

The Tamil Nadu Advocates' Clerks Welfare Fund Act, 1999

TAMILNADU

India

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Act 25 of 1999

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The Tamil Nadu Advocates' Clerks Welfare Fund Act, 1999 Tamil Nadu Act 25 of 1999 Statement of Objects and Reasons. - Advocates' Clerks form integral part of the office of Advocates. Having regard to the works they do and considering the welfare of the Advocates' Clerks and, the family, the Government have decided to constitute a Fund called the Tamil Nadu Advocates' Clerks Welfare Fund to provide for the payment of retirement benefits to Advocates' Clerks in the State of Tamil Nadu and to give monetary assistance to the dependants in the event of death of an Advocates' Clerk and for conferring on them the benefits connected therewith or incidental thereto. 2. The Bill seeks to give effect to the above decision. Published in Part IV-Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated the 14th May 1999. Received the assent of the Governor on the 17th June 1999 and published in Part IV - Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated the 17th June 1999. An Act to provide for the constitution of a Welfare Fund for the benefit of Advocates' Clerks in the State of Tamil Nadu and for matters connected therewith or incidental thereto. Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fiftieth Year of the Republic of India as follows:-

1. Short title and commencement.

(1) This Act may be called the Tamil Nadu Advocates' Clerks Welfare Fund Act, 1999. (2) It shall come into force on such [date] [Came into force on the 28th February 2000 vide Notification No. 11(2)/HO/ 213(h)/ 2000 issued in C.O. M No. 221, Home (Courts V), dated 28-2-2000.] as the State 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 roll of advocates prepared and maintained by the Bar Council under section 17

of the Advocates Act, 1961 (Central Act 25 of 1961), and who is a member of a Bar Association or an Advocates' Association;(b)"Advocates' Association" means an association of advocates recognised and registered by the Bar Council under section 13 of the Tamil Nadu Advocates' Welfare Fund Act, 1987 (Tamil Nadu Act 49 of 1987);(c)"Advocates' Clerk" means a clerk employed by an advocate and recognised by such authority and in such manner as may be prescribed and who is a member of an Advocates' Clerks Association;(d)"Advocates' Clerks Association" means an association of Advocates' Clerks recognised and registered under section 13;(e)"Bar Association" means an association of advocates recognised and registered by the Bar Council under section 13 of the Tamil Nadu Advocates' Welfare Fund Act, 1987 (Tamil Nadu Act 49 of 1987);(f)"Bar Council" means the Bar Council of Tamil Nadu constituted under section 13 of the Advocates Act, 1961 (Central Act 25 of 1961);(g)"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;(h)"Committee" means the Tamil Nadu Advocates' Clerks Welfare Fund Committee constituted under section 4;(i)"dependant" means any of the following relatives of a deceased member of the Fund, namely:-(i)a widow, a minor legitimate son, an unmarried legitimate daughter or a widowed mother; and(ii)a son who has attained the age of eighteen years or a married daughter who is wholly dependant on the earnings of the member at the time of his death and is infirm;(j)"Fund" means the Tamil Nadu Advocates' Clerks Welfare Fund constituted under section 3;(k)"Government" means the State Government;(l)"member of the Fund" means an Advocates' Clerk admitted to the benefits of the Fund and continuing to be a member thereof under the provisions of the Act;(m)"notification" means a notification published in the Tamil Nadu Government Gazette, and the word "notified" shall be construed accordingly;(n)"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;(o)"stamp" means the Tamil Nadu Advocates' Clerks Welfare Fund Stamp printed and distributed under section 12;(p)"vakalath" means a vakalatnama, memorandum of appearance or any other document by which an Advocate or any other legal practitioner is empowered to appear and plead before any Court, Tribunal or authority.

3. Advocates' Clerks Welfare Fund.

(1)The Government shall, by notification, constitute a Fund to be called the Tamil Nadu Advocates' Clerks Welfare Fund.(2)There shall be credited to the Fund,-(a)all amounts collected byway of sale of stamps 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 sum borrowed under section 10;(d)all sums received from the Life Insurance Corporation of India on the death of a member of the Fund under a Group Insurance Policy;(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; and(g)all sums collected trader section 15.

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 Tamil Nadu 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 of,-(a)the Chairman of the Bar Council;(b)the Secretary to Government in-charge of Law;(c)the Secretary to Government in-charge of Home;(d)the Secretary to Government in-charge of Finance;(e)the Registrar of High Court, Madras;(f)three members to be nominated from among the Advocates' 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;(g)the 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 Fund:Provided that the Secretary appointed under this clause shall not have the right to vote at the meetings of the Committee.(4)The Chairman of Bar Council shall be the ex officio Chairman of the Committee.(5)The Secretary to Government in-charge of Law, the Secretary to Government in-charge of Home, the Secretary to Government in-charge of Finance and the Registrar of High Court, Madras shall be the ex-officio members of the Committee.(6)In case the Secretary to Government in-charge of Law or the Secretary to Government in-charge of Home or the Secretary to Government in-charge of Finance, is unable to attend the meetings of the Committee for any reason, he may depute any officer of his Department not lower in rank than that of Deputy Secretary to Government to attend the meetings.(7)In case the Registrar of the High Court, Madras is unable to attend the meetings of the Committee for any reason, he may depute any officer not below the rank of Deputy Registrar to attend the meetings.(8)A member nominated under clause (f) of sub-section (3) shall hold office for a term of three years or until he ceases to be a member of Advocates' Clerks Association whichever is earlier.

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

(1)A member nominated under clause (f) of sub-section (3) of section 4 shall be disqualified to be a member of the Committee, and ceases to be such member, if he,-(a)becomes of unsound mind; or(b)is adjudicated as insolvent; or(c)is absent without leave of the Committee for more than three consecutive meetings of the Committee:Provided that the member ceasing to hold office under this clause may be restored by the Committee, if such member makes an application for the condonation of the absence; or(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.(2)The Government may remove any member who is or has become disqualified under sub-section (1) from the membership of the Committee:Provided that no order removing any member shall be passed unless the member has been given an opportunity of being heard.

6. Resignation by nominated 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 three months' 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 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; or (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 function 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 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 five months from the date of receipt thereof; (d) record in the minutes book of the Committee its decisions on the applications; (e) pay to the applicants amounts as the rates specified in the Schedule; (f) maintain such accounts and books and send such periodicals and annual reports to 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 II 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 of the Committee shall be audited annually by a Chartered Accountant appointed by the 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 of the Committee and responsible for carrying 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)operate the bank accounts of the Committee jointly with the Treasurer;(e)convene meetings of the Committee and prepare its minutes;(f)attend the meetings of the 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 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. Tamil Nadu Advocates Clerks Welfare Fund Stamp.

(1)There shall be printed or cause to be printed by the Bar Council in such form and in such manner as may be prescribed by rules, stamp inscribed as "the Tamil Nadu Advocates' Clerks Welfare Fund", each of the value of two rupees.(2)Every vakalath or memorandum of appearance filed before any Court, authority or Tribunal shall be affixed with a stamp as specified in sub-section (1) in addition to the Court-fee stamps, if any, and stamp to be affixed under any other Act and no vakalath or memorandum of appearance shall be valid unless it is so stamped:Provided that this sub-section shall not apply to any vakalath or memorandum of appearance filed on behalf of the Central or State Government.(3)The person or authority receiving vakalath with such stamp shall forthwith effect cancellation of the stamp by punching out the same.(4)The custody of the stamps printed under this section shall be with the Bar Council and the supply and sale of stamps shall be in such manner as may be prescribed.

13. Recognition and registration of Advocates' Clerks Association.

(1)(a)All association of Advocates' Clerks functioning in any Court headquarters may, before a date to be notified by the Committee in this behalf,-(b)Any such Association of Advocates' Clerks constituted after the commencement of this Act may apply to the Committee in such form and in such manner as may be prescribed, for recognition and registration as an Advocates' Clerks

Association under this Act.(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 with name, address, age and the ordinary place of employment of such member.(3)The Committee may, after such enquiry as it deems necessary, recognise the association as an Advocates' Clerks Association and issue a certificate of recognition and 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 Association.

(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 Advocates' Clerks Association shall intimate to the Committee of-(a)any change of the office bearers of the Advocates' Clerks Association within fifteen days from such change;(b)any change in number of members including admission and re-admission within thirty days of such change;(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 Advocates' Clerk in the State may apply to the Committee, in such form and in such manner as may be prescribed for admission as a member of the Fund.(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)Every applicant shall pay an application fee of rupees fifty along with the application to the account of the Committee.(4)Every applicant shall pay to the Fund an admission fee of rupees fifty at the time of admission or re-admission.(5)Every person admitted as a member of the Fund shall pay a membership fee of rupees one thousand. It is payable in two equal half-yearly installment.(6)Every member of the Fund shall, at the time of admission, make a nomination conferring on one or more dependants the right to receive the amount from the Fund in the event of his death.(7)If more than one person is nominated, the amount or share payable to each nominee shall be specified in the nomination.(8)A member of the Fund may, at any time, cancel a nomination by sending a notice in writing to the Committee along with a fresh nomination.(9)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 mis-representation, 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 been given an opportunity of being heard.

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 and out of the Fund an amount at the rate specified in the Schedule.(2)In the event of death of a member, a

consolidated amount of rupees fifty thousand be paid to the nominee or, where there is no nominee, to his dependants.(3)A member of the Fund may withdraw his membership at any time after five years of his admission as a member of the Fund and, on such withdrawal, he shall be entitled to receive the amount from and out of the Fund an amount at the rate specified in the Schedule. Such person 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 may withdraw his membership 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.(5)An application for payment from the Fund shall be made to the Committee in such form as may be prescribed.(6)An application received under sub-section (5) shall be disposed of by the Committee after such enquiry as it deems necessary.

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

(1)The interest or the right of a member of the Fund 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 of the Fund or his nominee or legal heirs.Explanation. - For the purpose of this section, "creditor" includes the State, or an official assignee or official receiver appointed under the law relating to insolvency for the time being in force.

18. Group Life Insurance for members and other benefits.

- The Committee may, for the welfare of the members of the Fund,-(a)take from the Life Insurance Corporation of India, policies of Group Insurance on the life of the members of the Fund; and(b)provide for medical and educational facilities, and such other benefits, as may be prescribed, for the members of the Fund and their dependants.

19. Meetings of the Committee.

(1)The Committee shall meet at least once in three months or more often if found necessary to transact its business.(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.

20. Traveling and daily allowance to members of Committee.

- The nominated members of the Committee shall be eligible to get such traveling allowance and daily allowance as may be prescribed.

21. Review.

- The Committee may, suo motu at any time or on an application from any interested person within ninety days of any order passed by it, review any such order: 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.

22. Protection of action taken in good faith.

(1) No suit, prosecution or other legal proceeding shall lie against any person or 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 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.

23. Bar of jurisdiction of Civil Courts.

- No Civil Court shall have jurisdiction to settle, decide or deal with any question or determine any matter which is by or under this Act required to be settled, decided or dealt with or determined by the Committee.

24. 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 V of 1908), in respect of the following matters, namely:-(a) enforcing the attendance of any person or examining him on oath; (b) requiring the discovery and production of documents; (c) receiving evidence on affidavit; and (d) issuing Commission for the examination of witnesses.

25. Power to amend Schedule.

(1) The Government may, by notification, on the recommendation of the Committee and having due regard to the availability of the amount in the Fund, amend the rates specified in the Schedule.

26. Power to make rules.

(1) The Government may, by notification, make rules for carrying out the purpose of this Act. (2) Every rule made or notification issued by the Government under this Act, shall, as soon as

possible, after it is made or issued, be placed on the Table of the Legislative Assembly and if, before expiry of the session in which it is so placed or the next session, the Legislative Assembly makes any modification in any such rule or notification or the Legislative Assembly decides that the rule or notification should not be made or issued, the rule or notification shall, thereafter, have effect only in such modified form or be of no effect, 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 or notification. The Schedule [See Sections 9(2)(e), 16(1) and 25]

	Rs.
30 years as a member of the Fund.	30,000
29 years as a member of the Fund.	29,000
28 years as a member of the Fund.	28,000
27 years as a member of the Fund.	27,000
26 years as a member of the Fund.	26,000
25 years as a member of the Fund.	25,000
24 years as a member of the Fund.	24,000
23 years as a member of the Fund.	23,000
22 years as a member of the Fund.	22,000
21 years as a member of the Fund.	21,000
20 years as a member of the Fund.	20,000
19 years as a member of the Fund.	19,000
18 years as a member of the Fund.	18,000
17 years as a member of the Fund.	17,000
16 years as a member of the Fund.	16,000
15 years as a member of the Fund.	15,000
14 years as a member of the Fund.	14,000
13 years as a member of the Fund.	13,000
12 years as a member of the Fund.	12,000
11 years as a member of the Fund.	11,000
10 years as a member of the Fund.	10,000
9 years as a member of the Fund.	9,000
8 years as a member of the Fund.	8,000
7 years as a member of the Fund.	7,000
6 years as a member of the Fund.	6,000
5 years as a member of the Fund.	5,000
4 years as a member of the Fund.	4,000
3 years as a member of the Fund.	3,000
2 years as a member of the Fund.	2,000

1 year as a member of the Fund. 1,000