

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Act 16 of 1983

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The Bihar State Advocates' Welfare Fund Act, 1983(Bihar Act No. 16 of 1983)Published in Bihar Gazette (Extraordinary) dated 13.8.1983.An Act to provide for the constitution of a Welfare Fund for the benefits to Advocates in the State of Bihar on death, disability, retirement, illness etc. and for matters connected therewith or incidental thereto.Be it enacted by the Legislature of the State of Bihar in the thirty-fourth year of the Republic of India as follows:

1. Short title, extent and commencement.

(1)This Act may be called the Bihar State Advocates' Welfare Fund Act, 1983.(2)It extends to the whole of the State of Bihar.(3)It shall not apply to persons who have retired from service and have been paid or are entitled to payment of retirement benefits from his employer.

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 Bihar State Bar Council under Section 17 of the Advocates' Act, 1961 (Central Act 25 of 1961);(b)"Bar Council" means the Bihar State Bar Council constituted under Section 3 of the Advocates' Act, 1961 (Central Act 25 of 1961);(c)"Cessation of Practice" means removal of the names of an advocate from the State Roll maintained by the Bar Council on account of his retirement or death;(d)"Court" includes any Tribunal or authority before whom an advocate is by or under any law for the time being in force entitled to practice;(e)"Dependents" means wife, husband, father, mother and unmarried minor children or such of them as exist;(f)"Fund" means the Advocates' Welfare Fund constituted under Section 3;(g)"Member of the Fund" means an advocate admitted to the benefit of the Fund and continuing to be a member thereof under the provisions of this Act;(h)"Prescribed" means prescribed by the Bar Council by rules made under this Act;(i)"Retirement" means stoppage of practice as an advocate communicated to and recorded by the Bar Council;(j)"Stamp" means the stamp printed and distributed under Section 21;(k)"State" means the State of Bihar;(l)"Suspension

of Practice" means voluntary suspension of practice as an advocate or suspension by the Bar Council for misconduct;(m)"Trustee Committee" means the committee established under Section 4;(n)"Vakalatnama" means vakalatnama and includes memorandum of appearance or any other document by which an advocate is empowered to appear or plead before any court, tribunal or other authority. But it shall not include memorandum of appearance filed on behalf of the State or officer representing State or Government.

3. Advocates' Welfare Fund.

(1)The Government shall constitute a fund called the Advocates Welfare Fund-(2)There shall be credited to the Fund-(a)all amount paid by the Bar Council under Section 13;(b)any other contribution made by the Bar Council;(c)any voluntary donation or contribution made to the Fund by the Bar Council of India, any Bar Association, any other association or institution, any advocate or any other person;(d)any grant made by the State Government to the Fund;(e)any sum borrowed under Section 11;(f)all sums received from the Life Insurance Corporation of India on the death of an advocate under the Group Insurance Policy;(g)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;(h)any interest or dividend or other return on any investment made of any part of the Fund;(i)all sums collected by way of sale of stamps under Section 22;(j)all sums collected under Section 16 by way of application fees and annual subscription 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 Funds shall be maintained in such manner, as may be prescribed.

4. Administrative Department of Welfare Fund.

- The Administrative Department of the Bihar State Advocates' Welfare Fund Scheme shall be the Law Department of the Government, which shall have the powers to give instructions from time to time.

5. Establishment of Trustee Committee.

(1)The Government may, by notification in the Gazette, establish with effect from such date as may be specified therein a Committee to be called the Bihar Advocates' Welfare Fund Trustee Committee.(2)The Trustee Committee shall be a body corporate having perpetual succession and common seal with its head office at Patna with power to acquire and hold property -and shall, by the said name, sue and be sued.(3)[(i)] [Sub-section (3) re-numbered as (3)(i) by Act 5 of 1990.] The Trustee Committee shall consist of-(a)the Advocate-General of Bihar who shall be the Chairman of the Trustee Committee, ex-officio;(b)the Law Secretary to Government, ex-officio;(c)a member nominated by the Government;(d)Chairman of the Bar Council;(e)two members of the Bar Council nominated by it;(f)the Secretary-cum-treasurer appointed by the Trustee Committee, ex-officio.(ii)U;kl lfefr ds lnL;ksa ds chp ls mik/;{k dk pquko gksxk] tks v/;{k dh vuqifLFkfr esa muds lHkh dk;ksZa dk lEiknu djsaxsA [Added by Act 5 of 1990.](4)A member nominated by the Government under clause (c) of sub-section (3) shall hold office for a term of four years and must be

an advocate on the roll of Bihar State Bar Council.(5)Member nominated by the Bar Council under clause (c) of sub-section (3) shall hold office for a term of four years or for the duration of his membership in the Bar Council, whichever is less.

6. Disqualifications and removal of nominated members of Trustee Committee.

(1)A member nominated under clause (c) or clause (e) of subsection (3) of Section 5 shall be disqualified to be a member of the Trustee Committee, if he-(a)becomes of unsound mind; or(b)is adjudged insolvent; or(c)is absent without leave of the Trustee Committee for more than three consecutive meetings of the Committee; or(d)is a defaulter to the Fund (in case he is 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; or(f)is debarred from practising on the ground of misconduct; or(g)ceases to be an advocate under the Advocates' Act.(2)The Government may remove any member who is or has become disqualified under sub-section (1) from membership of the Trustee Committee:Provided that no order removing any member shall be passed unless that member and the Bar Council in the case of a member nominated by it has been given an opportunity of being heard.

7. Resignation by nominated members of Trustee Committee and filling up of casual vacancies.

(1)Any member nominated under clause (c) or clause (d) of sub-section (3) of Section 5 may resign his office by giving three months notice in writing to the Government or the Bar Council, as the case may be, and such resignation being accepted by the Government or the Bar Council shall be deemed to have vacated his office:Provided that the Bar Council shall consult the Government before accepting the resignation.(2)A casual vacancy in the office of a member referred to in sub-section (1) may be filled up, as soon as may be, and a member so nominated to fill such vacancy shall hold office for the unexpired portion of the term of office of the member whose place he fills.

8. Act of Trustee Committee not to be invalidated by vacancy, defect, etc.

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

9. Vesting and application of Fund.

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

10. Function of Trustee Committee.

(1)The Trustee Committee shall administer the Fund.(2)In the administration of the Fund, the Trustee Committee shall, subject to the provisions of this Act and the rules made thereunder-(a)hold the amounts and assets belonging to the Fund in Trust;(b)receive applications for admission or re-admission to the Fund, and dispose of such application within ninety days from the date of receipt thereof;(c)receive applications from the member of the Fund, their nominees or legal representatives, as the case may be, for payment out of the Fund, conduct such enquiry as it deems necessary for the disposal of such applications and dispose of the applications within three months from the date of receipt thereof;(d)record in the minutes book of the Trustee Committee its decisions on the application;(e)pay to the applicants amounts at the rates specified in the Schedule;(f)send such periodical and annual reports as may be prescribed, to the Government and the Bar Council;(g)communicate to the applicants by registered post with acknowledgement due the decision of the Trustee 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.

11. Funds, borrowing and investment.

(1)The Trustee Committee may, with the prior approval of the Government and the Bar Council borrow, from time to time, any, sum required for carrying out the purposes of the Act.(2)The Trustee Committee shall deposit all moneys and receipts forming part of the Fund in any Scheduled bank or invest the same in loan 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 Trustee Committee may, from time to time, decide 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 of the Trustee Committee shall be audited annually by a Chartered Accountant appointed by the Bar Council.(5)The accounts of the Trustee Committee as certified by the auditor, together with the audit report thereon, shall be forwarded to the Bar Council which may issue such directions as it deems fit to the Trustee Committee in respect thereof.(6)The Trustee Committee shall comply with the directions issued by the Bar Council under sub-section (5).

12. Powers and duties of Secretary-cum-Treasurer.

- The Secretary-cum-Treasurer of the Trustee Committee shall-(a)be the chief executive authority of the Trustee Committee and responsible for carrying out its decisions;(b)represent the Trustee Committee in all suits and proceedings for and against the Committee;(c)authenticate by his signature all decisions and instructions of the Trustee Committee;(d)operate the bank accounts of the Trustee Committee jointly with the Chairman [or in his absence Vice-Chairman] [Inserted by Act 5 of 1990.];(e)convene meetings of the Trustee Committee and prepare its minutes;(f)attend the

meetings of the Trustee Committee 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 Trustee Committee;(h)prepare an annual statement of business transacted by the Trustee Committee during each financial year; and(i)do such other acts as may be directed by the Administrative Department or by the Trustee Committee or its Chairman and the Bar Council.

13. Transfer of certain moneys to the Fund.

- The Bar Council shall pay to the Fund annually an amount equal to twenty-five per cent of the enrolment fees realised by it.

14. Recognition and registration of Bar Association.

(1)All association of advocates known by any name functioning in any Court, Tribunal or Authorities etc., may, before a date to be notified by the Bar Council in this behalf, apply to the Bar Council in such form as may be prescribed for recognition and registration.(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 up-to-date list of the members of the association showing, the name, address, [registration number of enrolment] [Substituted for 'age' by Act 5 of 1990.], date of enrolment and the ordinary place of practice of each member.(3)The Bar Council may, after such enquiry as it deems necessary recognise the association and issue a certificate of registration in such form as may be prescribed.(4)The decision of the Bar Council regarding the recognition and registration of a Bar Association shall be final.

15. Duties of Bar Association.

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

16. Membership of the Fund.

(1)Every advocate practising in any court, Tribunal or authority, etc. and being a member of a Bar Association recognised by the Bar Council in the State may apply to the Trustee 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) and on payment of a fee as prescribed in sub-section (3) the Trustee Committee shall make such enquiry as it deems fit and either admit the applicant to the

Fund or for reasons to be recorded in writing reject the application: Provided that no order rejecting an application shall be passed unless the applicant has been given an opportunity of being heard. (3) Every applicant shall pay an admission fee of two hundred rupees in one lump sum or in the course of one year in four equal instalments, in such manner as may be prescribed, the first instalment being payable along with application, to the account of the Trustee Committee: [Provided that the Trustee Committee, by resolution published in the Gazette, change the mode of payment.] [Inserted by Act 5 of 1990.] (4) In the event of rejection of the application the admission fee paid shall be refunded to the applicant. (5) Every member shall pay an annual subscription to the Funds on or before the 30th June of every year at the following rates, namely:-

Where the standing of the advocate at the Bar is five years or more, but less than ten years	... Fifty rupees
Where the standing of the advocate at the Bar is ten years or more	... One hundred rupees

(6) A member shall be entitled to pay the subscription under sub-section (5) in two equal half yearly instalments at his option. (7) Any member who fails to remit the annual subscription for an year before the 30th June of that year shall be removed from the membership of the fund: [Provided that no order of removal from membership of a member shall be passed without providing an opportunity of hearing. Notice to members shall be served by registered post and the expenses on it along with other expenses shall be recoverable from member along with subscription.] [Inserted by Act 5 of 1990.] (8) A person removed from the membership of the Fund under sub-section (7) shall be re-admitted to the Fund on payment of the arrears with interest at twelve per cent per annum within six months from the date of such removal. (9) Every member shall at the time of admission to the membership of the Fund may make a nomination conferring on one or more persons 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. (10) If a member nominates more than one person under sub-section (9) 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 due to him. (11) A member may at any time cancel a nomination by sending a notice in writing to the Trustee Committee, provided that a member shall along with such notice send a fresh nomination. (12) Every member who voluntarily suspends practice or retires shall within fifteen days of such suspension or retirement, intimate the fact to the Trustee Committee and if any member fails to do so without sufficient reasons the Trustee Committee shall reduce, the amount due to that member as on the date of actual retirement or suspension of practice.

17. Payment from the Fund on cessation of practice.

(1) A member of the Fund shall on cessation of practice, be entitled to receive out of the Fund an amount at the rate specified in the Schedule: ijUrq ;g fd U;kl lfe fr leqfpr fuf/k ds miyC/k gksus ij vuqlwph esa of.kZr jkf'k dks lEiw.kZ ,oa ;qfDrlaxr rjhds ls Hkqxrku c<+k ldsxhA [Inserted by Act 5 of 1990.] (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 legal heirs. (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) For

calculating the period of completed years of practice for the purpose of payment from the Fund under this Act, every four years of practices at the Bar, if any, before the admission of a member to the Fund shall be computed as one year of practice and added on to the number of years of practice after such admission. : vf/kfu;e ds vUrxZr fuf/k ls Hkqxrku ds laca/k esa fof/k O;olk; ds o"KZ dh x.kuk esa fuf/k esa lnL;rk ds ukekadu ds iwoZ eq[rkj] IyhMj] cSfjLVj ;k ,Moksdsv ds :i esa fd;s x;s O;olk; dks lfEefyr fd;k tk;sxkA [Inserted by Act 5 of 1990.](5)In the case of a member who dies or suffers from permanent disablement the member or his nominee or legal heir, as the case may be, shall be entitled to get a minimum sum of Rs. 5,000:ijUrq ;g fd U;kl lfefr i;kZIr fuf/k miyC/k jgus ij ;qfDr&laxr rjhds ls jkf'k dks c<+k ldsxhA [Inserted by Act 5 of 1990.](6)An application for payment from the Fund shall be preferred to the Trustee Committee in such form as may be prescribed.(7)An application received under sub-section (6) shall be disposed of by the Trustee Committee after such enquiry as it deems necessary:Provided that any person who takes up any job or employment after suspension of practice within ten years. shall not be entitled to any of the benefits under the Act except the amount deposited by him under the scheme with interest.

18. Restriction on alienation, attachment etc. of interest of member in the Fund.

(1)The interest of any member in the Fund, or the right of a member or his nominee or legal heirs to receive any amount from the Fund, shall not be assigned, alienated, or charged and shall not be liable to attachment under any decree or order of any court, tribunal or other authority.(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 purposes of this section, "creditor" includes the State or an official assignee or receiver appointed under the Insolvency Act, 1955 (2 of 1956) or any other law for the time being in force.

19. Group Life Insurance for members and other benefits.

- The Trustee 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 such benefits as may be prescribed;(c)advance loan at the Bank rate to meet professional necessities, provided that the amount so advanced in no case shall exceed 50 percent of the amount, payable to the member if he would have retired on the date of application for loan. vfxze ds :i esa fn, x, dtZ U;kl lfefr }kjk fu/kkZfjr ,d eq'r ;k fdLrksa esa okil dh tk;sxh vkSj jkf'k dh okilh u djus dh n'kk esa lEc) lnL; dh lnL;rk mUgsa lquokbZ dk volj nsdj jn~n dh tk ldrh gS vkSj oSlk jn~ndj.k iquZukekadu ds fy, v;ksX;rk ekuk tk;sxkA lnL; ds fpfdr[k] f'k{kk ,oa oSokfgd vko';drk laca/kh dtZ lnL;ksa ds dY;k.k gsrq dtZ ekuk tk;sxkA [Inserted by Act 5 of 1990.]

20. Meetings of Trustee Committee.

(1)The Trustee Committee, shall meet at least once in three calendar months or more often if found necessary at its headquarter at Patna or at any other place in Bihar to transact business under this Act or the rules made thereunder.(2)One third members of the Trustee Committee shall, form the

quorum for the meeting of the Committee.(3)The Chairman [or in his absence Vice-Chairman] [Inserted by Act 5 of 1990.] of the Bar Council or a member elected shall preside over a meeting of the Trustee Committee.(4)Any matter coming up before a meeting of the Trustee Committee shall be decided by majority of the members present and voting at the meeting, and in case of equal votes, the Chairman or the member presiding over the meeting shall have a casting vote.

21. Travelling and daily allowance to members of Trustee Committee.

- The non-official members of the Trustee Committee shall be eligible to get such travelling allowance and daily, allowance as are admissible to the members of the Bar Council or as decided by the Trustee Committee.

22. Printing and distribution of Advocates' welfare stamps by the State.

(1)The State shall cause to be printed and distributed Advocates' Welfare Fund stamps for sale of the value of two rupees and fifty paise with the Bar Council Emblem and its value inscribed thereon.(2)The Welfare Stamps shall be of the size 1 inch x 2 inch.(3)The custody of the Welfare Stamps shall be with the State of Bihar who will maintain separate account and Head for this.(4)The State Government shall control the distribution and sale of the Welfare Stamps through the stamp vendors appointed by it for the sale of court-fee stamps.(5)The State Government at the time of closing of every financial year shall transfer the sale-proceeds of the welfare stamps after the payment of commission, etc., to the account of Advocates' Welfare Fund.(6)The State Government shall also furnish to the Trustee Committee a statement containing the number of welfare stamps printed, sold and amount so transferred to the Advocates' Welfare Fund after deducting commission, etc. within three months from such transfer.(7)Every welfare stamp affixed on vakalatnama [or affidavit] [Inserted by Act 5 of 1990.] filed before any court, Tribunal or other Authority shall be cancelled in the manner as provided in Bihar for the court fee stamps.

23. Vakalatnama [or affidavit] to bear welfare stamps.

- No vakalatnama [or affidavit] [Inserted by Act 5 of 1990.] shall be filed before or received by any court, tribunal or other authority unless it has the welfare stamp as mentioned in Section 22.

24. 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 rule made thereunder.(2)No suit or other legal proceeding shall lie against the Trustee Committee or the Bar Council or the State 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.

25. 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 to be settled, decided or dealt with or to be determined by the Trustee Committee, the Bar Council or the Administrative Department.

26. Power to summon witnesses and take evidence.

- The Trustee Committee and the Bar Council shall, for the purposes of any enquiry under this Act have the same power as are vested in a civil court while trying a suit under the Code of Civil Procedure, 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;(d)issuing commissions for the examination of witnesses.

27. Power to make rules.

- The Bar Council may with the previous approval of the Government, by notification in the official Gazette, make rules for the purposes of carrying, into effect the provision of this Act.

28. Repeal and Saving.

(1)The Bihar State Advocates' Welfare Fund Ordinance, 1983 (Bihar Ordinance No. 10 of 1983) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken in exercise of any powers conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of powers conferred by or under this Act as if this Act were in force on the day on which such thing or action was done or taken.

Schedule

[See Sections 9, 16 and 17(i)](A){|-| Completedyears of practice| DeathBenefit (in Rs.)| Benefiton Voluntary Retirement (in Rs.)|-| 1Years| ...| 5.000| ...|-| 2Years| ...| 5.000| ...|-| 3Years| ...| 5.000| ...|-| 4Years| ...| 5.000| ...|-| 5Years| ...| 5,000| ...|-| 6Years| ...| 6.000| 6,000|-| 7Years| ...| 7.000| 7,000|-| 8Years| ...| 8.000| 8,000|-| 9Years| ...| 9,000| 9,000|-| 10Years| ...| 10,000| 10,000|-| 11Years| ...| 16,500| 11,000|-| 12Years| ...| 18,000| 12,000|-| 13Years| ...| 19,500| 13,000|-| 14Years| ...| 21,000| 14,000|-| 15Years| ...| 22,500| 15,000|-| 16Years| ...| 24,000| 16,000|-| 17Years| ...| 25,500| 17,000|-| 18Years| ...| 27,000| 18,000|-| 19Years| ...| 28,500| 19,000|-| 20 years| ...| 30,000| 20,000|-| 21 years| ...| 42,000| 31,500|-| 22 years| ...| 44,000| 33,000|-| 23 years| ...| 46,000| 34,500|-| 24 years| ...| 48,000| 36,000|-| 25 years| ...| 50,000| 37,500|-| 26 years| ...| 65,000| 39,000|-| 27 years| ...| 67,500| 40,500|-| 28 years| ...| 70,000| 42,000|-| 29 years| ...| 72,500| 43,500|-| 30 years| ...| 1,00,000| 1,00,000|}

for Ex-Gratia Payment

(B){||-| Sl.No.| AgeGroup|| Ex-gratiaPayment (on death only) (in Rs.)|-| 1.| Upto 30 years of age|
...| 60,000|-| 2.| Above

30. years and upto 40 years of age

| ...| 55,000|-| 3.| Above

40. years and upto 45 years of age

| ...| 50,000|-| 4.| Above

45. years and upto 50 years of age

| ...| 45,000|-| 5.| Above

50. years of age

| ...| 30,000|}