



The Orissa Advocates' Welfare Funds Act, 1987

Act No. 18 of 1987

Keywords:

Cessation of Practice, Retirement

Amendment appended: 24 of 2013

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The Odisha  Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Orissa Act 18 of 1987

**THE ORISSA ADVOCATES'
WELFARE FUND ACT, 1987**

Orissa Gazette, Extraordinary No. 1505/3.11.1987-Notification No. 15033. Legislative-12.11.1987.

Assented to by the President on the 20th October, 1987

An Act to provide for the Constitution of a Welfare Fund for payment of retirement benefits to Advocates in the State of Orissa and for matters connected therewith or incidental thereto.

Whereas it is expedient to provide for the constitution of welfare fund for the payment of retirement and other benefits to Advocates in the State of Orissa and matters connected therewith or incidental thereto.

Be it enacted by the Legislature of the State of Orissa in the Thirty eighth Year of the Republic of India, as follows :

1. Short title and commencement. - (1) This Act may be called the Orissa Advocates' Welfare Fund Act, 1987.

(2) It extends to the whole of the State of Orissa.

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

2. Definition. - In this Act, unless the context otherwise requires-

(a) "Advocate" means a person whose name continues in the State Roll of Advocates prepared and maintained by the Bar Council of Orissa under Section 17 of the Advocates, Act, 25 of 1961 and who is also a member of a Bar Association, or a Society of Advocates registered under the Societies, Registration Act, 21 of 1860;

1. Substituted vide O.G.E. No 1647, dt. 21.12.1993

- (b) "Bar Association" means an association of Advocates either recognised by the Bar Council under Section 14 or registered under the Societies Registration Act, 21 of 1860;
- (c) "Bar Council" means the Bar Council of Orissa constituted under Section 3 of the Advocates Act, 25 of 1961;
- (d) "Cessation of practice" means removal of the name of an Advocate from the State Roll maintained by the Bar Council on account of his death at retirement, or on account of his voluntary cessation on the ground of permanent physical or mental disability;
- (e) "Fund" means an Advocates' Welfare Fund constituted under Section 3;
- (f) "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;
- (g) "Prescribed" means prescribed by Rules made under this Act;
- (h) "Retirement" means stoppage of practice as an Advocate communicated to and recognised by the Trust Committee ;
- (i) "Stamp" means the Advocates' Welfare Fund stamp printed and distributed under Section 22;
- (j) "Society" means an association of Advocates registered under the Societies Registration Act, 21 of 1860 other than Bar Association and includes the All Orissa Lawyers' Association;
- (k) "State" means the State of Orissa;
- (l) "Suspension of practice" means voluntary suspension of practice as an Advocate or suspension by the Bar, Council for misconduct;
- (m) "Committee" means the Trust Committee established under Section 4;
- (n) "Vakalat" 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.

3. Advocates' Welfare Fund. - (1) With effect from the date, of establishment of the Committee under Sub-section (1) of Section 4 there shall be constituted a Fund called the Advocate's Welfare Fund.

(2) There shall be credited to this Fund-

1. Substituted vide O.G.E. No 1647, dt. 21.12.1993

- (a) all amounts that may be paid by the Bar Council of Orissa under Section 12 ;
- (b) any voluntary donations 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;
- (c) any sum borrowed under Section 10 ;
- (d) any interest or dividend or other return on any investment made out of any part of the Fund ;
- (e) all sums collected by way of sale of Stamps under Section 22; and
- (f) all sums collected under Section 16 by way of application fees and annual subscription and interest thereof.

(3) The sums specified in Sub-section (2) shall be paid or collected by, the Committee, and the accounts of the Fund shall be maintained and operated in such manner, as may be prescribed.

4. Establishment of Trust Committee. - There shall be a Trust Committee consisting of the following members-

- (i) Advocate-General of Orissa-Ex officio member and Chairman;
- (ii) Secretary, Law Department- Ex officio member;
- (iii) Chairman, State Bar Council-Ex officio member;
- (iv) ¹[***]

(v) ²[Three] eminent Advocates to be nominated by the State, Government-Members ;

(vi) ²[Vice-Chairman, Bar Council] Ex officio Member and Treasurer.

(2) The Secretary, Bar Council shall be the Ex officio Secretary of the Committee.

(3) The Committee shall be a body corporate with a common seal and perpetual succession with its Head Office at Cuttack having power to acquire and hold property and shall be, by the said name sue or sued.

(4) The nominated members shall hold office for a period at four years.

5. Disqualification of nominated members of the Committee. - (1) A person shall be disqualified for being nominated at appointed as and for being a member of the Committee, if, he-

- (a) becomes of unsound mind; or

1. Omitted vide Orissa Act 10 of 1989

2. Substituted vide Orissa Act 10 of 1989

- (b) is adjudged insolvent; or
- (c) is absent without leave of the Committee for more than three consecutive meetings of the Committee; 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; or
- (f) in case of an Advocate removed from the roll of the State Bar Council for whatsoever reason.

(2) On a member being disqualified as per Sub-section (1) a vacancy arises from the date on which the Committee declare him to be so disqualified.

6. Vacancy due to resignation. - (1) Any member nominated under Clause (v) of Sub-section (1) of Section 4 may resign from his office by giving notice in writing to the Chairman of the Committee and an acceptance of his resignation he shall be deemed to have vacated his office.

(2) Any casual vacancy in the office of a member may be filled up, as soon as may be by the Government and a member so nominated to fill such vacancy shall hold office for the unexpired portion of the term at office of the member whose place he fills.

(3) Whenever a casual or temporary vacancy occurs in the office of the Chairman of the Committee, whoever is in-charge of the office at the Advocate-General for the time being shall function as the Chairman of the Committee.

7. Act of 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 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 nomination 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 hold and applied by, the Committee subject to the provisions and for the purposes of this Act.

9. Functions of the Committee. - (1) The Committee shall 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 in trust;
- (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 payments out of the Fund, conduct such enquiry as it deems necessary for the disposal of such applications and dispose of the applications within six months from the date of receipt thereof;
- (d) record in the minutes book at the Committee decision on the application;
- (e) pay to the applicants amount at the rates specified in the Schedule;
- (f) send such periodicals and annual reports to the State Government and the Bar Council in the prescribed manner;
- (g) communicate to the applicants by registered post with acknowledgement due, the decisions of the Committee in respect of applications for admission or readmission 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. Funds, borrowing and investment. - (1) The Committee may, with the prior approval of the State Government 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 or invest the same in loans in any corporation owned or controlled by the Central Government or in loans floated by the Central Government or the State 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 State Government.

(5) The accounts of the Committee, as certified by the auditor, together with the audit report thereon, shall be forwarded to the State Government by

the Committee, and the State Government 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 State Government under Sub-section (5).

Explanation - For all purposes of this Act the State Government in the Law Department shall be the Administrative Department.

11. Powers and duties of Secretary. - The Secretary of the Committee shall-

- (a) be the chief executive authority of the Committee and is 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 decision 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 transacted by the Committee during each financial year; and
- (i) do such other acts as may be directed by the Committee.

12. Contribution by the Bar Council. - The Bar Council may contribute to the Fund annually an amount equal to twenty per centum of enrolment fee realised by it every year.

13. Recognition and registration of Bar Association. - (1) All associations of Advocates known by any name functioning in any Court, 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) The provisions of Clause (a) of Sub-section (1) shall apply mutatis mutandis to Societies of Advocates registered under the Societies Registration Act, 21 of 1860.

(3) Every application for recognition and registration shall be accompa-

nied by the Rules or bye-laws of the Association names and addresses of the office bearers of the association with an up-to-date list of the members of the association showing the name, address, age, date of enrolment and the ordinary place of practice of each member.

(4) The Bar Council may, after such enquiry, as it deems necessary, recognise the Bar Association and issue a certificate of registration In such form as may be prescribed.

(5) The decision of the Bar Council regarding the recognition and registration of the Bar Association shall be final.

14. Duties of Bar Association. - (1) Every Bar Association shall, on or before the 15th April every year, furnish to the Bar Council a list of its members as on the 31st Match of that year.

(2) Every Bar Association shall intimate to the Bar Council-

- (a) any change 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 change;
- (c) the death, retirement or voluntary suspension of practice of any of its members within thirty days from the date of occurrence thereof ; and
- (d) such other matters as may be required by the Bar Council from time to time;

(3) The provisions of Sub-section (2) shall apply mutatis mutandis to the Societies registered under the Societies Registration Act, 21 of 1860.

15. Membership in the Fund. - (1) Every Advocate practising in any Court, in the State and being a member of Bar Association, or a Society recognised by the Bar Council 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) Every applicant shall pay an application fee of ¹[two hundred] rupees being payable along with the application to the Account of the Committee:

1. Substituted vide O.G.E. No 1151 dt. 19.06.2001

Provided that Advocates having less than five years standing practice of the Bar will pay only rupees ¹[one hundred].

(4) In the event of rejection of the application the fee paid along with the application shall be refunded to the applicant.

(5) Every member shall pay an annual subscription to the fund on or before the 30th June of every year at the following rates, namely :

(a) Where the standing of the Advocate at the Bar is five years
..... ¹[Fifty rupees]

(b) Where the standing of the Advocate at the Bar is more than five years but less than fifteen years
..... ¹[one hundred rupees]

(c) Where the standing of the Advocate at the Bar is fifteen years or more
.....¹ [two hundred rupees]

(6) A member may pay the subscription under Sub-section (5) in two equal instalments at his option.

(7) Any member who fails to remit the annual subscription for any year before the 30th June of the year shall be liable to be removed from the membership of the Fund.

(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 removal subject to payment of twenty-five per centum of the annual subscription as renewal fee.

(9) Every member shall, at the time of admission to the membership of the Fund 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 had 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 nominee 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 Committee, provided that he shall alongwith such notice send a fresh nomination. No cancellation shall be effective unless fresh nominations are made by the member cancelling the earlier nomination.

1. Substituted vide O.G.E. No 1151 dt. 19.06.2001

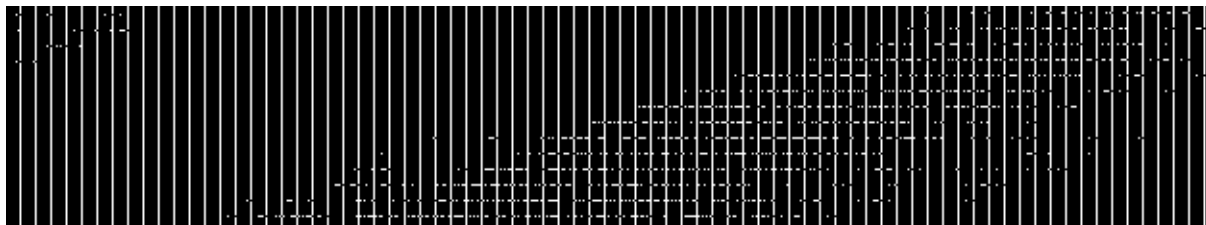
THE ODISHA ADVOCATES' WELFARE FUND (AMENDMENT) ACT, 2013

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EXTRAORDINARY

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LAW DEPARTMENT

NOTIFICATION

The 4th November, 2013.

No.12006-I.Legis-12/2013/L.,—The following Act of the Odisha Legislative Assembly having been assented to by the Governor on the 30th October, 2013 is hereby published for general information.

ODISHA ACT 24 OF 2013

**THE ODISHA ADVOCATES' WELFARE FUND (AMENDMENT)
ACT, 2013**

FURTHER TO AMEND THE ODISHA ADVOCATES' WELFARE FUND
ACT, 1987.

BE it enacted by the Legislature of the State of Odisha in the Sixty-fourth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Odisha Advocates' Welfare Fund (Amendment) Act, 2013.

Amendment
of section 3.

2. In the Odisha Advocates' Welfare Fund Act, 1987 (hereinafter referred to as the principal Act) in section 3, in sub-section (2),—

Odisha Act
18 of 1987.

(a) in clause(a), the words and figure “under section 12” shall be omitted; and

(b) after clause(f), the following clause shall be added, namely:—

“(g) a grant of such sum which shall not be less than one crore rupees per annum made by the State Government to the Fund.”

Amendment of
section 12.

3. In the principal Act, section 12 shall be omitted.

Amendment of
section 15.

4. In the principal Act, in section 15,—

(a) in sub-section (3) for the words “two hundred rupees”, the words “six hundred rupees” and for the words “one hundred rupees” appearing in

the proviso thereto, the words “three hundred rupees” shall be substituted;

(b) in sub-section (5), for the words “fifty rupees”, “one hundred rupees” and “two hundred rupees” appearing against clause (a), clause(b) and clause (c) thereof, the words “ two hundred rupees”, “three hundred rupees” and “six hundred rupees” shall, respectively be substituted; and

(c) after sub-section (5), the following sub-section shall be inserted, namely:—

“(5-a) Every member at the time of enrolment shall pay three thousand rupees for life membership in addition to the application fees under sub-section (3).”

Amendment of section 22.

5. In the principal Act, in section 22, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The State Government shall cause to be printed and distributed the stamp of the value of fifteen rupees and its value inscribed thereon.”.

Amendment of section 23.

6. In the principal Act, in section 23, in sub-section (1) for the words “five rupees” the words “fifteen rupees” shall be substituted.

Amendment of the Schedule.

7. In the principal Act, for the Schedule the following Schedule shall be substituted, namely:—

SCHEDULE

(See sections 9 and 16)

| Period of completed year of practice. (1) | Amount to be received (in rupees) (2) |
|---|---|
| 30 years standing | Rs. 2,70,000/- |
| 29 years standing | Rs. 2,61,000/- |
| 28 years standing | Rs. 2,52,000/- |
| 27 years standing | Rs. 2,43,000/- |
| 26 years standing | Rs. 2,34,000/- |
| 25 years standing | Rs. 2,25,000/- |
| 24 years standing | Rs. 2,16,000/- |
| 23 years standing | Rs. 2,07,000/- |
| 22 years standing | Rs. 1,98,000/- |
| 21 years standing | Rs. 1,89,000/- |
| 20 years standing | Rs. 1,80,000/- |
| 19 years standing | Rs. 1,71,000/- |
| 18 years standing | Rs. 1,62,000/- |

| (1) | (2) |
|---|----------------|
| 17 years standing | Rs. 1,53,000/- |
| 16 years standing | Rs.1,44,000/- |
| 15 years standing | Rs.1,35,000/- |
| 14 years standing | Rs.1,26,000/- |
| 13 years standing | Rs.1,17,000/- |
| 12 years standing | Rs.1,08,000/- |
| 11 years standing | Rs.99,000/- |
| 10 years standing | Rs.90,000/- |
| 9 years standing | Rs. 81,000/- |
| 8 years standing | Rs.72,000/- |
| 7 years standing | Rs.63,000/- |
| 6 years standing | Rs.54,000/- |
| 5 years standing | Rs.45,000/- |
| Less than 5 years standing (only on death) | Rs. 45,000/- |

By Order of the Governor

S. PUJAHARI
Principal Secretary to Government