

AUTHORITATIVE ENGLISH TEXT

BILL NO. 8 OF 2019

**THE HIMACHAL PRADESH ADVOCATES WELFARE FUND
(AMENDMENT) BILL, 2019**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

**THE HIMACHAL PRADESH ADVOCATES WELFARE FUND
(AMENDMENT) BILL, 2019**

ARRANGEMENT OF CLAUSES

Clauses :

1. Short title.
2. Amendment of section 17.
3. Amendment of section 21.
4. Amendment of section 26.
5. Amendment of section 27.
6. Amendment of THE SCHEDULE.

**THE HIMACHAL PRADESH ADVOCATES WELFARE FUND
(AMENDMENT) BILL, 2019**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

*further to amend the Himachal Pradesh Advocates Welfare Fund
Act, 1996 (Act No. 14 of 1996).*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the
Seventieth Year of the Republic of India as follows:—

1. This Act may be called the Himachal Pradesh Advocates Welfare Short title.
Fund (Amendment) Act, 2019.

5 2. In section 17 of the Himachal Pradesh Advocates Welfare Fund Amendment
Act, 1996 (hereinafter referred to as the “principal Act”),— of section 17.

(a) for sub-section(4), the following shall be substituted,
namely:—

10 “(4) Every member of the Fund shall pay an annual
subscription to the Fund on or before the 30th June every
year at the following rates, namely:—

Where the standing of the Four hundred rupees;
advocate at the Bar is less
than ten years

15 Where the standing of Eight hundred rupees:
the Advocate at the Bar
is ten years or more

Provided that a member of the Fund may at his option make one time payment of life subscription of seven thousand five hundred rupees at the time of admission or thereafter, may opt at any time for life membership by making payment of the balance amount so as to credit to his account total sum of seven thousand five hundred rupees.”; and

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- (b) for sub-section (6), the following shall be substituted, namely:—

“(6) A person removed from the membership of the Fund under sub-section (5) may be re-admitted to the Fund on payment of the arrears with the re-admission fee of one hundred rupees within six months from the date of removal and further penalty of fifty rupees every month for next six months.”.

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Amendment
of section
21.

3. In section 21 of the principal Act,—

- (a) in clause (a), after the word “operation”, the words “maximum fifty thousand rupees subject to proof of the expenditure incurred” shall be inserted; and
- (b) in clause (b), after the word “disabilities”, the words “maximum one lakh rupees shall be granted subject to proof of the expenditure incurred on disease or disability” shall be inserted.

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Amendment
of section
26.

4. In section 26 of the principal Act, in sub-section (1), for the word “ten”, the words “twenty five” shall be substituted.

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Amendment
of section
27.

5. In section 27 of the principal Act, in sub-section(1), for the word “ten”, the words “twenty five” shall be substituted.

6. For THE SCHEDULE appended to the principal Act, the following shall be substituted, namely:—

Amendment
of THE
SCHEDULE.

“THE SCHEDULE

[See sections 9 (2) (e), 18 and 32]

		Rs.
5	30 years as a member of the Fund	2,25,000
	29 years as a member of the Fund	2,17,500
	28 years as a member of the Fund	2,10,000
	27 years as a member of the Fund	2,02,500
	26 years as a member of the Fund	1,95,000
10	25 years as a member of the Fund	1,87,500
	24 years as a member of the Fund	1,80,000
	23 years as a member of the Fund	1,72,500
	22 years as a member of the Fund	1,65,000
	21 years as a member of the Fund	1,57,500
15	20 years as a member of the Fund	1,50,000
	19 years as a member of the Fund	1,42,500
	18 years as a member of the Fund	1,35,000
	17 years as a member of the Fund	1,27,500
	16 years as a member of the Fund	1,20,000
20	15 years as a member of the Fund	1,12,500
	14 years as a member of the Fund	1,05,000
	13 years as a member of the Fund	97,500
	12 years as a member of the Fund	90,000
	11 years as a member of the Fund	82,500
25	10 years as a member of the Fund	75,000
	9 years as a member of the Fund	67,500
	8 years as a member of the Fund	60,000
	7 years as a member of the Fund	52,500
	6 years as a member of the Fund	45,000
30	5 years as a member of the Fund	37,500
	4 years as a member of the Fund	30,000
	3 years as a member of the Fund	22,500
	2 years as a member of the Fund	15,000
	1 years as a member of the Fund	7500.”.

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Advocates Welfare Fund Act, 1996 (Act No. 14 of 1996) provides for the constitution of a Welfare Fund for the benefit of Advocates on cessation of practice. A meeting of the Bar Council of Himachal Pradesh Advocates Welfare Fund Trustee Committee was held on 16th June, 2016, wherein recommendations were made to enhance the rates of annual subscription to the Fund and also enhance the benefits being provided to the members of the Fund. The recommendations of the Committee have been examined at the Government level and need to be implemented in order to make the Fund more useful to the members of the Fund. This has necessitated the amendments in the Act.

This Bill seeks to achieve the aforesaid objectives.

(SURESH BHARDWAJ)

Minister-in-charge.

SHIMLA:

The....., 2019.

FINANCIAL MEMORANDUM

—NIL—

MEMORANDUM REGARDING DELEGATED LEGISLATION

—NIL—

**THE HIMACHAL PRADESH ADVOCATES WELFARE FUND
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further to amend the Himachal Pradesh Advocates Welfare Fund Act, 1996(Act No. 14 of 1996).

(SURESH BHARDWAJ)
Minister-in-charge.

(YASHWANT SINGH CHOGAL)
Pr. Secretary (Law).

SHIMLA:
The....., 2019.

EXTRACT OF THE PROVISIONS OF THE HIMACHAL PRADESH ADVOCATES WELFARE FUND ACT, 1996 (ACT NO. 14 OF 1996) LIKELY TO BE AFFECTED BY THIS AMENDMENT BILL.

Sections:

17. Membership of the Fund.—(1) Any advocate practicing in or before any court, tribunal or authority in the State and being a member of a Bar Association or an Advocates Association recognized by the Bar Council 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), the Trustee Committee shall make 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, alongwith the application, pay, in the prescribed manner, an application fee-

- (i) in the case of an applicant who, on the date of application has practised for a period of less than ten years, rupees one hundred; and
- (ii) in the case of an applicant who, on the date of application has practised for a period of ten years or more, rupees two hundred :

Provided that when an application is rejected under sub- section (2) the application fee paid by the applicant shall be refunded to him.

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

Where the standing of the Advocate at the Bar is less than ten years	Two hundred rupees.
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Where the standing of the Advocate at the Bar is ten years or more	Four hundred rupees:
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Provided that a Member of the Fund may at his option make one time payment of life subscription of five thousand rupees at the time of admission or, thereafter, may opt at any time for life membership by making payment of the balance amount so as to credit to his account total sum of five thousand rupees.

(5) Any member of the Fund who fails to pay the annual subscription for any year on or before the 30th June of that year shall be liable to be removed from the membership of the Fund.

(6) A person removed from the membership of the Fund under sub- section (5) may be re- admitted to the Fund on payment of the arrears with the re- admission fee of twenty five rupees within six months from the date of removal.

(7) Every member of the Fund Shall, at the time of admission to the membership of the Fund, make nomination conferring on one or more of his dependents the right to receive, in the event of his death, any amount payable to the member under this Act.

(8) If a member of the Fund nominates more than one person under sub- section (7), he shall specify in the nomination the amount or share payable to each of the nominees.

(9) A member of the Fund, may, at any time, cancel a nomination by sending a notice in writing to the Trustee Committee; provided that he shall, along with such notice, send a fresh nomination.

(10) Every member of the Fund who has requested the removal of his name from the State roll under section 26- A of the Advocates Act, 1961 (25 of 1961) or who voluntarily suspends practice shall within fifteen days of such request or suspension, intimate that fact to the Trustee Committee and if any member of the Fund fails to do so without sufficient reasons, the Trustee Committee may reduce, in accordance with such principles as may be prescribed, the amount payable to that member under this Act.

21. Ex-gratia grant to a member of the Fund.—The Trustee Committee on an application submitted to it, and after being satisfied about the genuineness of the claim, may allow ex-gratia grant to a member from the Fund.—

- (a) in the case of hospitalization at least for one month or involving a major physical operation; or

- (b) if he is suffering from tuberculosis, leprosy, paralysis, cancer, unsoundness of mind or from some other serious diseases or disabilities.

26. Printing and distribution of Advocates Welfare Fund Stamps by Bar Council.— (1) The Bar Council shall cause to be printed and distributed Welfare Fund Stamp of the value of ten rupees inscribed “Himachal Pradesh Advocates Welfare Fund Stamp” in such design as may be prescribed.

- (2) The stamps shall be of the size 2.54 cm. by 5.08 cm.
- (3) The custody of the stamps shall be with the Bar Council.
- (4) The Bar Council shall control the distribution and sale of the stamps through the Bar Associations and Advocates Associations.
- (5) The Bar Council, the Bar Associations and Advocates Associations shall keep proper accounts of the stamps in such form and in such manner as may be prescribed.
- (6) The Bar Associations and Advocates Associations shall purchase the stamps from the Bar Council after paying the value thereof less ten per cent of such value towards incidental expenses.

27. Vakalatnama to bear stamps.— (1) Every Advocate shall affix a stamp of rupees ten on every Vakalatnama filed by him before any court, tribunal or authority and no court, tribunal or authority shall accept any Vakalatnama from an Advocate unless it is so stamped in addition to any stamp required under any other law for the time being in force.

- (2) The value of the stamp shall neither be costs in a case nor be collected in any event from the client.
- (3) Any contravention of the provisions of sub- sections (1) and (2) by any member of the Fund shall disentitle him, either in whole or in part, to the benefits of the Fund and shall be deemed to be a misconduct on the part of an Advocate and the Trustee Committee shall report such instances to the Bar Council for appropriate action.
- (4) Every stamped affix on vakalatnama filed before any Court, Tribunal or other authority shall be cancelled in such manner as may be prescribed.

THE SCHEDULE

[See sections 9 (2) (e), 18 and 32]

	Rs.
30 years as a member of the Fund	1,50,000
29 years as a member of the Fund	1,45,000
28 years as a member of the Fund	1,40,000
27 years as a member of the Fund	1,35,000
26 years as a member of the Fund	1,30,000
25 years as a member of the Fund	1,25,000
24 years as a member of the Fund	1,20,000
23 years as a member of the Fund	1,15,000
22 years as a member of the Fund	1,10,000
21 years as a member of the Fund	1,05,000
20 years as a member of the Fund	1,00,000
19 years as a member of the Fund	95,000
18 years as a member of the Fund	90,000
17 years as a member of the Fund	85,000
16 years as a member of the Fund	80,000
15 years as a member of the Fund	75,000
14 years as a member of the Fund	70,000
13 years as a member of the Fund	65,000
12 years as a member of the Fund	60,000
11 years as a member of the Fund	55,000
10 years as a member of the Fund	50,000
9 years as a member of the Fund	45,000
8 years as a member of the Fund	40,000
7 years as a member of the Fund	35,000
6 years as a member of the Fund	30,000
5 years as a member of the Fund	25,000
4 years as a member of the Fund	20,000
3 years as a member of the Fund	15,000
2 years as a member of the Fund	10,000
1 years as a member of the Fund	5,000