

# THE BAR COUNCIL OF KERALA

## RULES 1979

(Approved by the Bar Council of India at its meeting held on 9.2.1980)

### CHAPTER 1

**I. Short title & commencement** – These rules shall be called the “Bar Council of Kerala Rules, 1979” and they will come into forces from the date of approval of the same by the Bar Council of India.

**II. Interpretation :-** In these rules unless the context otherwise requires:-

(a) “Act” means the Advocates Act, 1961.

(b) “Advocate General” means the Advocate General for the State of Kerala

(c) “Bar Association” means a Bar Association or Association of Advocates recognized by the Bar Council of Kerala for the purpose of these rules.

(d) “Bar Council” means the Bar Council for the State of Kerala.

(e) “Casual Vacancy” means a vacancy that has been caused otherwise than by the expiry of the term of office of a member of the Bar Council, Committees or other offices of the Bar Council.

(f) “Chairman” means the Chairman of the Bar Council of the State of Kerala.

(g) “Clear Days” means that time is to be reckoned exclusive of both the first and the last days provided however that where any act is to be done or taken on a certain day or within a prescribed period and if the office is closed on that day or on the last of the prescribed period, such act shall be considered as done or taken in due time if it is done or taken on the next day on which the office of the Bar Council is open.

(h) “Financial year” means any year or part of a year ending with the 31<sup>st</sup> March of every calendar year.

(i) “Form” means a form prescribed under these rules.

(j) “Roll means” the Roll of the Advocates prepared and maintained by the

Bar Council

(k) "Treasurer" means the Treasurer of the Bar Council.

(l) "Vice Chairman" means the Vice Chairman of the Bar Council;

## CHAPTER II

### ELECTION RULES

(Rules made by the Bar Council of Kerala under section 15(2)(a) and (d) of the Advocates Act)

1. **Short title and Commencement :-** These rules shall be called the "Bar Council of Kerala Election Rules, 1970 and they shall come into force from the date of their approval by the Bar Council of India.

2. These rules shall be subject to rules made by the Bar Council of India under the powers vested in it by the Act.

3. **Interpretation :-** In these rules, unless the context otherwise requires;-

(a) "Act" means the Advocates Act, 1961

(b) "Advocate General" means the Advocate-General for the State of Kerala.

(c) "Bar Association" means a Bar Association and the Kerala Advocates Association included in the list kept by the Bar Council of Kerala for the purpose of these rules;

(d) "Bar Council" means the Bar Council for the State of Kerala .

(e) "Casual Vacancy" means a vacancy that has been caused otherwise than by the expiry of the term of office of a member.

(f) "chairman" means the Chairman of the Bar Council of the State of Kerala.

(g) "Clear Days" means that time is to be reckoned exclusive of both the first and the last days provided however that where any act is to be done or taken on a certain day or within a prescribed period and if the office is closed on that day or on the last of the prescribed period, such act shall be considered as done or taken in due time if it is done or taken on the next day on which the office of the Bar Council is open.

**Illustration:-** The election of members to a State Bar Council is fixed for the 15<sup>th</sup> January 1965. Under the rules of the Bar Council, ballot papers have to be dispatched ten clear days before the date of election. Consequently the last date for the dispatch of ballot papers will be 4<sup>th</sup> January, 1965.

(h) "Continuing Candidate" means any candidate not elected and not excluded from the poll at any given time;

(i) "Count" means:

- (a) all the operations involved in the counting of the first preferences recorded for candidates or
- (b) all the operations involved in the transfer of the surplus of an elected candidate, or
- (c) all the operations involved in the transfer of the total value of votes of an excluded candidate, or
- (d) all other operations involved in, incidental to: or necessary for the entire process of ascertainment of votes.

(j) "Electoral Roll" means and includes the roll containing the names of Advocates prepared in accordance with the rules of the Bar Council of India in Part III, Chapter I.

(k) "Exhausted paper" means a voting paper on which no further preference is recorded for a continuing candidate and includes a voting paper on which;

- (a) the names of two or more candidates, whether continuing or not are marked with the same figure and are next in order of preference, or
- (b) the name of the candidate next in order of preference whether continuing or not, is marked by a figure not following consecutively after some other figure on the voting paper or by two or more figures; or
- (c) there is such effacement, obliteration, erasure or mutilation as to make any preference other than the first preference ambiguous.

\* (l) ("First preference" means the preference marked in the manner indicated in Rule 23(1), in the space opposite the name of the candidate whom he chooses for his first preference;

"Second preference" means the preference marked in the manner indicated in Rule 23(1), in the space opposite the name of the candidate whom he chooses for his second preference;

"Third preference" means the preference marked in the manner indicated in Rule 23(1), in the space opposite the name of the candidate whom he chooses for his third preference and so on.)

(m) "Form" means a form prescribed under these rules.

(n) "Original Vote" in relation to any candidate, means a vote derived from a voting paper on which a first preference is recorded for such candidate;

(o) "Polling Officer" means a person appointed as such by the Returning Officer and includes the person appointed by the Returning Officer to assist the Polling Officer;

(p) "Returning Officer" means the person appointed by the Bar Council as such to conduct an election and if no such person is appointed the Secretary of the Bar Council.

(q) "Surplus" means the number by which the value of votes. Original and transferred, of any candidate exceeds the quota;

(r) "Transferred Vote" in relation to any candidate means a vote the value or part of the value of which is credited to such candidate and which is derived from a voting paper on which a second or a subsequent preference is recorded for such candidate;

(s) "Unexhausted paper" means a voting paper on which a further preference is recorded for a continuing candidate;

(t) "Voter" means an Advocate whose name is included in the Electoral Roll.

**4. Time and Place of Election:-** Election of members to the Bar Council shall be held at such place or places. On such date or dates and during such hour or hours as the Council may appoint. Different dates and different hours may be appointed for polling at different places.

**Method of Election:** (1) Election to the Bar Council shall be by the single transferable vote by and amongst the voters in the Electoral Roll in accordance with these rules.

5. The voting shall only be by personal ballot. (X X X)

**Explanation:** An Advocate shall be deemed ordinarily to practise at the place which is given in his address in the Electoral Roll.

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\*Substituted and approved by BCI by Resolution No.3/1990

**6. Notice of Election:** (a) Notice of the time and place of election shall be given by publication over the signature of the Secretary in one issue of a Daily news paper in the State of Kerala; not less than fifty clear days before the date of election. The Notification shall specify inter alia-

- (i) the dates, time and place for filling nominations;
- (ii) the date, time and place for scrutiny;
- (iii) the dates, and time for withdrawal of the candidature;
- (iv) the date or dates, time and place of polling
- 2(v) (deleted)
- (vi) the date and place and time for counting of votes; and
- (vii) the minimum number of seats that should be filled from amongst advocates who on the relevant date will have been on the State Roll for at least 10 years;

Provided that the last date for the filling of the nominations shall not be less than 25

clear days before the date of election and that there shall be at least 5 clear days after the last date of the scrutiny for withdrawal of the candidature. Copies of the notice shall be affixed on the Notice Board of the Bar Council, and sent to the Advocate General and to the Bar Association.

(b) Copies of the above notice shall be put up on the Notice Board of the Bar Council and sent to (i) Bar Association and (ii) the Advocate General and (iii) may also be sent to the Official Gazette of the State of Kerala.

**7. Candidates:-** No person shall be entitled to seek election unless his name is in the Electoral Roll.

**8. Candidates how to be proposed:-** (1) Every candidate for election as a member of the Bar Council shall be proposed by one voter and seconded by another voter. The nomination paper shall be delivered to the Secretary either personally or through an agent or sent by registered post so as to reach the Secretary on or before the date specified in the notification under rule 6.

3(ii) The nomination paper shall be in Form 'A'. Every nomination paper shall be accompanied by a deposit for an amount of Rs.500/- which shall be paid either in cash with the Bar Council or by way of Demand Draft from any nationalized bank payable at Ernakulam in favour of the 'Bar Council of Kerala'. The deposit will be refunded to candidates who succeed in the Election or withdraw his candidature before the due date fixed for it. In case of unsuccessful candidates the amount shall be forfeited by the unsuccessful candidates and the same will be refunded to the candidates declared elected to the Council.

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1. Amended by Resolution No.41/84 dated 24.4.1984 of the Bar Council of Kerala and approved by Resolution No.46/1984 dated 13.7.1985 of the Bar Council of India.
  2. Omitted by BCI by Resolution No.3/1990
  - 3.

**9. Doubts as to validity of proposals:-** The Secretary shall at the place and time notified under rule 6 scrutinise the nomination papers received and if in his opinion any nomination paper is invalid, he shall report the same to the Advocate General who shall decide the validity or otherwise of such nomination paper, and his decision shall be final. The candidates or their agents shall be entitled to be present both at the time of the scrutiny before the Secretary as well as before the Advocate General and make their submissions. No nomination

shall be rejected except for a defect of a substantial character and the Advocate General may allow any defect to be rectified.

**10. Withdrawal from Election:-** Any person whose name has been proposed as a candidate may withdraw his candidature by a communication in writing so as to reach the secretary not later than the date and time specified for the purpose in the notification under Rule 6.

**11. Declaration when number of candidates is equal to the number of seats:-** If the number of duly nominated candidates who have been on the State Rolls for 10 years or more is less than or equal to the number required by the provision to Section 3(2)(b) of the Act they shall be declared elected. The number thus elected shall be deemed to be the number required by the said proviso. If number of such candidates is in excess of the required number but the number of all the nominated candidates does not exceed the total number to be elected, all the nominated candidates shall be declared elected. In every other case there shall be a poll as prescribed by these rules.

12. Publication of list of candidates:- (a) Not less than 20 clear days before the date fixed for elections, the Secretary shall publish the names of all the candidates validly nominated except the names of those who have withdrawn under rule 10 as early as possible in Form "B" on the Notice Board of the Bar Council.

(b) Copies thereof shall also be sent to the Advocate General and to the Bar Associations.

**13. Preparation of list of voters:-** The Electoral Roll containing the list of voters shall be prepared in accordance with the rules of the Bar Council of India.

**14. Form of voting paper:-** The voting paper shall contain the names of all the candidates. The address of the candidate and the date of his enrolment as Advocate as in the Roll shall be given against the name of each candidate. An asterisk mark(\*) shall be put against the name of candidates who on the relevant date have been on the State Roll for at least ten years for the purpose of proviso to Section 3(2)(b) of the Act. The voting paper shall also bear on it the facsimile of the Secretary's signature. It shall state the total number of the candidates to be elected. The voting paper shall as nearly as possible, be in the Form 'C'.

15. (.....)1

16. (.....)1

**17. Voting in person:** Voters 2(XXXX) shall cast their votes at the respective polling booths on the dates notified in this behalf.

**18. Polling booths** 3(.....). There may be one or more polling booths at each

place. Different dates may be fixed for polling at the different places. Polling shall ordinarily be from 10.00 a.m to 5.00 .p.m. The Returning Officer shall appoint a sufficient number of polling officers for the booths, and may himself act as such at one or more of the booths. The Bar Council may give such general directions as it may consider necessary with regard to the holding of elections under these rules. In case of emergency when it is not possible for the Secretary to approach the Bar Council the Secretary may approach the Advocate-General for directions in respect of the election and he will be guided by the directions given by the Advocate-General and shall be entitled to act accordingly.

**19. Second voting paper not to be issued:-** When a voting paper has once been handed over to a voter or sent by registered post to a voter under these rules, a second voting paper shall not be issued to him unless the voter satisfies the Secretary or the Polling Officer, as the case may be, that the voting paper has been spoilt or mutilated or lost or destroyed or has not been received by him, in which case a duplicate voting paper may be issued to him.

**20. Despatch of voting papers to polling officers for polling in person:-** The Secretary shall sent to the Polling Officers of the booths requisite number of voting papers and some additional papers bearing facsimile of his signature with a covering letter stating the number of the papers sent and enclosing an extract from the Electoral roll relating to the polling booth, and other papers, if any, with necessary instructions.

**21. Supply of voting papers to voters\*:-** The polling officers shall, on the date and at the time or hour fixed in this behalf, supply a voting paper to each voter in his polling booth, who applies in person therefore, and take his signature in the list of voters against the voter's name to signify the issue of the voting paper.

**22. Procedure for voting 4:-A.** A voter who has received a voting paper under Rule 21 shall retire to a place screened from outside view and mark his preference in the manner prescribed. The voter shall then put it in a sealed box kept for the purpose:

Provided however, if a voter is unable through blindness or physical infirmity to record his vote on a ballot paper, the polling officer shall record the vote on the ballot paper in accordance with the wishes of the voter, fold it so as to conceal the vote and insert it into the ballot box.

The polling officer shall observe as much secrecy as is feasible and shall keep a brief record of each instance but shall not indicate therein the manner in which such vote has been given.

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1.Rules 15 and 16 relating to postal voting omitted by Resolution No.41/1984 dated 24.4.1984  
 2.Omitted, ibid  
 3.Omitted ibid  
 4. Amended by Resolution No.41/84 dated 24.4.1984

**B. Preparation of ballot boxes for poll:** - (i) Where a paper seal used for securing a ballot box, the returning officer or the polling officer shall affix his own signature on the paper seal and obtain thereon the signatures of the such of the candidates or their polling agents, if any, present as are desirous of affixing the same.

(ii) The returning officer or the Polling Officer shall thereafter fix the paper seal so signed in the space meant therefore in the ballot box and shall then secure and seal the box in such manner that the slit for the insertion of ballot paper thereinto remains open.

(iii) The seals used for securing a ballot box shall be affixed in such manner that after the box has been closed, it is not possible to open it without breaking the seals.

(iv) Where it is not necessary to use paper seals for securing the ballot boxes; the returning officer or the polling officer, shall secure and seal the ballot box in such manner that the slit for the insertion of ballot papers remains open and shall allow the polling agents present to affix if they so desire their seals.

(v) Every ballot box used at a polling station shall bear labels both inside and outside marked with –

(a) the serial number, if any, and name of the constituency  
 (b) the serial number and name of the polling station  
 (c) the serial number of the ballot box (to be filled in at the end of the poll on the label outside the ballot box) and  
 (d) the date of poll

(vi) Immediately before the commencement of the poll, the returning officer or the Polling Officer shall demonstrate to the polling agents and other persons present that the ballot box is empty and bears the labels referred to in sub-rule (v) .

(vii) The Ballot box shall then be closed, sealed and secured and placed in full view of the returning officer or the polling officer and the polling agents or the candidates.



(viii) Where it becomes necessary to use a second ballot box by reason of the first ballot –box getting full, the first box shall be closed, sealed and secured as provided in sub rule (i) and (ii) of sub-rule 'C' before another ballot box is put into use.

**C. Sealing of ballot boxes after poll –**

(i) As soon as practicable after the closing of the poll the Returning Officer or Polling Officer shall close the slit of the ballot box, and where the box does not contain any mechanical device for closing the slit, he shall seal up the slit and also allow any candidate or his polling agent, if any, present to affix his seal.

(ii) The ballot box shall thereafter be sealed and secured.

**D.** The polling officer shall at the close of the poll prepare an account of ballot papers in form "D" and enclose it in a separate cover with the words "voting paper account" superscribed thereon.

**E. Sealing of other Packets :-** The Polling Officer shall then make into separate packets –

- (a) the marked copy of the electoral roll;
- (b) the unused ballot papers
- (c) the cancelled ballot papers;
- (d) any other paper directed by the Secretary to be kept in a sealed packet. Each packet shall be sealed with the seal of the Polling Officer and of the candidate or his agents present who may desire to affix their seal thereon.

**F. Transmission of Ballot Boxes, etc. –** The Polling Officer shall then deliver to the Secretary at such place as he may direct or send by post or otherwise in any way as directed

- (a) the ballot boxes containing the ballot papers
- (b) the account of the ballot papers;
- (c) the sealed packets referred to in sub-rule (E) above and
- (d) all other papers used at the poll.

**22A: Fresh poll in the case of destruction etc. of ballot boxes:**

(1) If at any election any ballot box at a polling station is unlawfully taken out of the custody of the presiding officer or the returning officer or is in anyway tampered with or is accidentally or otherwise destroyed, lost or damaged and the returning officer is satisfied that in consequence thereof the result of the poll at that polling station cannot be ascertained, he shall

- (a) declare the polling at that polling station to be void;
- (b) appoint a day and fix the hours for taking a fresh poll at that polling station;

(c) notify the day so appointed and fix the hours of the fresh poll.

(2) The provisions of Election Rules, so far as may be apply to the fresh poll as they apply to the original poll;

**23. Method of Voting :-** (1) A voter shall mark his order of preference on the voting paper in the international form of India numerals or in the Roman figure or in word or in the form such as 1<sup>st</sup>, 2<sup>nd</sup> etc. or in the form first; second etc. and so on.

(2) A voter in exercising his vote

(a) shall mark on his voting paper his first preference in the manner indicated in Rule 1 in the space opposite the name of the candidate whom he chooses for his first preference and

(b) may in addition, mark on his voting paper in his second preference, third preference fourth preference and so on the manner indicated in Rule (1) in the space opposite the name of the other candidate in the order of preference.

**24. Voting papers when invalid :-** A voting paper shall be invalid on which;

(a) the first preference is not marked ; or

(b) the first preference is set opposite the name of more than one candidate or is

so placed as to render it doubtful to which candidate it is intended to apply; or

(c ) the first preference and some other preference are set opposite the name of

the same candidate; or

(d) there is any mark in writing by which the voter can be identified; or

(e) there is on the voting paper such effacement, obliteration, erasure or mutilation as to make the first preference ambiguous;

(f) the voter has put his signature;

(g) there is such erasures, obliteration or alteration in the voting paper so as to make it defaced.

**24A.** The decision of the Returning Officer whether a voting paper is or is not valid shall be final.

**24B.** A voting paper shall not be invalid if a voter exercises his vote for more than the number of candidates to be elected under the rules.

**25. Presence of candidate or his agent during polling and counting:** At the time of polling and counting, the candidate or his agent duly authorized by him shall be entitled to be present.

**25A.** The Returning Officer shall keep the ballot boxes after polling in safe custody in the headquarters of the Council.

25B. The counting of votes shall be between 9.00 .am and 6.00 p.m

**\*26. Arrangement of valid voting papers in parcels :-** (a) The Returning Officer shall open all the ballot boxes. After rejecting the voting paper which are invalid or which cannot be taken into account for the purpose of election under these rules, the Returning Officer shall;

(b) arrange the remaining voting papers in parcels according to the first preference recorded for each candidate;

- (c) count and record the number of papers in each parcel;  
 (d) credit to each candidate the value of papers in his parcel.

27. Ascertainment of quota:- Every voting paper shall be deemed to be of the value of one hundred, and the quota sufficient to secure the return of a candidate at the election shall be determined as follows::

(a) add the value credited for a candidate under clause (d) of Rule 26;

(b) divide the total by a number which exceeds by one of the number of seats to be filled; and

(c) add one to the quotient, ignoring the remainder if any; the resulting number is the quota.

**28. Candidates with quota to be elected :-** (A) The elections of members of the State Bar Council shall be in conformity with the proviso to section 3(2) (b) of the Act and these rules.

(B) There shall be no limit to the number of candidates on the State Rolls for a t least ten years that could be declared elected under these rules.

(C) In an election by the Bar Council of Kerala electing all the members specified in section 3(2) (b) of the Act, the following procedure shall be adopted in the counting of votes;

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\*Rule 26 amended by Resolution No.41/84 dated 24.4.1984

If, at the end of any count or at the end of the transfer of any parcel or sub parcel of an excluded candidate the value of the voting papers credited to a candidate is equal to or greater than the quota, then he shall be declared elected; Provided that –

(i) No candidate who has not been an advocate on the State Roll for at least ten years shall be elected if 10 candidates of less than ten years standing have already been declared elected;

Value of votes 14000

$$\text{Quota} = \frac{14000}{8} + 1 = 1.751$$

### RESULT SHEET

Result of election	Distribution of votes of C and N	Result of surplus of 1 and A	Result of F's votes	Result of M's votes	Result of votes				
10	11	12	13	14	15	16	17	18	19
1,500	+300	1,800	-49	1,751	.....	1,751	.....	1,751	Elected
1,072	+200	1,272	+32	1,304	+300	1,604	+300	1,904	Elected

600	-600	.....	.....	.....	.....	.....	.....	.....	.....	12 Not
Elected										
1,132	+200	1,332	+65	1,397	+300	1,697	+300	1,997		Elected
1,232	+200	1,432	+16	1,448	+200	1,648	+200	1,848		Elected
740	+100	840	.....	840	-840	.....	.....	.....	.....	Not
Elected										
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Not Elected										
1,751	.....	1,751	.....	1,751	.....	1,751	.....	1,751	.....	1,751
Elected										
1,716	+100	1,816	-65	1,751	.....	1,751	.....	1,751	.....	1,751
Elected										
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	Not
Elected										
1,751	.....	1,751	.....	1,751	.....	1,751	.....	1,751	.....	1,751
Elected										
900	+100	1,000	.....	1,000	+24	1,024	+200	1,224		Not
Elected										
1,000	.....	1,000	.....	1,000	+16	1,016	-1,016	.....		Not
Elected										
600	-600	.....	.....	.....	.....	.....	.....	.....	.....	Not
Elected										
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	Not
Elected										
6	.....	6	+1	7	.....	7	16	23	.....	
14,000	.....	14,000	.....	14,000	.....	14,000	.....	14,000	.....	14,000
.....										

Secretary  
THE BAR COUNCIL OF KERALA

### CHAPTER III Election of the Chairman, Vice-Chairman, Treasurer and formation of various Committees etc.

1. After the publication of the list of successful candidates in the Kerala Gazette as

provided under rule 33 of Chapter II, the Secretary shall convene the 1<sup>st</sup> meeting as early as possible.

## **2. Chairman, Vice Chairman and Treasurer**

The Bar Council shall elect from among the members, a Chairman, a Vice Chairman and a Treasurer at such meeting. The members will elect one from among them to preside at that meeting till the election of the Chairman is over. Any candidate for the office of the Chairman, Vice Chairman or Treasurer shall be proposed by one member and seconded by another member of the Council. If the proposed candidate is not present at the meeting, his written consent accepting the candidature should be produced before the election takes place.

## **3. Disputes regarding election of Chairman, Vice Chairman and Treasurer**

(a) Any Member of the Bar Council may challenge the validity of the election of the Chairman or the Vice Chairman or Treasurer by a letter stating the grounds on which the validity of the election is challenged signed and delivered to the Secretary within 24 hours of the election.

(b) The Bar Council shall appoint a Tribunal consisting of three members of the Bar other than members of the Bar Council to hold such enquiry in such manner as they deem fit. The decision of the Tribunal shall be final.

(c) If the Tribunal decides, that the Chairman or the Vice Chairman or the Treasurer as the case may be has not been validly elected, the Bar Council shall at the next meeting elect a Chairman or Vice Chairman or Treasurer as the case may be.

(d) If the re election is for electing a Chairman, the Vice Chairman shall preside at such meeting. If the re-election is for electing a Vice Chairman, or a Treasurer the Chairman shall preside. In the case of equality of votes the election shall be by drawing lots.

## **6. Chairman to preside**

The Chairman shall preside over the meetings of the Bar Council. The ruling of the Chairman on any point of order raised at the meeting shall be final and shall not be questioned by any member of the Bar Council.

## **7. Absence of the Chairman**

In the absence of the Chairman, the Vice Chairman shall exercise all the functions of the Chairman. In the absence of both the Chairman and Vice Chairman, the Council shall elect one from among them to preside over the meeting. He shall exercise all the powers of the Chairman at such meeting.

## **8. Duties of the Chairman**

Save as otherwise provided in the Act or the Rule under the Act, the Chairman shall exercise a general control and supervision over all matters of the Bar Council. He shall perform such other functions as may be delegated to him by the Bar Council.

## **9. Powers and Duties of the Treasurer**

(a) The entire finance of the Bar council shall be in the custody of the Treasurer.

(b) He shall operate upon the Bank or Treasury accounts of the Bar Council and negotiate Government Securities, promissory notes etc:

(c) The accounts of the Bar Council shall be checked and verified by the Treasurer once in a month and his report on such checking shall be recorded and filed by the Secretary.

(d) It shall be the duty of the Treasurer to present the budget of the Council with his report at the first meeting of every financial year.

## **10. Committees**

1. The Bar Council shall constitute the following committees.

- (a) Executive Committee
- (b) Enrolment Committee
- (c) Disciplinary Committee and
- (d) Rule Committee

2. The Council may in addition to the above committees constitute such other committees as it may deem necessary and delegate to such committees such duties and function as it deems fit. Such Committee may consist of as many members as the Council may decide

3. Term of office of each committee constituted by the Council shall be two and a half years or till a successor committee is constituted whichever is later.

4. The Executive Committee shall consist of not less than five members. The Treasurer shall be an Ex-Officio member of the Executive Committee.

5. The Rule Committee shall consist of not less than five members.

6. The members of the Committee shall be elected at the meeting of the Bar Council.

7. A casual vacancy arising in any committee constituted by the Bar Council shall be filled up by the Council

8. The procedure for electing Chairman, Vice-Chairman and Treasurer shall *mutatis mutandis* apply for the election of the members of the Committees.

### **11. Chairman and Quorum**

Each of the Committee shall elect a Chairman from amongst its members. The Secretary shall be Ex-Officio Convenor of the Committees, and he shall record proceedings of the Committees in separate minutes.

The Chairman shall preside over the meetings of the Committees and in his absence the senior most among the members of the Committees shall preside.

All questions and matters arising at a meeting of any Committee shall be decided by majority of votes.

### **12. Functions of the Executive Committee**

The Executive Committee shall be the Executive Authority of the Council and shall be responsible for giving effect to the resolutions of the Council. It shall have power:-

- (a) to propose investment of the funds of the Council
- (b) to prescribe books of account, registers and files for the proper management of the affairs of the Council.
- (c) to supervise the work of the members of the staff and propose their conditions of service
- (d) consider the Secretary's Annual Report and place it before the Council with its comments thereon.
- (e) consider the annual budget prepared by the Hony. Treasurer for being place before the Council.
- (f) to provide for proper annual inspection of the office and its registers.
- (g) to authorize the Secretary to incur expenditure within prescribed limits.
- (h) and to do all other things necessary for discharging the aforesaid functions.

### **13. Functions of the Enrolment Committee**

- The duties of the Enrolment Committee shall be
- i. (a) to scrutinize enrolment papers filed by candidates and if they are found in order, to recommend their enrolment.
  - (b) to scrutinize and advice the Bar Council regarding any dispute relating to the order of seniority in the State Roll.

(c) to advise the secretary in the preparing and maintenance of the roll.

ii. The Enrolment Committee shall have power to exempt the requirement of one month notice in exceptional cases.

#### **14. Functions of the Rule Committee**

(a) to formulate rules for the conduct of business of the Bar Council

(b) to frame rules as may be required.

(c) to study, consider and recommend matters referred to the Council, by the Parliament, Legislative Assembly and other bodies, regarding any bills or rules and report to the Council.

(d) to perform any other functions required by the Council from time to time.

#### **15. Disciplinary Committee**

(i) A Disciplinary Committee under the provisions of the Advocates Act shall be constituted by the Council and its term shall be two and a half years or till a successor committee is constituted whichever is later.

(ii) The co-option under section 9(i) of the Act shall be done by the Council by election.

The procedure prescribed for the election of Chairman, Vice-Chairman, Treasurer or members of other Committees shall as far as possible be followed for co-opting such members.

(iii) The senior most among the members shall be its Chairman

(iv) The Disciplinary Committee can hold its meetings at Ernakulam or at such other places as the Committee may decide, for speedy disposal of cases.

#### **16. Other Committees**

The Committees constituted by the Council under clause(2) of rule 10 shall exercise such powers, perform such functions and duties as the Council may from time to time determine.

**17.** Any Casual Vacancy in the Bar Council shall be filled by the Council by co-option. The member shall retire with the members retiring next. The term of the co-opted members shall be for the unexpired time of the members of the Council.

### **CHAPTER IV MEETINGS**

1. The Bar Council shall hold its meetings not less than six times a year at Ernakulam.



2. The Secretary shall, in consultation with the Chairman, convene meetings of the Bar Council.

3. The Chairman or in his absence the Vice-Chairman shall preside at the meeting. If at any meeting of the Bar Council the Chairman and the Vice Chairman are not present within ten minutes of the appointed time for holding the same, the members present may choose one among them to be Chairman of the meeting.

4. An extra ordinary meeting of the Bar Council shall be convened on a requisition in writing signed by not less than five members of the Bar Council specifying the purpose.

**5. Quorum:** The quorum for a meeting of the Bar Council shall be seven. The quorum for the meeting of the Executive Committee shall be three and that for the Enrolment Committee and the Rule Committee two. The quorum for any other committees shall not be less than 1/3<sup>rd</sup> of the total number of members of such committees. Provided that in the case of an adjourned meeting of the Council or its Committees the requirement of quorum shall not be necessary.

### **6. Proceedings**

All questions and matters arising at a meeting shall be decided by a majority of votes. In the case of equality of votes the Chairman shall have a casting vote. Provided however the Chairman shall not have a casting of vote in matters of election.

### **7. Notice of Meeting**

Note less than ten days notice of the meeting shall be given to every member of the Bar Council and committees along with the agenda for the meeting. Provided that three days notice shall be sufficient for an Extra – Ordinary meeting of the Bar Council.

8. Members attending the meeting of the Council or Committees shall be paid such TA and DA as may be decided by the Council from time to time.

9. The Chairman at his discretion may transact any business of the Council by circulation, provided that if any member so requires, it shall be brought before the Council.

## **CHAPTER V ENROLMENT**

(Rules under Section 28(2) and (d) read with Section 24 and 25)

1. Every person eligible for enrolment as an Advocate under Section 17(1)(a) shall apply to the Secretary in form No.1

2. Every person applying for enrolment under section 24 of the Act as an Advocate on the roll shall file with the Secretary, the following:

(a) An application in form No.2 hereto annexed together with the receipt for payment of the prescribed fees of **Rs.250/-** to the credit of the Bar Council of Kerala in the Central Bank of India, Ernakulam Branch or the State

Bank of India, Trivandrum, Ernakulam or Calicut Branches. If the payment is made in any other branch of the said Banks, the necessary transmission fee shall also be paid.

Provided that where the applicant is one belonging to the Schedules Caste/Schedule Tribe the enrolment fee payable by him shall be Rs.125/- provided further that he produces a certificate from the Tahsildar showing that he is a member of a Schedule Caste or Schedule Tribe.

(b) A Certificate granted by the University showing that he has obtained a Degree in Law from any University prescribed under Section 24 of the Act.

(c) If the applicant is not a law graduate but has practiced as a Vakil or Pleader in the former state of Travancore or Cochin or Travancore-Cochin or in that part of the Madras State which now forms part of Kerala for a total period of three years a certificate in Form No.3 issued by the District Judge or Additional District Judge or Sub Judge or Munsiff of the Court where he is practicing in proof of such practice for three years or more immediately before the 31<sup>st</sup> March, 1964.

(d) Certificates in Form No.4 as to his character and of his fitness to be an Advocate on the Roll of Advocates of the Bar Council of Kerala from at least two Advocates having 10 years standing in the Bar. Where the applicant is a person already enrolled as a Vakil or Pleader he shall not be required to produce such certificate.

(e) A declaration in writing, by the applicant that he will faithfully observe and abide by all rules made by the Bar Council and the Bar Council of India as amended from time to time for regulating the conduct of Advocates on the State Roll and the Common Roll of India.

(f) A declaration in form No.5 that he is a citizen of India or a national of a country where citizens of India, duly qualified are permitted to practice in law.

(g) A certificate evidencing proof of age

(h) A declaration in Form No.6 that the applicant is not in full or part time employment or service and is not engaged in any trade, business or profession except a person who is in part time service as a Professor, Lecturer or Teacher in Law.

(i) Two recent passport size photograph of the candidate with his signature thereon shall be produced along with the application.

3. Unless the Bar Council otherwise orders every person intending to apply for admission as an Advocate shall give one month's notice in writing to the Secretary stating such intention in Form No.7 provided that the enrolment committee may waive this requirement in appropriate cases.

4. No person who is insane or is an undischarged insolvent or has been convicted by any court for any offence involving moral turpitude and who has suffered or undergone any punishment of imprisonment for the same within the

period of three years immediately before the date of filing the application shall be admitted.

4(a). \**"A person who has already ceased to be an advocate or cease to be an advocate by removal from State Rolls on request under the provisions of Sec.26A of the Advocates Act shall repay the entire amount if any received by him from the advocates Welfare Fund with 12% interest per annum on that amount to the Welfare Fund and produce the receipt thereon"*

5. Every candidate for admission as an Advocate, if required by the Bar Council, shall attend in person for the purpose of giving further information touching any matter mentioned in the answers, certificates or statements filed with the Secretary as herein before mentioned.

6. If the papers filed by the applicant are in accordance with the rules herein- before contained and are found by the Secretary to be in order, he shall place the papers with his opinion thereon before the Enrolment Committee.

7. The Enrolment Committee shall scrutinize the papers and if in their opinion the applicant has produced all the necessary papers and that he is entitled to be admitted, on the rolls, it may pass orders to that effect. The Enrolment Committee however shall have power to cause rectification of defects if any in the enrolment papers within specified time.

8. If the Enrolment Committee is of opinion that any application for admission made to the Bar Council and referred to it for disposal ought to be rejected, it shall record its reasons in a statement and shall refer the application under Section 26(2) of the Act for the opinion of the Bar Council of India and dispose it of in conformity with such opinion.

9. On the expiry of the period mentioned under Rule 3, the Secretary shall fix the date and time for admitting the applicant on the roll.

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\* Rule 4(a) has been included vide Resolution dated 5<sup>th</sup> and 6<sup>th</sup> May, 2007 of the Bar Council of India

10. Every applicant before admission shall make a declaration in Form No.8 and shall sign the roll of the Advocates maintained by the Bar Council.

11. Every applicant appearing for enrolment before the Bar Council shall wear advocates robes as specified by the Bar Council of India Rules.

1(12) Disqualification for Enrolment :-

(1) No person shall be admitted as an Advocate on the roll.

#### **RESOLUTION NO.19/1994**

RESOLVED that the amendment to Rule 12(1)(a) of the Rules of the Kerala Bar Council for substitution of the words "date of application in lieu of the words "date of enrolment" is approved with the addition of the words "provided that



8. Have you applied for admission previously as an Advocate to any State Bar Council if so, with what result.

9. Whether enrolled as Advocate of the Supreme Court (State specifically whether as Senior Advocate/ Advocate or as Advocate on Record)

10. For purpose of seniority under section 17(3)(c) whether enrolled as Vakil, Pleader or Attorney and if so, the date of such enrolment.

I declare that the above facts are true to my knowledge.

Yours faithfully

Signature of the

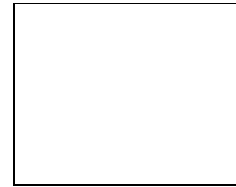
applicant

Place :

Date :

**THE BAR COUNCIL OF KERALA**  
**FORM No.2**

APPLICATION FOR ADMISSION AS AN ADVOCATE ON  
THE ROLL OF THE BAR COUNCIL OF KERALA



Particulars of amount paid ..... :

1. Name of the applicant :  
(in block letters)

2. Permanent address of the applicant :  
(in block letters)

Address for communication :

3. Fathers name :

4. Nationality :

5. Sex :
6. Whether belong to scheduled caste/  
Scheduled Tribe. (If so, authentic proof should  
be produced) :
7. Age and Date of birth of applicant :  
(SSLC Book in Original and true copy of the  
relevant page thereof showing date of birth  
should be produced).
8. Educational Qualifications :
9. If a person who has passed the Law Degree :  
Examination from any University in India, the  
Name of such University, the month and year  
of passing the said Examination.(Diploma or  
Degree Certificate in Original with attested  
true copy or records showing that the candidate  
has passed the qualifying Examination should  
be produced)
10. Whether the degree was taken by private :  
study or by attendance at classes required  
under the Bar Council of India Rules  
(Certificate from the Head of the Institution  
shall be produced in case the degree is taken  
from the Universities outside Kerala).
11. The year (academic years) in which the two :  
year/three year/five year course of instruction  
was taken and the name of the College in  
which the course of study was undergone
12. If a Barrister, the duration of his practical :  
training in English with details(Diploma and  
the certificate of his practical training should  
be produced)
13. If a Vakil or Pleader, the date and place :  
of admission, the number of years of practice  
as such on 31<sup>st</sup> March 1964. Certificate from  
the concerned District Judge or Additional  
Dist.Judge or Sub Judge or Munsiff should be  
Attached (Form No.3)
14. Names of the Advocates whose certificates :  
are filed in: Certificates in Form No.4 should  
be produced Note: Vakil or Pleader need not  
produce such certificates.

15. State whether the applicant is employed or engaged in any profession, trade or calling on the date of application. :
16. If he was employed or engaged otherwise give particulars as to when and where he was relieved from such employment (Relieving order shall be produced) :
17. State whether the applicant has been convicted of any offence. If so give particulars regarding the offence for which he has been convicted and the sentence. :
18. State the name of the Bank where enrolment fee is remitted to the credit of the Bar Council and the date of such remittance. (Bank receipt should be attached) :
19. Whether the applicant has made any previous application for enrolment as an Advocate to any State Bar Council and with what result. If rejected or refused the reason therefore :
20. Place where the applicant intends to practice as an Advocate, with address :

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I declare that the facts stated above are true to my knowledge.

I further declare that I have completed 21 years of age on the date of application. I declare that I am not in full or part-time employment or service and shall not be engaged in any trade, business or profession except those that are permitted by the Bar Council.

I further declare that I had not been convicted for any offence, involving moral turpitude or convicted of an offence under the provisions of Untouchability (Offences) Act, 1955 and has not suffered or undergone any punishment of imprisonment for the same within the period of two years immediately before the date of filing of the application for enrolment.

Place :  
Date:  
applicant

Signature of the

**FORM No.3**

I .....District Judge/Sub Judge/Munsiff of .....do hereby certify that to the best of my belief Sri./Smt.....(Advocate) practiced as Vakil/Pleader from the day of .....to the..... day and that in the performance of his/her and that he/she was diligent and faithful in the performance of his/her duties and that he/she is a fit and proper person to be admitted as an Advocate on the Rolls of the State of Kerala.

Date and seal of the Court.

Judge/Munsiff ..... District Signature of Judge/Sub

**FORM No.4**

I ..... Advocate of the High Court of Kerala with ..... years standing at the Bar, now having my chambers at .....(place) hereby certify that Sri/Smt. ....is known personally onwards of ..... years past has been introduced to me personally .....and he/she is to the best of my knowledge and information of good character, behaviour and conduct.

I believe him/her to be a proper person to be admitted as an Advocate of the High Court of Kerala.

Dated this ..... day of 20.....

ADVOCATE

**FORM No.5**

(Declaration under Rule 104(v to ix))

I ..... the applicant for enrolment, do hereby declare as follows:-

1. I, shall faithfully observe and abide all rules made by the Bar Council of Kerala and Bar Council of India as amended from time to time for regulating the conduct of Advocates on the State Roll and Common Roll of India.

2. I have not made any previous application for admission as an Advocate to any High Court.



3. I am a citizen of India or a national of ..... where citizens of India, duly qualified are permitted to practise in Law.

4. I have completed 21 years of my age on the date of application, I am not in full or part time employment or service and I am not engaged in any trade, business or profession.

(if the candidate has applied earlier for enrolment as an Advocate he should state the result of such application)

Date : Signature of the applicant  
Strike out whichever not applicable.

**FORM No.6**  
(Undertaking to be given by the Candidate)

1. I ..... do hereby declare that I am not in full or part-time employment or services and I am not engaged in any trade, business or profession.

2. I ..... do hereby undertake that if after my admission as an advocate, I accept full or part- time service or I am engaged in any trade, business or profession (other that such as is exempted by the Bar Council of Kerala from the operation of this undertaking) I shall forthwith inform the Council of such employment or engagement and shall cease to practise as an Advocate.

3. I ..... do hereby undertake that I shall not accept any employment which, in the opinion of the Bar Council, is derogatory to the status of an Advocate.

Date : Signature of the applicant

**FORM No.7**  
(Notice to be given to the Bar Council)

From  
.....  
.....

To

The Secretary  
Bar Council of Kerala  
Ernakulam.

I ..... give you notice that I intend moving for my enrolment on or after .....(date) as an advocate on the roll of the Bar Council of Kerala, I am a person duly qualified to be admitted as an Advocate under Section 24 of the Advocates Act, 1961.

Place :

Date :  
candidate

Signature of the

**FORM No.8**

I ..... do solemnly declare that I will bear true faith and allegiance to the Constitution of India as by Law established and that I will endeavour to uphold the traditions, privileges and dignity of the Legal Profession and that I will loyally and faithfully discharge the duties of an Advocate to the best of my knowledge and judgement.

Place :  
applicant  
Date :

Signature of the

**FORM No.9**

**THE BAR COUNCIL OF KERALA CERTIFICATE OF ENROLMENT**

This is to certify that Sri/Smt. .... has been admitted as an Advocate on the Roll of the Bar Council of Kerala on the ..... day of ..... 20 under the provisions of Section 17 of the Advocates Act (Act 25 of 1961).

Given under the Seal of the Bar Council of Kerala.



Passport size photograph  
of candidate

BAR COUNCIL OF KERALA  
High Court Buildings,  
Ernakulam  
Dated .....

CHAIRMAN

CHAPTER VI  
MISCELLANEOUS RULES

1. Any member of the Council or Committees or office bearers may resign by giving a letter of resignation to the Chairman, It shall take effect on acceptance by the Council.

2. No Advocate shall accept any employment which, in the opinion of the Bar Council, is derogatory to the status of an Advocate and if he does so, he shall be liable to be proceeded against for professional misconduct.

3. A breach of the above rules contained herein and undertakings given in pursuance thereof shall amount to professional misconduct.

4. Any Advocate who suspends practice shall, within fifteen days of the date of suspension inform the Bar Council in writing of such suspension, Any person who after enrolment has suspended or ceased to practice may resume practice and in that event he shall intimate the Bar Council within 15 days of the resumption of practice.

5. Any advocate who changed his place of practice shall inform the Bar Council in writing of such change the place together with the address at such place.

CHAPTER VII  
SERVICE RULES  
(RULES REGARDING THE STAFF OF THE BAR COUNCIL OF KERALA)

1. The Council shall have on its establishment a Secretary, who may be fulltime or part-time as the Council may decide. The Council may also appoint such staff as may be decided from time to time.

Scale of pay for the staff shall be decided by the Council from time to time.

2. The permanent employees of the Council shall be entitled to the benefit of Provident Fund and Gratuity in accordance with the rules framed by the Council.

### **3. SECRETARY**

#### **Qualifications**

Any Advocate whose name is entered in the rolls of the Bar Council of Kerala and who has not less than ten years standing shall be eligible for appointment.

#### **4. Tenure of Office and Remuneration**

The Secretary shall be entitled to such salary or honorarium as may be determined by the Bar Council from time to time. The part-time Secretary shall hold office for a period of five years, When a full time Secretary is appointed he shall hold office till he attains the age of 60.

5. The Secretary shall be appointed in such manner as the Council may decide.

#### **6. Duties and powers of Secretary**

(i) The Secretary shall be the Chief Executive Officer of the Bar Council and shall be under the direct control and supervision of the Council. He shall be the custodian of all the records, library and all the other properties of the Bar Council.

(ii) The Secretary shall be responsible for the general administration of the office.

The Secretary shall be responsible for the implementation of the decisions and directions of the Council and the various committees. He shall exercise full control over the staff employed by the Council. All the official correspondence of the Council shall be done by the Secretary in his name and he shall supervise the work of the office subject to the control of the Executive Committee.

(iii) The Secretary shall convene the meetings of the Council in consultation with

the Chairman. He shall be the convenor of all Committees constituted by the Council. He shall function as the Registrar of the Bar Council Election Tribunal as well as of the Disciplinary Committee.

(iv) The Secretary shall maintain the necessary registers and maintain or cause to maintain complete and accurate accounts with vouchers and receipts.

(v) The Secretary shall furnish an administrative and annual report in consultation with the Executive Committee to the Council towards the close of every financial year.

(vi) The Secretary shall record minutes of the meetings of the Council and meetings of the Committees and forward copies of the same to the members of the Council within a fortnight from the date of the previous meeting.

(vii) All letters, communication and papers to and for the Council shall be addressed to or by the Secretary.

7. The Council shall be the appointing authority of the staff. They shall retire at the age of sixty.

#### **8. Qualification for appointment of Clerk**

(i) He shall not be below 21 years and above 32 years of age.

(ii) He shall be a graduate of any recognized University. Knowledge of Typewriting and Shorthand will be an additional qualification.

#### **9. Qualifications for appointment of Steno-Typist**

(i) He shall not be below 21 years and above 32 years of age.

(ii) A pass in the S.S.L.C Examination and a Higher Examination in Typewriting and Shorthand conducted by the State Government.

#### **10. Qualifications for Appointment of peons and attenders**

(i) He shall not be below 21 years and above 32 years of age

(ii) A pass in the S.S.L.C.Examination.

11. The staff appointed by the Council shall be on probation for a minimum period of six months on duty within a period of one year.

12. The Clerk/Steno-Typist/Peon and Attender shall perform such duties as are assigned to them by the Secretary from time to time.

13. The Bar Council may appoint additional hands for purposes to be specified on such terms and conditions as may be specified.

14. The leave rules applicable to Government Servants shall be applicable to the Staff of the Council.

15. All public holidays of the State Government shall be holidays for the Council,  
provided that, in lieu of the attendance by the members of the staff on a holiday on account of the meetings of the Council or any committee or any other purpose of the Council or any committee, the Secretary may grant compensatory leave.

16. The Chairman shall be the competent authority to sanction the Annual increment.

17. The staff is eligible for the following types of leave.

(i) Casual Leave (ii) Earned Leave (iii) Medical Leave (iv) Half Pay Leave (v)  
Leave without pay

18. The Secretary shall be the authority to grant, refuse or revoke leave of any description to all the members of the staff of the Bar Council. In the case of the Secretary, the Chairman of the Bar Council shall be the authority.

19. Leave shall ordinarily be granted on previous written applications only. Absence without leave whether in continuation of sanctioned leave or otherwise shall be treated as leave without pay and the employee shall be subject to disciplinary action by the Bar Council for such absence.

20. Any member of the staff who is in charge of cash shall not absent himself from station or leave from his headquarters without obtaining previous sanction in writing from the Secretary.

21. A member of the staff before proceeding on leave shall intimate to the sanctioning authority his address while on leave and shall keep the said authority informed of the change in the address, if any previously furnished by him.

22. Every member of the staff shall be a full time employee of the Council.

23. Any member of the staff intending to leave the service may do so after giving a month's notice of the said intention to the Bar Council.

Provided however no member of the staff against whom disciplinary proceedings are pending shall be entitled to leave before the termination of such proceedings. Provided further that the Council shall be entitled to continue the Disciplinary Proceedings even after he leaves on retirement.

#### DISCIPLINARY ACTION

24. Any member of the staff may, for good and sufficient reasons be punished by imposing any of the following penalties viz:-

- (a) Censure
- (b) Fine
- (c) Withholding increments with or without cumulative effect
- (d) Withholding of promotion
- (e) Recovery from pay for whole or any part of any pecuniary loss, to the Council by negligence or breach of orders or otherwise.
- (f) Reduction to a lower Rank
- (g) Compulsory Retirement
- (h) Dismissal from service

25. It shall be competent for the Secretary to suspend any member of the staff pending enquiry into the charges against such member of the staff. It shall be competent for the Executive Committee to suspend the Secretary, pending enquiry into the charges against him.

26. No one shall however be kept under suspension for a period exceeding 3 months at a time. In no case, shall any member of the staff be kept under suspension for a continuous period exceeding 6 months without the prior approval of the Bar Council.

27. The enquiry shall ordinarily be completed within a period of six months.

28. The enquiry into the charges against any member of the staff shall be conducted by any other advocate appointed by the Bar Council. He shall submit a report to the Secretary after the enquiry. The Secretary there on shall consider the report and take such action as he may deem necessary. In case he is satisfied that it is a case to impose penalty, he shall give notice of the proposed punishment to the delinquent and after hearing him pass appropriate orders.

29. In the case of the Secretary, the Executive Committee shall conduct enquiry itself, and award punishment.

30. No kind of punishment shall be awarded to a member of staff unless he has been informed in writing of the grounds on which it is proposed to take action against him and he has been afforded an opportunity including a personal hearing to defend himself. Every order awarding punishment shall be communicated to the member of the staff concerned in writing stating the grounds on which the punishment has been awarded.

31. An appeal against the imposition of penalty on the Secretary and other employees shall be to the Bar Council. No appeal shall be entertained if it is not preferred within a period of 30 days from the date of the order imposing the penalty.

## CHAPTER VIII

### (Payment of Gratuity to Employees)

#### RULES

- Short title and (payment of commencement Gratuity to Employees) Rules.1969.
- 1.(a) These rules may be called the Bar Council of Kerala (payment of commencement Gratuity to Employees) Rules.1969.  
 (b) They shall be deemed to have come into force on 2<sup>nd</sup> December 1961.
- Definition to the gratuity
2. Every permanent Employee of the Bar Council shall, subject to the conditions hereinafter prescribed be deemed to be eligible for gratuity under these rules.
- the
3. A gratuity cannot be claimed as of right, but is granted at discretion of the Bar Council to a permanent employee on his leaving the Bar Council service, or in the event of his death before receipt of gratuity, to such a person or persons as may be determined in accordance with the rules on fulfillment of the conditions prescribed in Rule 4.
- Condition of grant
4. No gratuity may be granted to, or in the case of an employee unless.
- a) his service has been continuous and, in the opinion of the Bar Council good, efficient and faithful and
- b) the employee has completed service for a minimum period of five years.
- Bar
- (ii) A gratuity may however be given at the discretion of the Council, in the case of an employee who has not completed service in the Bar Council for a minimum period of five years.
- (iii) for payment of gratuity to an employee his period of service in Travancore , Cochin or Travancore-Cochin Bar Council for Kerala Bar Council shall be counted as period of service in the Bar Council of Kerala, provided that principal amount sanctioned by the Travancore- Cochin Bar Council on 20<sup>th</sup>



October, 1956 shall be deducted at the time of payment in calculating the amount under these rules.

a) If he dies while in service of the Bar Council; or  
 b) If he has retired or has been required to retire on account of certified permanent incapacity due to bodily or mental infirmity or owing to the termination of his appointment on account of reduction of establishment.

When not dismissed admissible 5. A gratuity shall not be admissible to an employee who is dismissed from the service.

Amount admissible gratuity admissible 6. Subject to the provisions of Rule 4 the amount of gratuity shall be, in the case of every employee, a sum equal to half a months salary on the date of retirement or death for each completed year of service, subject to a maximum of 15 month's salary (last drawn).

Explanation : Salary including Dearness pay and Dearness Allowance but does not include other allowance.

Payment in case of death of the employee 7. In the event of the death of an employee before receipt of the amount of gratuity admissible shall be paid:  
 a) to a person who may have been nominated by the employee  
 b) if no such nomination has been made, or subsisting the amount of gratuity shall be paid to the legal heir or heirs of the employee.

## CHAPTER IX

### STAFF PROVIDENT FUND RULES.

The Bar Council of Kerala hereby desires to vest its Employee's Provident Fund in Trustees under a Trust and obtain recognition under the Income Tax Act, 1961. The fund will be governed by the following rules:-

1. The Fund shall be called "The Bar Council of Kerala Employees Provident Fund". It is established for the benefit of all permanent employees of the Bar Council of Kerala.
2. In these rule unless there is anything repugnant to the subject or context.

(a) 'Fund' means the Provident fund established and maintained under these rules.

(b) 'Pay' means substantive pay but does not include any allowance.

(c) 'Subscriber' means a person eligible to subscribe to the Fund under Rule 3 and

who actually subscribes or had subscribed thereto.

(d) 'Subscription' means the sum paid to the Fund by a Subscriber under rule 7.

(e) contribution means the sum paid to the Fund by the Bar Council under Rule 8.

(f) 'Employer' means the Bar Council of Kerala

(g) 'Employee' means a permanent employee of the Bar Council of Kerala.

3. These rules shall come into force on such days as the Bar Council of Kerala shall appoint.

4. Subject to the Provisions of rule 7, subscription to the fund shall be compulsory for all permanent employees of the Bar Council.

5. The fund shall be vested in the Trustee under a Trust and the Trustee shall be elected by the Bar Council of Kerala from among its members.

6. i) The Fund shall consist of subscriptions and contributions specified in rules 7 and 8 and donations, if any received by the Trustee, accumulation thereof and interest credited in respect of such contributions, donations and accumulations and securities purchased therewith and any capital gains arising from the sale, exchange or transfer of capital assets of the Fund.

ii) All costs, charges and expenses incurred for the administration of the Fund shall be borne by the Fund itself.

7 i) Every Subscriber shall subscribe 10% percent of his pay

ii) No subscription shall be levied on a subscriber while he is on leave but

a subscriber may elect in writing to subscribe to the fund during leave with leave salary.

iii) The subscription of each subscriber shall be deducted every month from his pay and credited to his account. It shall be considered as paid to the Fund on the first day of the month following that in respect of which the pay is due.

8. The Bar Council shall contribute to the account of each subscriber an amount equal to that subscribed by him under rules 7 and each such

contribution shall be considered as paid to the Fund on the day on which the subscription is deemed as paid to the fund.

9. The Trustee shall from time to time invest the Fund in authorized securities of the nature specified in clauses (a) (b)(c)(d) or (e) of section 20 of the Trusts Act 1882, and payable both in respect of capital and interest in India, or in a Post Office Savings Bank Account.

10. (i) Individual accounts of the subscriber may be maintained in the form prescribed by the Income Tax Provident Fund Relief (Central Board of Revenue) Rules and at the end of each year abstract of individual accounts of members shall be submitted to the Income Tax Officer concerned in the cases and in the manner specified in the said rules.

**(ii) Interest on subscription and contribution**

(a) Simple interest at 3% or such rate per annum as may be decided upon from time to time by the Bar Council shall be allowed on the subscription and contribution.

(b) In the event of resignation or retirement of a subscriber or in the event of his proceedings on leave preparatory to retirement interest shall be calculated upto the date of disbursement of the amount.

(c) In the event of the death of a subscriber, interest shall be calculated upto the date of payment to the nominees or legal heirs of the deceased.

11. (i) Right in respect of subscription and interest thereon:

If a subscriber ceases to be in the employ of the Bar Council or if he dies, the trustee shall pay to the subscriber to any person or persons nominated by him under rule 14 or in their absence, to the person entitled thereto, the amount of subscription and the interest thereon standing to his credit subject to the deduction of such sum as may be due to the Bar Council from the subscriber.

(ii) Right in respect of contribution and the interest thereon:-

(a) A subscriber shall not be entitled to receive the contribution by the Bar Council and the interest thereon if he is dismissed from the service of the Bar Council.

(b) The contribution and the interest thereon shall be payable in full in the following cases :-

If he retires on account of certified incapacity such incapacity having arise, from causes beyond his control, or

If his services are terminated as the result of reduction in the establishment of the Bar Council or of abolition of his post or if he dies.

(c) In the case of subscriber whose service to the Bar Council is less than 15 years it shall be open to the Trustees to decide whether he should be given the benefit of the contribution by the Bar Council and if so, what portion thereof.

(d) For the purpose of this rule service includes time spent on duty and on leave with leave salary and shall be deemed to commence:-

(i) In the case of subscriber who joins the service of the Bar Council after the coming into force of these rules from the date of his admission to the Fund.

(ii) In all other cases from the date of the commencement of the permanent service.

12(i) The Trustee may allow withdrawals by employees from accumulated Provident Fund standing in their name for the following purposes:-

(a) to pay for the expenses in connection with the illness of a subscriber or any member of his family.

(b) To pay for the education of the subscriber, his wife or children.

(c) To pay for the expenses in connection with the marriage, funeral or other ceremonies which by the religion of the subscriber is incumbent upon him to perform and in connection with which it is obligatory on his part that such expenditure should be incurred.

(d) To meet the expenditure for purchasing a house site for a house for the subscriber.

(e) To pay the premia on policies of insurance on the life of the subscriber or his wife or his children.

(2) In all such cases the trustee shall take such securities from the subscribers as they deem fit.

(3) Without prejudice to the generality of the provisions mentioned above, the Trustees shall not permit withdrawal by the subscriber of more than 50% of the accumulated amount available on the date of withdrawal.

(4) The subscriber shall repay the whole of the amount withdrawn by him with 3% interest within such time as is allowed by the Trustees and notwithstanding anything contained in sub rule 3 he shall not be entitled to withdraw any further amount until such repayment is made.

(5) In case of default by the subscriber or repayment of the amount withdrawn either in full or in such installments are allowed by the Trustees, the

outstanding balance with interest shall be deducted from the Provident Fund amount standing in his name after the termination of the time allowed by the Trustee.

13. Whenever a subscriber forfeits any part of the contribution made towards his Provident Fund the amounts so forfeited shall be ascertained and credited to the fund.

14. The Bar Council shall maintain a register in which the names of all subscribers and their nominees shall be entered. A subscriber shall be at liberty to change his nominee or nominees but only the person or persons last entered in the said register shall be recognized as a valid nominees and a receipt granted by such nominee shall be complete discharge of all liabilities in respect of the fund due to such subscriber.

15. Each subscriber shall fill in and sign the form of declaration appended to these rules.

16. No encumbrance or assignment created or made by a subscriber during his continuance in service in respect of the Provident Fund amount standing to his credit shall be valid.

17. When a subscriber proceeds on leave preparatory to retirement, his Provident Fund account may be closed at time between the date of commencement of such leave and date of retirement.

18. i) The account of every subscriber shall be made up yearly up to the 31<sup>st</sup> of March.

ii) each subscriber shall at the close of every financial year ending on the 31<sup>st</sup> March on each year be furnished with a statement of his provident fund account showing the amount of his subscription and the interest thereon and the amount of contribution and interest thereon standing to his credit.

19. Save as otherwise provided for in rule 22, these rules and any amendments thereto shall be binding on every subscriber and every person deriving title from him.

20. The power of interpreting these rules and deciding case of dispute or doubt or ambiguity is vested on the Bar Council and the decision of the Bar Council therein shall be final.

21. When the account of a subscriber is closed the amount payable by him towards his Provident Fund, under these rules, shall be ascertained without inordinate delay and be paid to him.

22. It shall be open to the Bar Council to amend, add to or repeal these rules either in whole or in part and a copy of such amendment, addition or repeal shall be forwarded to the Commissioner of Income Tax.

23. The subscription and contribution and interest thereon as provided in Rule 10(ii)(a) of the existing employee of the Bar Council of Kerala till the date of commencement of these rules and the withdrawals from these amounts, made

by the subscribers, shall be deemed to be subscription contribution and withdrawals made under the provisions of these rules.

### Form of Declaration of Nominees.

I do hereby declare that in the event of my death the amount to my credit in the Provident Fund may be paid to the person or persons mentioned below as shown against his or their names .

The amount due to the nominee who is a minor at the time of my death may be paid to the person whose name appears in entry 4 as guardian.

1. Name and address of the nominee or nominees :
2. Relationship with the subscriber :
3. Whether minor or not , if minor state date of birth :
4. Name and address of the person to whom Payment is to be made on behalf of the minor :
5. Sex and parentage of the person who is to receive payment on behalf of the minor :
6. Whether the nominee is married or unmarried :

Witnesses to the Signature :

1.

2.

Station .....

Signature of the

subscriber  
Date .....

FORM A

(Rule 7(a))

Application for Legal Aid

1. Name of the applicant in full :  
(In capital letters)

2. Address in full :

3. Nature of the aid:

- (a) to prosecute a case
- (b) to defend a case
- (c) to get legal advice
- (d) Name of the Court/Tribunal/Authority.
- (e) Whether any money is needed other than Fees to the Advocate

4. Nature of the case or advice.

- (a)
- (b)

5. Documents in support of the case

- (1)
- (2)

6. Whether the applicant is willing to abide by the scheme and the rules.

7. Whether he has received aid from any other sources :

8. The applicant's monthly/yearly income and the name of his occupations.

9. The income of the wife/son/unmarried daughter/monthly/yearly:

10.The details of previous conviction if any

11. Any other relevant matters.

**Declaration :**

I ..... the applicant herein do hereby declare that, in the event of the aid/advice sought for, is granted, I shall honestly, faithfully and diligently prosecute/ or which aid has been granted.

Signature.

I ..... solemnly affirm and state on oath that what I have stated above are all true, the same having been read out to me in from the office of.....

Signature

Solemnly affirmed and signed before me this .....the day of .....20..... at my office at.

Rubber stamp to be affixed on the pleadings .

Legal Aid Committee:

Aid granted to Plff/Deft./Accused:

Counsel :

Rubber stamp to be used in application 'A'

Legal Aid Committee at

Received :

Disposed

---

N.B.Strike out in appropriate words.

FORM 'B'  
Registration of Application

No.	Date	Name	Nature of Aid sought	Enquiry (a) Means (b) Merits (c) of the act
-----	------	------	-------------------------	---

1.	2.	3.	4.	5.
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Date of Disposal Secretary	Nature of Disposal	Signature of the
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6.	7.	8.
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CHAPTER XI  
ADVOCATES FINANCIAL ASSISTANCE RULES

Whereas the Bar Council has been provided with the functions of giving financial assistance for the indigent, disabled or other Advocates, the Bar Council of Kerala hereby makes the following rules;

1. (a) these Rules may be called the Kerala Bar Council (Indigent and Disabled



Advocates) Financial assistance rules,1975.

(b) It shall come into force on such date as may be decided by the Bar Council of Kerala and after the approval of the Bar Council of India.

**2. Definitions:-**

(a) 'BAR COUNCIL' means the Bar Council of Kerala

(b) 'COMMITTEE' means committee constituted under these rules.

(c) 'Disabled Advocate' means a practicing advocate on the Roll of the Bar

Council of Kerala who in the opinion of the Bar Council, by reason of any physical or mental infirmity, is unable to practice for more than 3 months continuously and who is financially not in a position to support himself.

(d) 'Fund' means fund constituted by the Bar Council under these rules.

(e) 'Form' means the forms prescribed by these rules.

(f) 'Indigent Advocate' means a practicing advocate who has completed ten years

at the Bar and who is unable to maintain himself either from practice or from any other source and who in the opinion of the Bar Council needs financial assistance.

(g) 'Practising Advocate' means an advocate on the roll of the Bar Council of Kerala and who is a member of the Bar Association where he ordinarily practices.

**3. The Fund defined under these rules shall be made up of :**

(a) such sums not exceeding 10% of the net annual income of the Bar Council set apart for the purpose by the Bar Council at the end of each financial year.

(b) Contributions made by the Government or other authorities Bodies or individuals.

(c) sum raised and collected in such other manner as may be deemed proper by the Bar Council.

**4. (a)** There shall be a Committee for the proper administration of the Funds under these Rules constituted by the Bar Council from among its members.

(b) The Secretary of the Bar Council shall be the Convenor of the Committee.

(c) The Committee may elect a Chairman from among themselves who shall preside over the meeting of the Committee.

(d) The Secretary shall maintain the following registers:

(i) Register of applications

(ii) Minutes Book of the Committee and Books of Account showing the income and expenditure.

5. (a) Any disabled or indigent advocate practicing in the State of Kerala may apply to the Bar Council in the prescribed form for assistance under these rules.

(b) On receipt of an application the Secretary of the Bar Council shall obtain the remarks of the Bar Association of which he is member. The Secretary shall place the application together with the remarks of the said Bar Association before the Committee and the committee after making such further enquiries as it may think fit shall recommend, if satisfied that the applicant deserves financial assistances under these rules, such sum not exceeding Rs.1000/- to be paid to the applicant. If the committee is of opinion that the applicant does not deserve any assistance under these rules it shall record its reasons and forward the same to the Council.

(c) In case the Committee feels any doubt or is otherwise unable to take a decision in regard to the grant of the assistance applied for, it shall forward the application together with its opinion to the Bar Council.

6. On receipt of the recommendation or reasons for rejection made under Rules 5, the Bar Council may alter, vary or reject the same and communicate its decision to the applicant. In case the Bar Council decides to grant any aid, the amount shall be disbursed to the applicant.

7. (a) The Bar Council shall always have the power to cancel the decision made under Rule 6 in case any receipt of assistance under these rules is found to have received on false particulars furnished in the application.

(b) Where the Bar Council has decided that any applicant has furnished false particulars for obtaining assistance under these rules the Bar Council may take such other action as it deems fit.

The Funds constituted under these rules shall be separately invested and decided by the Bar Council.

The expenses, incidental to the administration of this fund shall be borne by the Bar Council.

## KERALA ADVOCATES WELFARE FUND ACT, 1980

1

(Act 21 of 1980)<sup>1</sup>


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**(Amended by Acts 32 of 1986, 21 of 1989 ,8 of 1993 ,15 of 1995 and 8 of 2001)**

An Act to provide for the constitution of a Welfare fund for the payment of retirement benefits to Advocates in the state of Kerala and for matters connected there with or incidental thereto.

**Preamble---** Where it is expedient to provide for the constitution of a welfare fund for the payment of retirement benefits to Advocates in the State of Kerala and for matters connected therewith or incidental thereto.

Be it enacted in the Thirty first year of the Republic of India as follows:

### 1. Short title. Extent and commencement

- (1) This Act may be called the Kerala Advocates Welfare Fund Act ,1980.
- (2) It extends to the whole of the State of Kerala.
- (3) It shall come into force on such date<sup>2</sup> as the Government may by notification in the Gazette 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 Kerala under S.17 of the Advocates Act 1961 ( Central Act 25 of 1961)<sup>3</sup> [xxx]
- (b)"Bar Association" means an association of advocates recognised by the Bar Council under S.13.

(c) "Bar Council " means the Bar Council of Kerala constituted under Section 3 of the Advocates Act,1961 (Central Act 25 of 1961).

<sup>4</sup>[(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 retirement or death and

includes any disentitlement of a member to practice in the State under Article 220 of the Constitution of India or any other law for the time being in force.

-----1.Published in K.G. Exty No.1050,dt.10-12-1980, Received assent of President on5-2-1980

2.Came into force on 5-4-1981,as per Notification No.48/B1/81/Law ,dt.1-4-1981.

3.The words "and who is member of a bar association" Omitted by Act 15/95.

4.Subs.by Act 15 of 1995.

(e)"Dependents" means wife,husband,father , mother and <sup>1</sup>[Sons and daughters] or such of them as exist.

(f)"Fund' means Advocates' Welfare Fund constituted under S.3:

(g)"member of the fund" means an advocates admitted to the benefit of the fund and continuing to be a member thereof under the provisions of this Act.(h)

(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 S.22.

(k)"State" means the State of Kerala.

(l) "Suspension of practice" means voluntarily suspension of practice as an advocate or suspension by the Bar Council for misconduct;

(m)" Trustee Committee" means the Committee established under S.4;

(n)"Vakalath" means vakalathnama 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) The Government shall constitute a fund called the Advocates' Welfare Fund:

(2) There shall be credited to the Fund—

- (a) all amounts paid by the Bar Council under S.12;
- (b) any other contribution made by the Bar Council;
- (c) any voluntarily 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) the amount set apart from the Legal Benefit Fund constituted under sub-section (2) of S.76 of the Kerala Court Fees and Suits Valuation Act, 1959 (10 of 1960), for providing social security measures for legal profession;
  - (f) any sum borrowed under S.10;
  - (g) any sum received from Life Insurance of Corporation of India on the death of an advocate under Group Insurance policy:
- 

1.Substituted by Act 21 of 1989 for "Unmarried minor children".

- (h) 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;
  - (i) any interest or dividend or other return on any investment made of any part of the Fund.
  - (j) All sums collected by way of sale of stamps under S.22;
  - (k) All sums collected under S.15 by way of 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 Trustee Committee**

- (1) The Government may, by notification in Gazette, establish with effect such date as may be specified therein, a committee to be called the Kerala Advocates Welfare Fund Trustee Committee.
- (2) The Trustee Committee shall be a body corporate having perpetual succession and a common seal with power to acquire and hold property and shall, by the said name, sue and be sued.
- (3) The Trustee Committee shall consist of.....
  - (a) the Advocates General of Kerala, 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) <sup>1</sup>[ three members ] of the Bar Council nominated by it.
  - (e) the Treasurer of the Bar Council, who shall be the treasurer of the Trustee Committee ex-officio.
  - (f) The Secretary of the Bar Council, who shall be the Secretary of the Trustee Committee, ex-officio.
  - (g) <sup>2</sup> [The President of Kerala Bar Federation ex-officio]
- (4) A member nominated by the Government under clause (c) subsection (3) shall hold office of a term of four years.

(5) A member nominated by the Bar Council under clause (d) 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.

## **5. Disqualification and removal of nominated members of Trustee Committee**

(1) A member nominated under clause (c) or clause (d) of subsection (3) of S.4 shall be disqualified to be a member of the Trustee Committee if he.....

(a) becomes of unsound mind; or

- 
1. Substituted for "two members by Act 21 of 1989"  
2. Inserted by Act 21 of 1989.

(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 a member of the Fund) or has committed breach of trust or

(e) is convicted by the 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 membership of the Trustee Committee.

Provided that no order removing member shall be passed unless that member and the Bar Council in the case of a member nominated by it have been given an opportunity of being heard.

## **6. 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 S.4 may resign his office by giving three months notice in writing to the Government Or the Bar Council as the case may be and on 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 member referred to in sub-section (1) may be filled up, as soon as may be, by the Government or the Bar Council, as the case 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.

## 7. 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 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 held and applied by the Trustee Committee subject to the provision, and for the purpose of this Act.

## 9. Functions 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 readmission to the Fund and dispose of such applications within ninety days from the date of receipt thereof,
- <sup>1</sup>[(bb)] remove a member from the Fund for contravention of any the provisions of this Act or the rules framed thereunder after giving the member concerned an opportunity of being heard]
- (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 with five months from the date of receipt thereof;
- (d) record in the minutes book of the Trustee Committee its decisions on the applications.
- (e) Pay to the applicants amounts at the rate specified <sup>2</sup>[in section 16]
- (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 decisions of the Trustee Committee in respect of the applications for admissions 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, borrowings 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 purpose of this 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 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.

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1. Inserted by Act 15 of 1995

2. Substituted for "in the Schedule" by Act 15 of 1995.

- (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 by the Trustee Committee and the Bar Council 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).

#### **11. Powers and duties of Secretary**

The Secretary of the Trustee Committee shall—

- (a) be the chief executive authority of the Trustee Committee and responsibility 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 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) Inspect and verify periodically the accounts and registers of the Bar Associations regarding stamps:
  - (i) prepare an annual statement of business transacted by the Trustee Committee during each financial year and
  - (i) do such others acts as may be directed by the Trustee Committee and the Bar Council

## **12. Transfer of certain monies to the Fund**

The Bar Council shall pay to the Fund annually an amount equal to twenty percent of the enrollment fees realised by it.

## **13. Recognition and registration of the Bar Association**

(1) all associations of the advocates known by any name functioning in any court centre may<sup>1</sup> [XXX] apply to the Bar Council in such form as may 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 addressed of the office

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1. The words "before a date to be notified by the Bar Council on this behalf" omitted by Act 21 of 1989.

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 practice of each member.

(3) The Bar Council may, after such enquiry as it deems necessary recognise the association and issue a certificate or registration in such form as may be prescribed.

[provided that where there are more than one association in a court centre, the Bar Council shall, for reasons to be recorded in writing register and recognise only one association for that centre]

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

### **[13A. Cancellation of recognition and registration of Bar Association**

The Bar Council may for reasons to be recorded in writing , cancel the recognition and registration granted to a Bar Association , if it fails to carry out any of the duties specified in S.14;

Provided that no order canceling the recognition and registration shall be passed without giving the Bar Association an opportunity of being heard].

14. Duties of Bar Associations: -
1. **Every Bar Association shall on or before the 15<sup>th</sup> April of every year, intimate the Bar Council a list of its members as on the 31<sup>st</sup> Day of March of that year.**
  2. **Every Bar Association shall intimate to the Bar Council –**
    - a) **any change of the office bears of the Association within fifteen days from such change.**
    - b) **Any change in the membership including admissions and re admissions within thirty days of such change.**
    - c) **The death,retirement or voluntary suspension of practice of any of its members within thirty days form the date of occurrence thereof, and**
    - d) **Such other matters as may be required by the Bar Council from time to time.**

15. Membership in the Fund

- (1) Every advocate practicing in any court in the State and being a member of a Bar Association recognised by the Bar Council any apply to the Trustee Committee for admission as a member of the Fund in such from as May be prescribed.

[( 1A) A person enrolled as an Advocate after retirement from the service of Central or any State Government or any public or private sector undertakings

- 
1. Added by Act 21 of 1989.
  2. Inserted by Act 21 of 1989.
  3. Inserted by Act 8 of 2001 with effect from 23.11.2001.

shall not be admitted as a member of the Fund if such person is eligible for or availed of any kind of retirement benefits from such Government or public or private sector undertakings"]

- (2) On receipt of an application under sub section (1), 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.

<sup>1</sup>[(3) An Advocate applying for membership to the Fund shall pay a sum of Rupees <sup>2</sup>(three hundred) towards admission fee along

with the application in such manner as may be prescribed to the account of the Trustee Committee.]

<sup>3</sup>[(4) In the event of rejection of an application, the admission fee paid along with the application shall be refunded to the applicant.]

<sup>4</sup>(5) Every member shall pay an annual subscription to the fund on or before 30<sup>th</sup> June of every year at the following rates, namely:-

1.	Where standing of the Advocate at the Bar is less than five years	***	200
Rupees			
2.	Where standing of the Advocate at the Bar is five years or more, but less than ten years	***	500 Rupees
3.	Where standing of the Advocate at the Bar is ten years or more, but less than fifteen years	***	1000
Rupees			
4.	Where standing of the Advocate at the Bar is fifteen years and more	***	1500 Rupees

<sup>5</sup>[Provided that an advocate designated as Senior Advocate under the Advocates' Act 1961 (Central Act 25 of 1961) shall pay an annual subscription to the Fund at the rate of Rs.3000/- (Three thousand rupees.)]

<sup>6</sup>[(6) XXX]

<sup>7</sup>[(7) A member who fails to remit the annual subscription for an year on or before the 30<sup>th</sup> June of that year within a period of six months from the said date, remit the amount in arrears together with fine at the rate of Five Rupees per month or part thereof.

(8) Where a member fails to remit the annual subscription together with fine the period specified in sub section (7) of the Trustee Committee shall

- 
1. Substituted by Act 21 of 1989.  
 2. Subs. for "two hundred" by Act 8 of 1993.  
 3. Substituted by Act 21 of 1989.  
 4. Substituted by Act 8 of 2001 into effect from 22.11.2000.  
 5. Added by Act 15 of 1995.  
 6. Omitted by Act 15 of 1995.  
 7. Sub.sections 7 and 8 substituted by Act 15 of 1995.

issue a notice to such member by registered post in the address as entered in the register of members of the Fund directing him to show cause. If, any why he should not be removed from the membership of the Fund for nonpayment of subscription. Where the defaulter within one month from the date of such notice furnishes sufficient cause to the satisfaction of the Trustee Committee for the nonpayment and also remits the entire arrears of subscription together

with fine till the date of payment and notice charge, the Trustee Committee may abstain from taking or proceeding with any action against him in respect of such nonpayment, and in other cases, the Trustee Committee shall remove the defaulter from the membership of the Fund.

(8A) Notwithstanding anything contained in the forgoing provisions of this section, where on receipt of a complaint or otherwise the Trustee Committee is satisfied after such enquiry as they may think fit that a member has voluntarily suspended practice or ceased to practice without intimation to the Trustee Committee or has become disqualified to practice under any law for the time being in force they may, after giving such member a reasonable opportunity for showing cause against the proposed action and after considering the cause, if any, show remove him from the membership of the Fund.]

(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 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 that fact to the Trustee Committee and if any member fails to do so without sufficient reasons the Trustee Committee may reduce in accordance with such principles as may be prescribed the amount due to that member.

16. Payment from the Fund on cessation practice

(1) A member of the Fund shall on cessation of practice be entitled to receive from out of the Fund an amount at the rate specified in the schedule.

<sup>1</sup>[Provided that a member removed under sub-section (8) or sub-section (8A) of section 15 or a member who has not continued his membership of the Fund at least for five years shall be entitled, on cessation of practice.

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**1.Substituted of Act 15 of 1995.**

(a) after the commencement of Kerala Advocates Welfare Fund (Amendment) Act 1995, to fifty percentage of the amount at the rate of three thousand and one hundred and twenty five rupees calculated for every completed year of practice and

- (b) before commencement of the said , Act to fifty percent of the amount at the ate specified in sub-section (1A) calculate for every completed year of practice.”
- (1A) Notwithstanding anything contained in sub-section (1) or any judgement decree or order of any court tribunal or other authority a member on cessation of his practice on or before 2nd day of March, 1993 shall be entitled to receive from out of the Fund an amount calculated at the rate of one thousand rupees for every completed year of practice for the period up to 5<sup>th</sup> May, 1989 and at the rate of two thousand rupees for every completed year of practice for the remaining period.]

(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.

<sup>1</sup>[(2A) Notwithstanding anything contained in sub-section (2), in the event of the death of a member while in active practice and before attaining the age of fifty-five years, his nominee or where there is no such nominee his legal heirs, as the case may be, shall entitled to receive from out of the Fund an amount at the rate specified in the schedule or an amount of two lakh rupees whichever is higher.]

<sup>2</sup>[(3)XXX]

<sup>3</sup>[(4) for calculating the period of completed years of practice for the purpose of payment

- (j) under sub-section (1) every two years of practice at the bar and  
**(ii)** under sub-section (1A) every four years of practice at the bar 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.

Provided that in computing the period of practice the period of suspension of practice either voluntarily or otherwise shall be excluded:

Provided further that in the case of person who resumes practice after being in government service or in any other employment the period of practice counted for retirement benefit or other service benefits there in if any shall not be taken into account.

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<sup>1</sup>. Inserted by Act 8 of 2001 , with effect from 22-11-2000.

<sup>2</sup>. **Omitted by Act 21 of 1989.**

<sup>3</sup>. **Substituted by Act 21 Of 1989.**

Provided also that in the case of persons who does not apply to become a member of the fund within six months from the commencement of the Kerala Advocates Welfare Fund (Amendment) Act, 1995 within six months of his enrollment as Advocate, as the case may be the period of practice if any before admission of such person to the Fund shall not be taken into account.]

- (5) In the case of a member who dies within five years of his admission to the Fund his nominee or legal heir as the case may be shall be eligible to get an amount at the rate of <sup>1</sup>[Three thousand one hundred and twenty five rupees per year of practice.]. Or five thousand rupees which ever is higher.

<sup>2</sup>[5(A) Notwithstanding anything contained in this Act where an applicant for membership in the Fund dies before he is admitted as a member of the Fund, his nominee or legal heir as the case may be shall be eligible to get an amount at the rate of one thousand rupees per year of practice for the period commencing form 5<sup>th</sup> day of April, 1981 and ending with 5<sup>th</sup> day of May,1989,<sup>3</sup> [two thousand rupees per year of practice form the 6<sup>th</sup> day of May,1989,till the date proceeding the date of commencement of Kerala Advocates Welfare Fund (Amendment) Act,1993 and thereafter at the rate of three thousand one hundred and twenty five rupees per year of practice provided the deceased was other wise eligible to be admitted as member of the Fund but for his death.]

- (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.

#### 17. Restriction on alteration, attachment, etc of interest of members of the Fund

- (1) The interest of any member in the Fund , or right of a member or his nominee or legal heirs to receive any amount from the fund shall not be assigned alternated 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 processed against the Fund or interest therein of any member or his nominee or legal heirs.

**Explanation:** For the purpose of this section "credit includes the state or and official assignee or receiver appointed under the insolvency Act,1955 (2 of 1956) or any other law for the time being in force.

#### 18. Group Life Insurance for members and other benefits

The Bar Council may for the welfare of the members of the Fund-

- (a) Obtain from Life Insurance Corporation of India policies of Group Insurance for the members of the Fund.

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1. Subs by Act 21 of 1993.

- 2. Added by Act 21 of 1993
- 3. Substituted by Act 8 of 1993.

- (b) Provide for medical and educational facilities for the members of the Fund and their dependents ; and
- (c) Provide for such other benefits ads may be prescribed.

### **19.Meetings of Trustee Committee**

- (1) The Trustee Committee shall meet at least once in three calendar months or more often it found necessary to transact business under this Act or the rules made thereunder.
- (2) <sup>1</sup>[Five] members of the Trustee Committee shall form the quorum for a meeting of the Committee.
- (3) The Chairman or in his absence 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 a majority of the members present and voting at the meeting and in the case of an equality of votes, the Chairman or the member presiding over the meeting shall have a casting vote.

### **20.Travelling and daily allowance to members of the Trustee Committee**

Then non-official members of the Trustee Committee shall be eligible to get such travelling allowances and daily allowance as are admissible to the members of the Bar Council.

### **21.Appeal against decision of Trustee Committee**

- (1) An appeal against any decision of the Trustee Committee shall lie to the Bar Council
- (2) The appeal shall be in the prescribed form and shall be accompanied by-

(a) the order appealed against and

<sup>2</sup>[(b) a receipt evidencing payment of one hundred rupees to the credit of the Bar Council in any the branches in Kerala of the State bank of India or its subsidiary Bank or in any Nationalized Bank or in any District Co-operative Bank in any Scheduled Bank]

- (3) The appeal shall be filed within thirty days from the date of receipt of the order appealed against.
- (4) The decision of the Bar Council on the appeal shall be final.

### **22.Printing and distribution of stamps by Bar Council**

- (1) The Bar Council shall cause to be printed and distributed welfare fund stamps of the value of <sup>3</sup>[five rupees and ten rupees ] with Bar Council Emblem and its value inscribed thereon.
-

- 
1. Substituted by Act 15 of 1995.
  2. Added by Act 21 of 1989.
  3. Substituted by Act 15 of 1995.

<sup>1</sup>[(2) The stamps shall be of such size and colour as may be decided by the Bar Council from time to time.]

- (3) The Custody of the stamps shall be with the Bar Council.
- (4) The Bar Council shall control the distribution and sale of stamps through Bar Associations.
- (5) The Bar Council and the Bar Association shall keep proper accounts of the stamp in such form and in such manner as may be prescribed.
- (6) The Bar Association shall purchase the stamps from the Bar Council after paying the value thereof less ten percent of such value towards incidental expenses.
- (7) Every stamp affixed on vakalaths filed before any court tribunal or other authority shall be cancelled in the manner provided in the Kerala Court Fees and Suits Valuation Act, 1959(10 of 1960).

### **23. Vakalath to bear stamps**

(1) <sup>1</sup>[Every vakalath filed by an advocate <sup>2</sup>[ who is a member of the fund] shall in addition to the court fee stamps affixed thereon be affixed with the welfare fund stamp of the value of <sup>3</sup>[fifteen rupees] in the case of vakalath filed before the High Court and of the value of <sup>4</sup>[ten rupees] in the case of vakalath filed before subordinate courts, tribunals and other authorities and no vakalath shall be valued unless it is so stamped.

Provided that nothing contained in this sub-section shall apply in respect of any memorandum of appearance filed by an Advocate appearing on behalf of the Government

**Explanation:-** If three or more Advocates jointly appear by single Vakalath the maximum number of stamps that may be affixed thereon shall be three].

- (2) The value of stamp shall neither be costs in the case nor be collected in any event from the client.
- (3) Any contravention of the provisions of sub section (2) by any member shall disentitle him to the benefits of the Fund and the Trustee Committee shall report such instances to the Bar Council for appropriate action.

### **24. Protection of action in good faith**

No suit prosecution or other legal proceedings shall lie against any person for anything which is in good faith done and or intended to be done in pursuance of this Act or any rule made thereunder.

No suit or other legal proceedings shall lie against the Trustee Committee or the Bar Council for any damage caused or likely to be caused by anything

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- 1 Substituted by Act 15 of 1995.  
 2 Inserted by 8 of 2001 w.e.f. 23.11.2001.  
 3 Subs.for "ten rupees" by Act 8 of 2001 w.e.f.22.11.2000.  
 4 Subs.for "five rupees" by Act 8 of 2001 w.e.f.22.11.2000.

which is in good faith or intended to be done in pursuance of this Act or any rule made thereunder.

## **25.Bar 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, decided or dealt with or to be determined by the Trustee Committee or the Bar Council.

## **26.Power to summon witness and take evidence**

The Trustee Committee and the Bar Council shall , for the purpose of any enquiry under this Act have the same powers are vested in a civil court while trying a suit under the code of Civil Procedures, 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 commission 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 Gazette make rules for the purpose of carrying into effect the provisions of this Act.

### **1schedule - I (see section 9 and 16)**

32	years of practice	3,00,000/-
31		2,90,625/-
30		2,81,250/-
29		2,71,875/-
28		2,62,500/-
27		2,53,125/-
26		2,43,750/-
25		2,34,375/-
24		2,25,000/-
23		2,15,625/-
22		2,06,250/-

21	1,96,875/-
20	1,87,500/-
19	1,78,125
18	1,68,750

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1. Substituted by Act 8 of 2001 w.e.f. 22.11.2000.

17	1,59,375/-
16	1,50,000/-
15	1,40,625/-
14	1,31,250/-
13	1,21,875/-
12	1,12,500/-
11	1,03,125/-
10	93,750/-
9	84,375/-
8	75,000/-
7.	65,625/-
6	56,250/-
5	46,875/-

## **KERALA ADVOCATES WELFRE FUND RULES , 1981**

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Noti.No.KBC/Govt.26/1981, dt.27.03.1981, published in K.G.Ext.No.245, dt. 27.03.1981

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In exercise of the powers conferred by S.27 of the Kerala Advocates Welfare Fund Act,980(21 of 1980) and of all other powers thereunto enabling, the Bar Council of Kerala, with the previous approval of Government thereby makes the following rules namely.

### **RULES**

#### **1. Short title**

These Rules may be called “The Kerala Advocates’ Welfare Fund Rules 1981”.

#### **2. Definitions**

In these Rules, unless the context otherwise requires –

- (a) “Act” means the Kerala Advocates Welfare Fund Act,1980.
- (b) “Form” means a form appended to these rules ;
- (c) “permanent’ disablement” means such disablement which incapacitates a person to continue his practice as an Advocate;
- (d) “practice” means carrying on the profession of advocate;
- (e) “standing” means practice at the Bar

#### **3. Application for recognition and registration of Bar Association**

(1) An application under section 13 of the Act by any association of advocates functioning in any court center to the Bar Council for recognition and registration shall be in Form No.1

( 2 ) Every application in Form No. 1 shall be accompanied by an authenticated copy of the rules and/or bye-laws of the Association, an upto date list of the members of the Association, showing their names, address, age, date of birth, date of enrolment, the roll number in the State roll maintained by the Bar Council under S. 187 of the Advocates Act 1961 (Central Act 25 of 1961) the place where the member ordinarily practices the period of suspension, if any, and such application shall be duly signed by the President and Secretary of the association.

(3) The Certificate of registration to be issued by the Bar Council shall be in Form No. 11

(4) The Bar Council may recognize and register more than one Bar Association at a Court center for special reasons to be recorded in writing.

#### **4. Application for membership in the Fund**

(1) Every application under Section 15 of the Act for admission as a member of the

Fund shall be in form No. III signed by the applicant and attested by the President

and Secretary of the Bar Association of which he is a member.

(2) An advocate having membership in more than one Bar Association shall be

eligible to apply to admitted as a member of the Fund only from one of such associations.

(3) An advocate applying for membership of the Fund shall pay a sum of Rs. 50 towards the first installment of the application fee along with the application and the remaining amount of Rs. 150 shall be paid in the three equal installments within a period of one year from the date of application; Provided that an applicant may, if he so chooses, remit the entire application fee along with the application.

(4) Payment of the application fee shall be by means of crossed Demand Draft drawn in favour of the Trustee Committee.

(5) On admission of a member to the Fund, the Trustee Committee shall issue a

certificate in Form No. IV.

(6) The Trustee Committee shall prepare and maintain a register of members in Form No. V.

(7) Any decision of the Trustee Committee rejecting an application for admission shall be communicated to the applicant by registered post with acknowledgment due.

(8) The Trustee Committee shall remove any member from the membership of the Fund if he fails to remit the annual subscription before the 30<sup>th</sup> June of that year.

Provided that no such order removing the name of a member from the membership of the Fund shall be passed without giving an opportunity of his being heard.

**\*5 Re-admission to the Fund:**

(1) An application for re-admission to the Fund shall be in Form No. VI

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\* Substituted by SRO 33/87 Pub. In K.G. Ex. 24 dt. 8-1-1987 with immediate effect.

(2) Along with the application, the applicant shall pay in lump to the Fund, the application fee of two hundred rupees together with the amount received by him under Section 16 of the Act with interest calculated at the rate of 12 per cent per annum from the date of receipt of the amount from the Fund till the date of application.

(3) The remittance of the amount shall be made by means of a crossed Demand Draft drawn in favour of the Trustee Committee.

(4) On receipt of an application together with the amount specified in Sub rule (2), the Trustee Committee shall make such enquiry as it deems fit, and either readmit the applicant to the Fund or for reasons to be recorded in writing reject the application.

Provided that no order rejecting an application for readmission shall be passed unless the applicant has been given an opportunity of being heard.

(5) If the Trustee Committee rejects an application for the readmission. The amount remitted by the applicant shall be refunded.

## **6. Printing and Distribution of stamps-**

(1) The stamps shall be printed in such manner and at such press as may be decided by the Bar Council from time to time

(2) The Secretary of the Bar Council shall be the custodian of the stamps and he shall maintain the following records and registers:-

- I Register showing the order placed for the printing of stamps
- II Register showing the stock of stamps with the following heads:
  - (a) Serial number
  - (b) Date
  - (c) Opening stock
  - (d) Receipt
  - (e) Issue
  - (f) Balance
- III Day Book
- IV Ledger
- V Cash Book
- VI Receipt book with inner foil and
- VII Such other registers and records as may be directed by the Bar Council from time to time.

(3) Sale of stamps by the Bar Council shall be to the Bar Associations on request made by the Associations.

(4) The President and the Secretary of every Bar Association shall be responsible to the Bar Council for the distribution of stamps to its members and shall maintain proper accounts pertaining to the same, and for this purpose maintain a register showing the stock of stamps with the following heads:

- I
  - (a) Serial number
  - (b) Date
  - (c) Opening stock
  - (d) Receipt
  - (e) Issue
  - (f) Balance
- II Day Book
- III Leger

#### IV Cash Book

(5) Purchase of stamps by the Bar Associations shall be by means of crossed demand drafts in favour of the Trustee Committee drawn on the State Bank of India, Ernakulam or by cash.

### **7. Collection of Amounts due to the Fund**

- (1) The Bar Council shall transfer to the Fund 20% of the enrolment fee collected during a financial year, before the 30<sup>th</sup> June of the succeeding year.
- (2) The amount set apart from the Legal Benefit Fund under sub section (2) of section 76 of the Kerala Court Fees and Suits Valuation Act, 1959, shall be paid to the Fund before the 1<sup>st</sup> day of August of every year.
- (3) The Secretary of the Trustee Committee shall collect all sums specified in sub-section (2) of section 3 of the Act and deposit the same in the fund Account forthwith
- (4) Separate account shall be maintained for the receipts under each of clauses (a) to (k) of sub-section (2) of section 3 of the Act.

### **8. Functions of Trustee Committee.**

- (1) Trustee Committee may receive application for payment out of the Fund from any member or his nominees or his legal representatives, as the case may be, in Form No.VII.
- (2) All disbursements of amounts payable under section 16 of the Act shall be by account payee cheques signed by the Treasurer.
- (3) The Trustee committee shall sent to the Bar Council and Government quarterly and annual reports showing the receipts to and disbursements from the Fund and other particulars and on such other occasions as may be required by the Bar Council.
- (4) All decisions of the Trustee Committee rejecting any claim to the benefit of the Fund shall be communicated to the applicant by registered post with acknowledgement due.

### **9. Notice, quorum, etc. of meeting of the Trustee Committee.**

- (1) Then clear days' notice shall be given for a meeting of the Trustee Committee.
- (2) The quorum for a meeting of the Trustee Committee shall be five.

- (3) The meetings of the Trustee Committee shall be ordinarily held at the office of the Bar Council.
- (4) The meetings of the Trustee Committee shall be presided over by the Chairman and in his absence by a member chosen by the members present at the meeting.

## **10. Appeal**

- (1) An appeal under Section 21 shall be in Form No. VIII and shall be verified in the \_\_\_\_\_ manner provided therein
- (2) The Bar Council shall fix a date and place for the hearing of the appeal and may, from time to time adjourn the hearing.
- (3) The Bar Council may,
  - (a) before disposing of an appeal, make such further enquiry as it thinks fit or cause such further enquiry to be made by the Trustee Committee or the Secretary;
  - (b) in disposing of an appeal, pass such order as it, including an order of remand to the Trustee Committee for fresh disposal.

## **11. Removal from membership caused by misrepresentation or fraud on Fund.**

The trustee Committee may, if satisfied that any person has got himself admitted to the membership of the Fund by misrepresentation or suppression of any material fact or by fraud, remove the name of such person from the membership of the Fund after affording him an opportunity of being heard. On such removal all benefits accrued to such member by virtue of the provisions of the Act and these Rules shall stand forfeited.



**12. Reduction of amount on failure to intimate suspension of practice or retirement.** – In respect of any case falling under sub-section (12) of section 15 of the Act, the Trustee Committee may, after conducting such enquiry as it deems fit in its discretion, reduce the amount payable to a member upto a maximum limit of 50%.

**13. Members to affix stamp on vakalaths.**- Every member of the Fund shall affix one stamp on every vakalath filed by him and no vakalath shall be filed before, or received by, any court, tribunal or other authority unless it is so stamped.

Provided that the court, tribunal or other authority may receive a vakalath not bearing the stamp filed by an Advocate who is not a member of the Fund, if such vakalath is accompanied by a declaration by him that he is not a member of the Fund.

**14. Medical and Educational Facilities.**

- (1) A member may be allowed grant from the Fund:-
  - (i) in case of hospitalization lasting for one month or more or involving a major surgical operation; or
  - (ii) on his suffering from tuberculosis, leprosy, paralysis, cancer, unsoundness of mind, or from such other serious diseases or disabilities; or
  - (iii) as educational aid to him or his dependants.
- (2) The grant shall be allowed only after the Trustee Committee is satisfied about the genuineness of the claim.
- (3) The grant so allowed shall not exceed a sum of Rs. 2,500 for any one of the purposes specified in clauses (i), (ii) or (iii) of sub-rule (1) during a period of five years.
- (4) An application for medical aid shall be in Form No. IX and an application for educational aid shall be in Form No. X.

**FORM NO. I**

(See Section 13 and rule 3(1))

**application for Recognition and Registration**

- 1. Name of the Association
- 2. Whether registered under the Societies Registration Act or other similar Act. (Give details)
- 3. Name of Courts in the Centre
- 4. Number of members practicing at the time of application (Name, address, date of enrolment, age and date of birth, date of suspension and resumption if any) (Details should be furnished separately)
- 5. Names and addresses of the President and secretary.

We ..... do solemnly affirm that the particulars stated above are true and correct.

Place: President

Date: Secretary

(Seal of the Association)

**(Emblem of Bar Council)**

**FORM NO. II**

(See Section 13 and rule 3(3))

THE BAR COUNCIL OF KERALA

**Certificate of Registration**

The Bar Council of Kerala, do hereby certify that the ..... Association is Registered under Section 13 of the Advocates' Welfare Fund Act, 1980 and its registration No. is ..... Given under my hand and Seal of the Bar Council of kerala.

Dated this the ..... day of 198.....

(Seal) Chairman.

**FORM NO. III**

(See Section 15 and rule 4(1))

**Application for Admission to the Welfare Fund**

1. Name and address (In block letter)
2. Age and date of birth of applicant
3. Date of enrolment under the Advocates Act, 1961.
4. details of practices\*
5. Number of vakalath filed for the last five years (approximately)
6. Place or places of practice
7. Suspension or discontinuance of practice if any, with the details of suspension and resumption.
8. Name and address of the nominee or nominees with the proportion of share to be paid to each.
9. Amount and date of payment to the Fund under section 15(3) (Receipt to be attached)
10. Admission fee how paid

I, ..... do solemnly affirm that the particulars furnished above are true and correct.

Place:

Date :

Signature of the applicant.

---

\*In case the applicant has practiced in more than one Court Centre, certificate from the President or Secretary of each Bar Association has to be furnished.

**FORM NO. IV**

(See Section 15(2) and rule 4(5))

**Kerala Advocate's Welfare Fund Trustee Committee Certificate of Membership**

The Kerala Advocates' Welfare Fund Trustee Committee certify that  
Shri/Smt.

.....  
.....is admitted to the membership of the said Fund under Section 15(2) of  
the Advocates' Welfare Fund Act, 1980.

Given under my hand and seal of the Kerala Advocates' Welfare Fund  
Trustee Committee.

Dated this the ..... day of .....  
198.....

(Seal)

Chairman

**FORM NO. V**

(See rule 4(6))

**Form of Register of Members Admitted to the Welfare Fund**

Serial No.	Membersh- ip number	Name & address of Member	Name of Bar Association in which he is a member	Date of birth with age	Date of Enrolment as Advocate	No. in the State Roll to the Advocates Fund	Date of Admission	standing or date of admission As computed Under Section 16(4)	Number of years of Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	

**FORM NO. VI**

(See Section 15(8) and rule 5(3))

**Application for Re-Admission to the Welfare Fund**

1. Name and address (In block letters)
2. Age and date of birth of applicant
3. Date of enrolment under the Advocates Act, 1961.
4. Details of practice\*
5. Number of vakalath filed for the last five years (approximately)
6. Place or places of practice
7. Suspension or discontinuance of practice if any, with details of suspension and resumption.
8. Name and address of the nominee or nominees with the proportion of share to be paid to each.
9. Amount and date of payment to the Fund under Section 15(3) (Receipt to be attached)
10. Admission fee how paid
11. Date of previous admission to the Membership of the Fund
12. Date of previous retirement from the Fund

I, ..... do solemnly affirm that the particulars furnished above are true and correct.

Place:

Date:

Signature of the Applicant.

---

\* In case the applicant has practiced in more than one Court Centre, certificate from the President or Secretary of each Bar Association has to be furnished.

**FORM NO. VII**

(See section 16 and rule 8(1))

**Application for payment from the Fund**

1. Name and Address (In block letters)
2. Age and date of birth of member
3. Date of enrolment under the Advocates Act, 1961
4. Registration Number, under the Advocates' Welfare Fund Act, 1980.
5. Details of practice\*
6. Number of vakalath filed for the last five years (Approximately)
7. Place or places of practice
8. Completed years of practice excluding period of suspension, removal and cessation of practice.  
(1) Before the Act:  
(2) After the Act:
9. Date of retirement cessation of practice/death

Place:

Date:

Signature of the Applicant

---

\* In Case the applicant has practiced in more than one Court Centre, certificate from the President and Secretary of each Bar Association has to be furnished.

**FORM NO. VIII**

(See Section 21 and rule 10(1))

**Before the Bar Council of Kerala**

(Appeal under Section 21)

Appeal No. .... of 198.....

1. Name and address (In block letters)
2. Number and date of order appealed against
3. Date of receipt of order
4. Number and date of receipt evidencing payment
5. Statement of facts
6. Grounds of appeal

I do ..... solemnly affirm that the particulars furnished above are true and correct.

Place:

Date:

Signature of the Applicant.

**FORM NO. IX**

(See Section 18(b) and rule 14(4))

**Application for Medical Aid**

1. Name and address of the Member  
(In block letters)
2. Age and date of birth of the Member
3. Date of enrolment of Member
4. Name and address of the patient showing  
his relationship with the Member
5. Name and address of the medical practitioner  
who is attending the patient.
6. Details regarding the disease
7. Amount required for the treatment

**DECLARATION**

I,..... do hereby solemnly affirm that the particulars furnished above are true and correct.

Place:

Date:

Signature of the Applicant.

**FORM NO.X**

(See Section 18(b) and rule 14(4) )

**Applied for Educational Aid**

- 1. Name and address of the Member (In block letters)
- 2. Age and date of birth of the Member
- 3. Date of enrolment of member
- 4. Name and address of the student showing his relationship with the Member
- 5. Name and address of the institution where the applicant has been admitted.
- 6. Details regarding the course of study

**DECLARATION**

I,..... do hereby solemnly affirm that the particulars furnished above are true and correct.

Place :  
applicant  
Date:

Signature of the



Government of Kerala  
2008

Reg. No. KLTV(N)/12/2006-2008

**KERALA GAZETTE  
EXTRAORDINARY**

**PUBLISHED BY AUTHORITY**

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Monday

20<sup>th</sup> Jyaishta 1930

**GOVERNMENT OF KERALA**

**Law (Legislation-B) Department**

NOTIFICATION

No. 10582/Leg. B2/08/Law dated, Thiruvananthapuram 10<sup>th</sup> June, 2008/20<sup>th</sup>  
Jyaista 1930

The following Ordinance Promulgated by the Governor on the 10<sup>th</sup> day of  
June, 2008 is hereby published for general information.

By Order of the Governor,

V.G. KUMARI GIRIJA,  
Additional Secretary (Law),  
In charge of Special Secretary.

**ORDINANCE NO. 18 OF 2008  
KERALA ADVOCATES' WELFARE FUND (AMENDMENT)  
ORDINANCE 2008**

**Promulgated by the Governor of Kerala in the Fifty-ninth year of the Republic of India.**

**AN**

**ORDINANCE**

Further to amend the Kerala Advocates' Welfare Fund Act, 1980

Preamble- WHEREAS, the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action.

Now, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:---

1. *Short title and commencement* – (1) This Ordinance may be called the Kerala Advocates' Welfare Fund (Amendment) Ordinance, 2008.

(2) It shall come into force at once.

2. *Act 21 of 1980 to be temporarily amended* – During the period of operation of this Ordinance, the Kerala Advocates' Welfare Fund Act, 1980 (21 of 1980) (hereinafter referred to as the Principal Act), shall have effect subject to the amendments specified in Sections 3 to 12.

3. *Amendment of Section* : - In Section 2 of the Principal Act -

(i) clause (a) shall be numbered as clause (aa) and before clause (aa) so renumbered, the following clause shall be inserted, namely:-

“(a) “actual practice” means carrying on the profession of an advocate and filing of at least 5 vakalath per year in case of Advocates other than Senior Advocates under the Advocates Act, 1961 (Central Act 25 of 1961)”

(ii) in clause (aa) as so renumbered , the words “and who is a member of the Bar Association shall be added at the end;

(iii) in clause (d) ---

(a) after the words 'on account of his retirement" the words "due to chronic ailment which permanently incapacitates him to carry on the profession of an Advocate" shall be added, and

(b) for the word "death" the words "on completion of fifteen years of continuous membership" shall be substituted

(iv) after clause (d), the following clause shall be inserted namely:-

"(dd) "chronic ailment" means physical or mental ailment which incapacitates a lawyer to continue his professional practice forever."

4. *Amendment of Section 3*:- In sub-section (2) of section 3 of the Principal Act, after clause (k), the following clause shall be inserted, namely:-

"(1) the sum repaid under item (a) of rule 4 in Chapter 5 of the Bar Council of Kerala Rules."

5. *Amendment of Section 9* – In sub-section (2) of section 9 of the Principal Act, after clause (g), the following clause shall be inserted, namely:-

(gg) issue pass book with photograph to the members of the fund, on payment of such fee as may be fixed by the Trustee Committee from time to time."

6. *Amendment of Section 11* – In Section 11 of the Principal Act, after clause (h), the following clause shall be inserted, namely:-

"(hh) issue duplicate copy of membership certificate in lieu of original to members on payment of such charges as may be fixed by the Trustee Committee from time to time.

7. *Amendment of section 14*:- After sub-section (2) of section 14 of the Principal Act, the following sub-sections shall be inserted namely:-

"(3) Every Bar Association shall receive subscriptions mentioned in Sub-section (5) of Section 15 from its members who are in active practice and remit the same to the fund forthwith.

(4) Every Bar Association shall issue certificates of recommendations as stated in sub-section (6) of section 15 to its members on request made to that effect;

Provided that the Bar Association shall not issue any certificate of recommendation unless the Association is satisfied that the member is actively practicing as an advocate."

8. *Amendment of Section 15:-* In Section 15 of the Principal Act,-

(i) in sub-section (1a), after the words "after retirement", the words "or resignation" shall be inserted;

(ii) after sub-section (1a), the following sub-section shall be inserted, namely:-

"(1b) A person who received retirement benefit from the fund shall not be admitted as member of the fund."

(iii) in sub-section (3) for the words "three hundred" the words "five hundred" shall be substituted;

(iv) for sub-section (5), the following sub-section shall be substituted, namely:-

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

- |   |                                |
|---|--------------------------------|
| (i) Where the standing of the Advocate at the Bar is less than five years.                                | three hundred rupees           |
| (ii) Where the standing of the Advocate at the Bar is five years and more, but less than ten years        | Seven hundred and fifty rupees |
| (iii) Where the standing of the Advocate at the Bar is fifteen years and more but less than twenty years. | two thousand rupees            |
| (v) Where the standing of the Advocate  | two thousand and five hundred  |

at the Bar is twenty years and more rupees.  
but less than twenty five years.

(vi) On or above twenty five years three thousand rupees

Provided that an Advocate designated as Senior Advocate under the Advocates Act, 1961 (Central Act 25 of 1961) shall pay an annual subscription at the rate of five thousand rupees."

(v) after sub-section (5) of the Principal Act, the following sub-section shall be inserted, namely:-

"(6) the payment referred to in sub-section (5) shall be made through the Bar Association in which the contributor is a member of directly to the fund along with a letter of recommendation from the respective Bar Association.

(6A) All members of the fund shall furnish before the Trustee Committee every year, along with the payment of subscription, a declaration in such form as may be prescribed to the effect that he is in actual practice and not in any other employment and not engaged in any other profession or calling."

(vi) in sub-section (7) for the words at the rate of five rupees per month or part thereof, the words "at the rate of twelve per cent per annum" shall be substituted.

(vii) after sub-section (12) the following sub-section shall be inserted namely:-

"(13) A member who voluntarily suspended his membership may resume his membership in the fund on payment of two thousand rupees as resumption charges, provided he had resumed his practice as an Advocate before the Bar Council."

9. *Amendment of section 16* – In section 16 of the Principal Act -

(i) for sub-section (1), the following sub-section shall be substituted, namely:-

(1) A member of the fund shall on occasion of practice be entitled to receive from out of the fund an amount at the rate specified in the schedule for every completed year of practice, till the commencement of the Kerala Advocates Welfare Fund (Amendment) Ordinance, 2008 (18 of 2008) and thereafter at the rate of fourteen thousand two hundred and eighty five rupees for every completed year of practice subject to a maximum amount of five lakh rupees in aggregate.

Provided that a member who opts retirement benefits before the completion of fifteen years of continuous membership in the fund shall be entitled to receive the aggregate of the subscription remitted by him to the fund with interest at the rate of six per cent thereof, except in the case of cessation due to chronic ailment."

(ii) In sub –section (2A), after the words "or an amount of two lakh rupees whichever is higher", the words, "for every completed year of practice till the commencement of the Kerala Advocates' Welfare Fund (Amendment) Ordinance, 2008 (18 of 2008) and thereafter at the rate of fourteen thousand two hundred and eighty five rupees for every completed year of practice subject to a maximum amount of five lakh rupees in aggregate" shall be inserted;

(iii) in clause (i) of sub-section (4), for the words, brackets and figure 'sub-section (1)', the words, brackets and figures "sub-sections (1) and (2): shall be substituted;

(iv) sub-sections (5) and (5A) shall be omitted;

(v) after sub-section (7), the following sub-section shall be inserted, namely:-

“(8) The person who had availed the entire welfare fund benefits and thereafter remitted that amount with interest in the welfare fund as per item (a) of rule 4 of Chapter 5 of the Bar Council of Kerala Rules shall be eligible for refund of such amount with six per cent interest from the date of remittance on his cessation of practice or death:

Provided that in the event of death of the remitter the amount shall be paid to the nominee or where there is no nominee to his legal heirs.”

10. *Amendment of section 18* – In clause (b) of Section 18 of the Principal Act, for the words “and their dependents”, the words “a maximum amount of five thousand rupees” shall be substituted.

11. *Amendment of Section 22* – In Section 22 of the Principal Act -

(i) in sub-section (1) for the words “five rupees and ten rupees”, the words “fifteen rupees and twenty five rupees” shall be substituted.

(ii) in sub-section (4), after the words “through Bar Associations”, the words “or through the outlet set up by the bar Council for the purpose” shall be added.

12. *Amendment of Section 23* – In sub-section (1) of section 23 of the Principal Act,-

(i) the words “who is a member of the fund” shall be omitted;

(ii) for the words, “fifteen rupees and “ten rupees”, the words “twenty five rupees” and “fifteen rupees” shall respectively be substituted.

(iii) after the existing proviso, the following proviso shall be added, namely:-

“Provided further that no Court, Tribunal or other Authority shall receive any vakalath filed by an Advocate unless it is so stamped, and that any person found to be responsible for causing loss to the fund may be held liable for making good such loss.”

R.L. BHATIA,  
GOVERNOR.

### **RULES UNDER SECTION 34 (1) OF THE ADVOCATES ACT, 1961**

Rules regarding conditions of practice of Advocates

In exercise of the powers conferred by Section 34(1) of the Advocate's Act, 1961 (Central Act 25/61) the High Court of kerala hereby makes the following rules laying down the conditions subject to which an Advocate shall be permitted to practice in the High Court and the courts subordinate thereto.

- 1.** In these rules, unless there is anything repugnant in the subject or context, the word "advocate" shall include a firm of advocates.
- 2.** Save as otherwise provided in any law for the time being in force, \*\*no advocate shall be entitled to appear, plead or act for person in any Court in any proceeding unless the advocate files an appointment in writing signed by such



person or his recognized agent and signed by the advocate in token of its acceptance:

Provided that where an advocate has already filed an appointment in any proceeding, it shall be sufficient for another advocate, who is engaged to appear in the proceeding merely for the purpose of pleading, to file a memorandum of appearance or to declare before the Court that he appears on instructions from the advocate who has already filed his appointment in the proceeding:

Provided further that nothing herein contained shall apply to an advocate who has been requested by the Court to assist the Court amicus curiae in any proceeding.

**3.** An advocate who is not on the Roll of Advocates of the Bar Council of the State in which the Court is situate, shall not act in such Court, unless he files an appointment along with an advocate who is on the Roll of such State Bar Council and who is ordinarily practicing in such Court.

**4.** The acceptance of an appointment on behalf of a firm of advocates may be by any partner and shall be indicated by affixing his own signature as a partner on behalf of the firm.

**5.** An advocate shall, at the time of acceptance of his appointment, also endorse thereon his address, which address shall be regarded as the address, for service for the purpose of rule 5 of Order III of the Code of Civil procedure:

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\* Published in K.G. No. 37, dt. 23-9-1969, Noti. No. D1-2576/69 dt. 10-7-1969

\*\* See O. III R. 4(6) CPC, S. 493 Cr. P.C.

Provided that, where more than one advocate accepts the appointment, it shall be sufficient for one of them to endorse his address, and that address shall be regarded as the address for service.

**6.** (1) In civil cases, the appointment of an advocate, unless otherwise limited, shall be deemed to be in force to the extent provided in that behalf by Rule 4 of Order III of the Code of Civil Procedure.

(2) In criminal cases, the appointment of an advocate, unless otherwise limited, shall be deemed to be in force until determined with the leave of the Court by writing signed by the party or the advocate and filed in the case are ended so far as regards the particular party.

(3) For the purpose of sub-rule (2), a case shall be deemed to mean every kind of enquiry, trial or proceeding before a Criminal court, further instituted on a police report or otherwise: and further

(i) an application for bail or reduction, enhancement or cancellation of bail in the

case.

(ii) an application for transfer of the case from one Court to another

(iii) an application for stay of the case pending disposal of a civil proceeding in

respect of the same transaction out of which the case arises.

(iv) an application for suspension, postponement or stay of the execution of the order

or sentence passed in the case.

(v) an application for the return, restoration or restitution of the property as per the

order of disposal of property passed in the case,

(vi) an application for leave to appeal against an order of acquittal passed in the case.

(vii) any appeal or application for revision against any order or sentence passed in the

case.

(viii) a reference arising out of the case.

(ix) an application for review of an order or sentence passed in the case or in an appeal, reference or revision arising out the case,

(x) an application for making concurrent sentence awarded in the case or in an appeal, reference, revision or review arising out of the case.

(xi) an application relating to or incidental to or arising in or out of any appeal, reference, revision or review arising in or out of the case (including an application for leave to appeal to the Supreme Court).

- (xii) any application or act for obtaining copies of documents or for the return of articles or documents produced or filed in the case or in any of the proceedings mentioned herein before,
- (xiii) any application or act for obtaining the withdrawal or the refund or payment of or out of the moneys paid or deposited in the Court in connection with the case or any of the proceedings mentioned herein before (including moneys paid or deposited for covering the costs of the preparation and the printing of the Transcript Record of Appeal to the Supreme Court).
- (xiv) Any application for the refund of or out of the moneys paid or recovered as fine or for the return, restitution or restoration of the property forfeited or confiscated in the case or in any appeal, reference, revision or review arising out of the case as per final orders passed in that behalf:
- (xv)** any application for expunging remarks or observations on the record of or made in the judgment in the case or any appeal, reference, revision or review arising out of the case, and
- (xvi) any application or proceeding for sanctioning prosecution under Chapter XXXV of the Code of Criminal Procedure, 1898, or any appeal or revision arising from and out of any order passed in such an application or proceeding shall be deemed to be proceedings in the case.

**(4)** Where the venue of the case or the proceeding is shifted from one court (subordinate or otherwise) to another, an advocate who has filed the appointment referred to in sub-rules (1) and (2) above in the former Court shall, if he is appearing, acting or pleading in the latter Court, file in that Court a memorandum signed by him to the effect that he has instructions from his client to appear, act or plead, as the case may be, in that Court.

**7.** (1) Except when specially authorized by the Court or by consent of the party, an advocate, who has advised in connection with the institution of a suit, appeal or other proceeding, or has drawn up pleadings in connection with such matter or has, during the progress of any suit, appeal or other proceeding, appeared, acted or pleaded for a party, shall not, unless he first gives the party whom he has advised or for whom he has drawn up pleadings, appeared, acted or pleaded an opportunity of engaging his services, appear or act or plead in such suit, appeal or other proceeding or in an appeal or application for revision arising therefrom or in any matter connected therewith for any person whose interest is in any manner in conflict with that of such party:

Provided that the consent of the party may be presumed if he engages another advocate to appear, act or plead as the case may be for him in such suit, appeal or other proceeding without offering an engagement to the advocate whose services were originally engaged by him or on his behalf.

(2) Where it appears on the face of the record that the appearance of an advocate in

any proceeding for any party is prejudicial to the interest of any other party on

account of the reasons mentioned in sub-rule (i) above, the Court may refuse to

permit the appearance to be filed, or cancel such appearance, if it has already

been filed, after giving the said advocate an opportunity of being heard.

(3) An advocate who discloses to any party information confided to him in his capacity as an advocate by another party without the latter's consent shall not be protected merely by reason of his being permitted to appear, act or plead for the said party.

**8.** (a) No firm of advocates shall be entitled to appear, act or plead in any Court unless all

the partners thereof are entitled to appear, act or plead in such Court.

(b) The name of the firm may contain the names of the persons who were or are

members thereof but of no others.

(c) The words "and Company" shall not be affixed to the name of any firm of advocates.

(d) The names of all the members of a firm of advocates shall be recorded with the

Registrar of the high Court and also with the State Bar Council concerned, and the

names of all the partners shall also be set out in all professional communications

issued by firm.

(e) The firm of advocates shall notify to the Register of the High Court and also to the

State Bar Council concerned any change in the composition of the firm or the fact of

its dissolution as soon as may be from the date on which such change occurs or the

dissolution takes place.

(f) Every partner of the firm of advocates shall be bound to disclose the name of all the

partners of the firm whenever called upon to do so by the Registrar of the High Court

or the State Bar Council or any Court in which, or any party for or against whom, the

firm or any partner thereof has filed an appointment or memorandum of appearance.

(g) In every case where a partner of a firm of advocates signs any

document or writing on behalf of the firm he shall do so in the name of the firm and

shall authenticate the same by affixing his own signature as partner.

(h) Neither the firm of advocates nor any partner thereof shall advise a party or appear, act or plead on behalf of a party in any matter or proceeding where any other party having a conflicting interest is represented by any other partner of the said firm or by the firm itself.

**9.** No advocate shall be permitted to file an appointment or memorandum of appearance in

any proceeding in which another advocate is already on record for the same party save

with the consent of the former advocate on record or the leave of the Court, unless the

former advocate has ceased to practice or has, by reason of infirmity of body or mind or

for any other reason, become unable to act.

**10.** No advocate who has been debarred or suspended or whose name has been struck off

the Roll of Advocates shall be permitted to act as a recognized agent of any party within

the meaning of Order III of the Code of Civil Procedure.

**11.** No advocate who has been found guilty of contempt of Court shall be permitted to

appear, act or plead in any Court unless he has purged himself of the contempt.

**12.** Advocates appearing in court shall wear the following dress:

(1) **Advocates other than lady advocates:-**

(a) Black buttoned-up coat (chapkan, achakan or sherwani)  
Barrister's or

(b) Bachelor of laws gown and bands, or

Black open collar coat, white shirts, white collar, stiff or soft with  
Barristers' or Bachelor of laws' gown and bands.

(2) **Lady Advocates:-**

Regional dress of subdued colour with Barrister's or Bachelor of laws'  
gown,

white collar, stiff or soft and bands.

## **Rules framed by the High Court of Kerala under Section 6 of the Indian Legal Practitioners Act**

By virtue of the powers vested in the High Court under Section 6 of the Indian Legal Practitioners Act and with the approval of the State Government conveyed in their G.O. No. (MS) 520, dated 30-4-1958 and in supersession of the

rules in this behalf in the Travancore-Cochin and Malabar areas in the State of Kerala, the following rules have been framed, and will come into force from the date of publication in the Government Gazette.

1. Unless the High Court for special reasons directs otherwise pleadership certificates other than renewed certificates, or certificates enabling Second Grade Pleaders of 15 years' standing to be enrolled as First Grade Pleaders, will not be granted in future.

#### **PRELIMINARY**

2. In these rules and in the forms appended thereto the word "District" denotes the territorial jurisdiction of a District Judge.

#### **CLASS OF PLEADERS**

3. Pleaders in the Courts subordinate to the High Court shall be classed as-
  - (a) Pleaders of the First Grade.
  - (b) Pleaders of the Second Grade.
4. Pleaders of the First Grade shall be entitled to appear, plead and act in all the civil and criminal courts of the Districts in which their certificates authorize them to practise.
5. Pleaders of the Second Grade shall be entitled to appear, plead and act in any Subordinate Judge's or Munsiff's Court in the District in which they are enrolled and in the court of any Subordinate Judge or Munsiff exercising the powers of a Court of

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\* Published in Kerala Gazette No. 22 dated 3-6-1958. Noti No. B4 – 1383/58 dt. 21-5-1958.

Small Causes under section 18 of the Kerala Civil Courts Act, 1957, in the District in which they are enrolled.

Pleaders of the Second Grade shall also be entitled to appear, plead and act in any court of Criminal Jurisdiction in the District in which they are enrolled, other than the Sessions Court of the Division.

For the purpose of rules 4 and 5, the word "District" may at the discretion of the High Court include the whole or a portion of the area of a District under the jurisdiction of a single District Judge within the limits of which the pleader was authorized to practise at the time of its bifurcation.

### QUALIFICATIONS OF PLEADERS

6. (i) Subject to the provisions of Rule 1, the qualification for pleaders of the first grade shall be as follows:
- (a) Any person who has obtained the Degree of Bachelor of Law or one of the Universities in India recognized by the Central Government.
  - (b) Any person who has passed the examination qualifying for the degree of Bachelor of laws of the University of Travancore and whose name has appeared in the list of successful candidates published by the University in the Kerala Gazette.
  - (c) Any person who is a graduate of any recognized university and has passed the First Grade Pleadership examination formerly conducted by the Travancore High Court or the Madras First Grade Pleadership Examination.
  - (d) Any person already enrolled as a First Grade Pleader in any other State and who produces satisfactory evidence of his enrolment and good conduct.
  - (e) Any person already enrolled as a Second Grade Pleader and is practicing as such and who on the date of his application has a continuous standing of not less than 15 years at the Bar and produces satisfactory evidence of enrolment and practice and a certificate of good conduct from the Subordinate Judge or the Munsiff before whom he practices.
- (ii) Subject to the provisions of Rule 1, the qualifications for a Pleader of the second grade shall be as follows:
- (a) Any person qualified to be enrolled as a first grade Pleader.
  - (b) Any person who has passed at least the S.S.L.C. Examination and has also



passed the pleadership examination formerly conducted

by the Travancore High Court or the Madras Pledership examination.

**7.** (i) Application for enrolment shall in all cases be accompanied by certificates

showing that the applicant possesses the requisite qualifications under these rules and also by satisfactory testimonials as to his good character.

(ii) The stamp paper required for the issue of the certificate should also

accompany the application.

(iii) No application for enrolment as a Pleader in any Court from a person who is in or has been a Government Servant shall be entertained unless he has resigned the employment or has retired and the circumstances under which the service ceased do not show any defect of character which renders him unfit to be a pleader.

(iv) The application should in the first instance be presented before the Court in which the applicant intends to practise and that court should forward the application to the High Court with its remarks, if any thereon. In the case of Munsiff's Courts and Subordinate Judges' Courts the application shall be forwarded through the District Court concerned.

### **CERTIFICATE**

**8.** Upon the applicant being admitted by the High Court, the Registrar of the High Court shall cause his name to be entered in the proper register and shall issue to him a certificate as required by Section 7 of the Legal Practitioners Act (Act XVIII of 1879), authorizing him to practice upto the end of the calendar year in the courts specified therein.

(a) in no certificate issued to a pleader of the first grade shall courts of more than three adjacent Districts be specified; and

(b) in no certificate issued to a pleader of the second grade shall courts of more than

one District be specified

On the renewal of a certificate, the districts and courts mentioned in the certificate for the preceeding year shall not be altered except with the special sanction of the High Court.

When applications for addition or substitution of districts in renewed certificates of pleaders are submitted for the sanction the High Court, the last certificates of the Pleaders concerned and also their applications in original should be forwarded to the High Court.

9. The certificate shall bear the number assigned to it in the register and shall be signed by the Registrar and sealed, and forwarded to the District Judge to be delivered to the applicant.

The certificate shall be taken to authorize enrolment in the courts specified therein.

The holder can take it to any court therein mentioned, and may, with the approval of the Presiding Officer, be enrolled in such court. The approval should not be withheld unless the Presiding Officer is aware of circumstances which in his judgment affect the professional character of the applicant: and in any case in which enrolment is refused the fact and reasons for it should be communicated forthwith to the High Court.

### **RENEWALS**

10. (1) Every application for the renewal of a certificate must be made through the Judge presiding over the Court in which the pleader ordinarily practice, and unless the High Court other wise orders, shall be made not later than the 15<sup>th</sup> November and shall be forwarded by the District Judge to the Registrar of the high Court not later than the 30<sup>th</sup> item. The renewed certificates shall be issued as soon as possible and unless the High Court otherwise orders, shall be dated 1<sup>st</sup> January of the year to which they relate. If the application is made after the date prescribed, the permission allowing pleaders to practice pending receipt of certificates does not apply. Those

who infringe the above rule will be rendering themselves liable to the penalties prescribed by Section 32 of the Legal Practitioners Act.

(2) In order that mistakes and delays may be avoided when the certificates of pleaders are renewed annually. District Judges should check the list of applications received with the list for the previous year. District Judges should ascertain from their subordinate courts why any pleader, who has not applied for the renewal of his sanad, has not done so. If satisfactory reasons, such as death, suspension of practice, renewal of the certificate in another district, or acceptance of an appointment are given, no further action should be taken. But if there is no satisfactory reason, steps should be taken to watch whether any pleaders, who has not applied for and obtained a renewal of his certificate, practices, on or after the 1<sup>st</sup> January of the succeeding year.

### **RENEWED CERTIFICATES**

**11.** Renewed certificates will be issued from the High Court in printed or typed forms similar to those used for the original certificates. District Judges shall submit to the High Court without delay the blank stamp papers furnished by applicants for renewal of certificate. The prescribed form will thereupon be

printed or typed on the stamp papers and be returned to the District Courts for

the preparation and the issue of certificates to the applicant. In case an

applicant submits more than a single stamp paper for renewing his certificate,

the printing or typing will be so spaced as to cover all the stamp papers.

Pending the receipt of the renewed certificate, practitioners may continue to

practice subject to such precautions as to identification as the District Judge

may think fit to prescribe.

- 12.** If any person, having obtained a certificate shall fail to renew it for a period of two years, he shall not be entitled to have it renewed without the orders of the High Court and shall be required to produce satisfactory testimonials as to his character during the interval.

- 13.** If any person, having been admitted as the pleader, accepts any appointment under Government becomes a student of any school or college for purposes of pursuing his studies, or undertakes any trade or calling other than agricultural or literary work, or accepts employment as a Law Agent other than a pleader, mukhtar or agent certified under Act XVIII of 1879 and these rules, he shall give immediate notice there of to the High Court, who may thereupon suspend such pleader from practice or pass such orders as the said court may think fit:

Provided that when a pleader is appointed to the office of Munsiff, Official Receiver or Assistant Public Prosecutor it shall not be necessary to give the notice prescribed in the first part of this rule; but no pleader, while employed as Munsiff, Official Receiver or assistant Public prosecutor shall be permitted to practice or do any business as a pleader, and:

Provided also that pleaders may take part in the management of societies registered under the Co-operative Societies Act in the areas in which they practice; but no pleader so taking part shall receive any remuneration other than the ordinary profits without the special leave of the High Court.

*Explanation:* The acceptance of any ordinary directorship of a company with or without a sitting fee does not amount to engagement in trade and notice to the High Court is not necessary in such cases. Notice shall, however, be given to the High Court if a pleader becomes a Managing Director, or a Secretary or a Director in receipt of remuneration other than a sitting fee.

### **INQUIRIES, SUSPENSIONS AND DISMISSALS**

**14.** Any Court conducting an inquiry into a complaint of professional misconduct under the provisions of the Legal Practitioners Act may issue a summons to the complainant in the said complaint or to any person other than the pleader complained against requiring to attend before such court at a specified time and give evidence and or produce any document relating to such complaint. The provisions of Rules 8 to 13 and 15 to 18 of Order XVI of the First Schedule to the Code of Civil Procedure shall apply mutatis mutandis: to such summons and persons.

**15.** Subordinate Judges and Munsiffs are required to bring to the notice of the District Judge every case in which a pleader is guilty of misconduct for which he is liable to be suspended or dismissed under the provisions of the Legal Practitioners Act.

In every case in which the High Court considers that action should be taken under sections 12 and 13 of the Legal Practitioners Act or in which a report is received under Section 14 of that Act, or the High Court, after perusal of the records considers that the proceedings of a subordinate court shall be revised under Section 15 of that Act, the Registrar shall set the case down for hearing by a Bench of three judges, and shall give reasonable notice to the pleader and to the person (if any) on whose complaint proceedings were instituted, of the day on which the report or order will be considered, and such pleader and complainant may appear in person or by counsel to show cause against or support the report or order.

Pending the final decision on a charge of professional misconduct against a pleader, the High Court may defer renewal of his certificate.

### **ACCOUNTS OF RECEIPTS AND DISBURSEMENT OF CLIENTS MONEY**

- 16.** (1) It shall be the duty of every pleader to keep regular accounts of all moneys received and disbursed by him in connection with each suit, appeal or proceeding in which he is engaged as pleader. The failure to keep such accounts will be treated as "reasonable cause" for suspension of certificate within the meaning of Section 13(9) of the Legal Practitioners Act, 1879.
- (2) Legal practitioners should not enter into arrangements with their clients by which the clients monies in their hands are converted into loans.

### **PLEADERS PROHIBITED FROM ACQUIRING INTEREST IN DECREES OBTAINED BY THEIR CLIENTS**

- 17.** Practitioners of courts subordinate to the High Court are strictly prohibited from purchasing from their clients or from any other person, any interest in any decree passed by the court in which they practice. They are also prohibited from lending money to their clients at any time for the purpose of the action in which they are engaged.

*Explanation:-* No pleader shall be held guilty of a breach of the rule if, in the course of a pending suit or proceeding and pending without any arrangement with the client in respect of the same; the pleader feels compelled by reasons of any unanticipated emergency or by reasons of

the rules of the court, to make a payment to the court on account of the client for the progress of the suit or proceedings.

Pleader prohibited from bidding or purchasing any property in court sale held in execution of decree or orders in suits or proceedings in which they were professionally engaged.

**18.** No legal practitioner shall either directly or indirectly bid for or purchase

either in his own name or in any other name for his own benefit or for the benefit of any other person any property sold in the execution of a decree or order in any suit, appeal or other proceedings, in which he was in any way professionally engaged.

This prohibition does not prevent a legal practitioner from bidding or

purchasing for his client may himself legally bid for or purchase provided that the legal practitioner is expressly authorized in writing in this behalf.

**19.** No legal practitioner shall accept a brief in respect of any proceedings in

which his own conduct is likely to be impugned or in which he is likely to be called as a witness other than a purely formal witness. If a legal practitioner accepts such a brief without knowing that his conduct is likely to be impugned or that he is likely to be called as a witness other than a purely formal witness, he shall return the brief as soon as the circumstances come to his knowledge:

**20.** Any willful violation of any of above rules shall subject a pleader to suspension or dismissal.

**21.** The certificate and renewed certificate issued or to be issued to pleaders under the legal Practitioners Act, 1879 shall be in the Form Nos. 1 and 4 appended to these rules.

**22.** (a) A register of pleaders should be maintained in each court in Form No. 5 annexed. The high Court shall also maintain a register in Form No. 6.

(b) The names of pleaders enrolled in the particular court need alone be shown in the register of pleaders of that court.

( c) The entries in the register shall be made in the order of date of enrolment as pleader.

(d) Every pleader previously being allowed to practice shall make and subscribe before the Court in which he is to practise a solemn declaration drawn up in Form No. 7 annexed.

- 23. Every Pleader previously to being allowed to practise shall make and subscribe before the court in which he is to practise a solemn declaration drawn up in Form No. 7 annexed.

**SALE OF FEES**

- 24. The rules framed by the High Court under the Indian Bar Councils Act relating to the fees payable to Advocates shall apply mutatis mutandis to pleaders also.

**MISCELLANEOUS**

- 25. Pleaders are allowed to present plaints, petitions etc., through their registered clerks. Each pleader should notify to the court the appointment and dismissal of his clerk for purpose of registration. No person who has any defect of character or is convicted of any offence shall be allowed to be registered as a clerk.

**FORM NO. 1**

(Rule 21)

SECTION 25 AND CLAUSE ( c), PART I, SCHEDULE II OF ACT XVIII OF 1879

**In the High Court of Judicature of Kerala**

Certificate No. .... District  
 .....

Pursuant to the Legal Practitioner's Act, 1879, I hereby certify that

.....son of



..... has been admitted as  
pleader of the  
first grade, and is authorized to appear, plead and act in the District Courts of  
..... And in all Courts of Civil Jurisdiction  
subordinate to such District Courts and in all Courts of Criminal Jurisdiction in the  
said district of ..... up to the end of the current calendar  
year.

Given under my hand and the seal of the Court this  
.....  
..... day of .....

Registrar.

**FORM NO. 2**

(Rule 21)

SECTION 25 AND CLAUSE (d), PART I, SCHEDULE II OF  
ACT XVIII OF 1879

**In the High Court of Judicature of Kerala**

Certificate No. .... District

.....  
No. .... pursuant to the  
Legal practitioner's Act, 1879, I hereby certify that

.....  
..... son of

.....  
has been admitted a *Pleader of Second grade*, and is authorized to appear,  
plead and act in all the Munsiff's Courts and Subordinate Judge's Court in the  
District of .....

..... and in all courts of Criminal Jurisdiction in the said district  
other than the Sessions Courts of the division up to the end of the current  
calendar year.

Given under my hand and the seal of the Court this the  
.....  
..... day of .....

Registrar.

**FORM NO. 3**

(Rule 21)

SECTION 25 AND CLAUSE (c ), PART I, SCHEDULE II OF  
ACT XVIII OF 1879

Certificate No. .... District court of .....  
No.

The certificate issued under the signature of the **Registrar, High Court of Kerala**

District Judge of ..... on the  
.....  
to ..... son of

.....  
a *Pleader of the First Grade*, having been cancelled and retained by me, this  
renewal certificate is issued authorizing the said

.....  
renewal certificate is issued authorizing the said

.....  
..... to appear, plead and act in the District Courts of

.....  
and in all courts of Civil Jurisdiction subordinate to such District Courts and in all  
courts of Criminal Jurisdiction in the said District of

.....  
..... up to the end of the current calendar  
year.

Given under my hand and the seal of the court, this the  
.....  
day of .....

District Judge.

**FORM NO. 4**

(Rule 21)

SECTION 25 AND CLAUSE (d) , PART I, SCHEDULE II OF  
ACT XVIII OF 1879

Certificate No. .... District Court of ..... No.  
.....

The Certificate issued under the signature of the **Registrar, High Court of Kerala.**

District Judge of ..... on the day of  
.....

to ..... Son of  
.....

a *Pleader of the Second Grade*, having been cancelled and retained by me,  
this renewed certificate is issued authorizing the said

..... to appear, plead and act in all  
the Munsiff's Courts and Subordinate Judges Courts in the district of  
..... and in all Courts of Criminal Jurisdiction in  
the said district other than the Sessions Courts of the division, up to the end of the  
current calendar year.

Given under my hand and seal of the court this  
.....  
day of .....

District Judge.



**FORM NO. 6**

Name of Pleader	Examinations passed	Date of enrolment	No. of certificate	Courts authorized to practise in	Remarks
1	2	3	4	5	6

**FORM NO. 7**

**FORM OF DECLARATION**

I ..... solemnly affirm/swear that I will truly and faithfully discharge the duties of a Pleader to the best of my knowledge and judgment.

Signature.

Solemnly affirmed/sworn before me in open court this

.....  
 ..... day of  
 .....

District Judge.

**Rules framed by the High Court of Kerala under Section 16(2)  
of the Advocates' act, 1961  
(Revised Rules)**

(Rules regarding designation as Senior Advocate)

1. The High Court may designate an Advocate as Senior Advocate, if in its opinion, by virtue of his ability, standing at the Bar or special knowledge or experience in law, the said Advocate is deserving of such distinction.
2. Such designation as Senior Advocate shall be made either on consideration of an application from the Advocate concerned or suo motu. In the latter case, the consent of the Advocate concerned shall be taken before such designation.
3. (1) An Advocate shall be considered for being designated as Senior Advocate only if he has completed forty years of age and has actually practiced as Advocate for not less than fifteen years.

(2) The application by an advocate to designate him as Senior Advocate shall contain the following particulars:

1. Name
2. Qualifications
3. Date of birth
4. Permanent address
5. Address to which communications are to be sent.
6. Date of enrolment as advocate and where enrolled.
7. Number in the roll of advocates maintained by the State Bar Council and date on

which enrolled.

8. Are you a member of any Association of lawyers? If so, give details.
9. Number of years' practice (or judicial service) and in which court?
10. Have you specialized in any field of law? If so, give details.
11. Have you been a chamber junior to any lawyers? If so, furnish.
12. Is any junior lawyer attached to your chamber? If so, furnish name of such lawyer  
and the period held as such.
13. Are you an assessee under the income-tax Act in respect of your professional  
income? If so, give details of income assessed for the last three years.
14. Are you in the panel or do you hold any office under the State or Central  
Government?

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\*Rules issued by the High Court of Kerala by Noti. No. D2-5425/93 dt. 17-8-993.

15. Reference to any important matter in which you have appeared.
16. Have you made any publication in any Journal? If so, give details.
17. Have you attended or participated in any seminar/conference relating to law?
18. Are you connected with any faculty of law?
19. Has any application for designation as Senior Advocate been made to the High Court of Kerala or any other court before? If so, with what result?
20. Are you ordinarily practicing within the jurisdiction of the High Court of Kerala?
21. Other information/particulars, if any, including legal aid work.

(3) If the proposal for designation of an advocate as Senior Advocate is made suo motu by the High Court, the particulars mentioned in sub-rule (2) above shall, as far as possible, be obtained by the Registry.

- 4.** The proposal for designation, either on application by the Advocate concerned or  
suo motu by the High Court, shall be considered at a meeting of the Honourable the Chief Justice and the other Judges of the High Court. Such proposal shall be considered as accepted only if not less than two-thirds of the total number of Judges present at such meeting decide in favour of accepting the application, by secret  
ballot.

5. In case a designated Senior Advocate is proposed to be engaged in any matter, the advocate who has filed vakalath therein shall file a memo to that effect as early as possible, in any case, before the case is included in the list. If such a memo is filed, thereafter, the name of the Senior Advocate shall be typed at the appropriate place in the cause list.
6. An application once rejected shall not be renewed for another two years.
7. The designation of an Advocate as Senior Advocate shall be liable to be cancelled, after due notice, in the event of it being found that he has violated any or all of the provisions of the Rules prescribed by the Bar Council of India under Sub Section 3 of Section 16 of the Advocates Act, 1961.
8. On designation of an Advocate as a Senior Advocate or on cancellation of such designation, the Registrar shall notify the fact to the Registrar, Supreme Court, the Bar Council of Kerala, the Bar Council of India Supreme Court, the Bar Council of Kerala, the Bar Council of India as also the Bar Council of other States in India and also to all the District and Sessions Judges subordinate to the High Court.
9. A record of all such decisions shall be maintained in the office of the High Court.

### **Rules Framed by the Bar Council of India under S.49(1)(gg) of the Advocates Act, 1961.**

(Rules regarding Dress of Advocates)

Advocates appearing in the Supreme Court, High Courts, Subordinate Courts, Tribunals or Authorities shall wear the following as part of their dress which shall be sober and dignified:-

#### **1. ADVOCATES OTHER THAN LADY ADVOCATES**



(a) a black buttoned up coat, chapkan, achkan, black sherwani and white bands with Advocates' gowns, or

(b) a black open breast coat, white shirt, white collar, stiff or soft, and white bands with Advocates' Gowns.

(In either case long trousers (white, black striped or grey) or Dhoti.)

## II. LADY ADVOCATES

(a) Black and full or half sleeve jacket or blouse, white collar tiff or soft with white bands and Advocates Gowns.

OR

White Blouse, with or without collar, with white bands and with a black open breast coat.

(b) Sarees or long skirts (white or black or any mellow or subdued colour without any print or design) or Flare (white, black or black striped or grey) or Punjabi dress (Churidar-Kurta with or without dupatta) white or black\*

Provided that the wearing of Advocates' gowns shall be optional except when appearing in the Supreme Court or in a High Court.

Provided further that in Courts other than the Supreme Court, High Court, District Court, Sessions Court or City Civil Court a black tie may be worn instead of bands.

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\* These rules came into force on 22.4.90

## RULES REGARDING FEES PAYABLE TO ADVOCATES

*In exercise of the powers under Article 225 and 227 of the Constitution of India and of all other powers thereunto enabling and with the previous approval of the Governor of Kerala conveyed in G.O(MS) 60/69/Home, dated 7<sup>th</sup> February, 1969 the High Court of Kerala frames the following rules regarding the fees allowable to legal practitioners in the High court and in the Subordinate Courts, in supersession of all the existing rules in the matter.*

**PRELIMINARY**

1. These rules shall come into force on the date of their publication in the Gazette and shall apply to all matters pending on or filed on or after that date.
2. For the purposes of these rules the term 'advocate' includes a vakil or pleader authorized to practice before civil courts.
3. Except in the case of an Advocate appearing on behalf of the Central or State Government, or of a public servant whose defence is undertaken by the Government or of an incapacitated proprietor who is a ward of the court of wards, no fee shall in any case, be entered as recoverable in a decree or order, save by special leave of the Court, except on production, within **\*\***(7 days) from the date of the judgement or order or within such further time as the court may grant, of a certificate from the Advocate declaring the amount of fee he has received.
4. The fact that a promissory note or other agreement to pay the fee has been given or made by his client does not entitle the Advocate to certify that he has received the fee.
5. The amount specified in the certificate shall be the amount entered in the decree or order as advocate's fee, provided that, if such amount is higher than the fee prescribed in these rules, only such fee shall be entered.

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Published in K.G.No.29, dt.22.07.1969 as per Not.No.B1-80/61/D1 dt. 7.3.1969

**\*\*** Substituted as per Notification No.D1-30774/77, dt.24.08.1978, published in K.G.No.47 dt.21.11.1978

Fees payable to Advocates

**SCALE OF FEES**

1.Subordinate Courts.

6. in suits for money effect or other personal property or for land or other immovable property of any description, fees shall be payable on the following scale:-

- (1) Small cause suits – at 7½% of the claim subject to a minimum of Rs.25
- (2) Original suits-
  - (i) If the amount or value of the claim does not exceed Rs.5,000/- at \*(12½%) subject to a minimum of Rs.50
  - (ii) If the amount or value exceeds Rs.5,000 but does not exceed Rs.20,000 on Rs.5,000 as above and on the remainder at \*(7 ½%).
  - (iii) If the amount or value exceeds Rs.20,000 but does not exceed Rs.50,000 on Rs.20,000 as above and on the remainder at 3%
  - (iv) If the amount or value exceeds Rs.50,000 on Rs.50,000 as above and on the remainder at 1%

Provided that when a suit is compromised, settled or withdrawn, or is decided solely on the admission of the parties without any investigation or is decided ex parte or dismissed for default before any evidence is recorded, the fee payable shall be one half of the scheduled rate or Rs.25 in the case of Small Cause Suits and \*(Rs.100) in the case of Original Suits, whichever is higher.

7. In appeals for money, effects or other personal property, or for and or other immovable property, the fee payable shall be as calculated under Ruls 6(2) subject to a minimum of Rs.50; but when such appeals are settled, withdrawn, compromised or dismissed for default, one half of the fee calculated as above, subject to a minimum of Rs.50 shall alone be payable.

8. Fees in the following classes of suits and applications shall be calculated as follows:-

- (1) Declaratory Suits, where the suit is not capable of valuation at the discretion of the Court, subject to a minimum of Rs.50 in a Munsiff's Court and Rs.100 in a Subordinate Judges' or District Court.

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\*Substituted as per Notification No.D1-48851/79, dt.18<sup>th</sup> May,1989, published in K.G.No.34, dt.22.08.1989

(2) Suits under Section 77 of the Indian Registration Act- at the discretion of the

Court, subject to a minimum of Rs.50 and a maximum of Rs.100 in a Munsiff's Court and a minimum of Rs.100 and a maximum of Rs.250 in a Subordinate Judge's or District Court

(3) Interpleader Suits – (i) To the plaintiff – one fourth of the fee prescribed under Rule 6(2) subject to a maximum of Rs.250/-. (ii) As between defendants – at the rates prescribed in Rule 6(2)

(4) Summary suits under Section 9 of the Specific Relief Act – One half of the fee prescribed under Rule 6(2) subject to a minimum of \*(Rs.100).

(5) Suits under Order XXXVI of the Civil Procedure Code, 1908- one half of the fee prescribed under Rule 6(2) subject to a maximum of Rs.500.

(6) Suits under Sections 91 and 92 of the Code of Civil Procedure 1908 and Suits and applications under the Religious and Charitable Endowments Acts or Wakfs Act – at the discretion of the Court subject to \*( a minimum of Rs.300 and a maximum of Rs.1,500)

9. When the amount or value of the claim in a suit or appeal exceeds Rs.1,000/- an additional fee calculated at one-third of the fee prescribed under Rules 6 and 7 shall be payable to a junior practitioner engaged with a senior practitioner, provided that the junior was on record at least from the date of settlement of issues in a suit or from the date fixed for the appearance of the respondent in an appeal.

**\*(10)** (1) The fee payable in each petition for execution of a decree in a Small Cause or Original Suit shall be one-third in contested and one-fourth in uncontested cases of the allowable on the amount or value of the relief which is claimed in execution, as calculated under sub-rule(1) or sub-rule(2) as the case may be of Rule 6, subject to a minimum of Rs.10 in a Munsiff's Court and Rs.25 in a Subordinate Judge's Court or District Court.

(2) The fee payable in execution petitions in other proceedings shall be one-third in contested cases and one-fourth in uncontested cases of the maximum fee

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\*Substituted by Not. No. D1-48851/79, dt. 18<sup>th</sup> may, 1989 published in KG No. 34, dt. 22-8-89.

\*\* Substituted by Not. No. D1-7287/70, dt. 2-4-71.

allowable in the main proceeding, subject to a minimum of Rs.10 and a maximum of Rs.50 in a Munsiff's Court and a minimum of Rs.25 and a maximum of Rs.500 in a Subordinate Judge's Court or District Court;

Provided that where the execution is for costs only, the fee shall be the fee that would be payable under sub-rule(1) for execution of a Small Cause decree subject, however, to the minimum specified in that sub-rule)

**\*(11** The fee payable in the following case shall be :-

- (1) Application for arrest or attachment before judgement; application for an injunction/or for the appointment of Receiver; application to sue or appeal as an indigent person, application for review; application to set aside an ex parte decree or to restore a matter dismissed for default; application to set aside abatement and other application not specifically provided for in this rule, whether before or after decree-not less than Rs.50 and not more than Rs.150 in a Munsiff's Court and not less than Rs.150/- and not more than Rs.550/- in a Subordinate Judge's or District Court, in the discretion of the Court.
- (2) Application under Order 21 Rule 58, 97 or 100 of the Code of Civil Procedure – not less than Rs.50/- and not more than Rs.350/- in a Munsiff's Court and not less than Rs.150 and not more than Rs.750/- in a Subordinate Judge's or District Court, in the discretion of the Court.
- (3) Application for discovery inspection and production of documents and for notice to admit documents Rs.10 in a Munsiff's Court and Rs.15/- in a Subordinate Judge's or District Court.
- (4) Application for setting aside an execution sale or for restitution one half of the fee allowable under Sub-rule(2) of Rule 6 calculated on the amount for which the property was sold in court auction or on the amount or value of the claim in restitution: subject to a minimum of Rs.15 and a maximum of Rs.75 in a Munsiff's Court and of Rs.150/- in a Subordinate Judge's or District Court.
- (5) Application under Section 14 of the Arbitration Act for filing and award passed on a submission out of court or under Section 20 of the Act for filing an agreement to refer to arbitration-not less than Rs. 100 and not more than Rs. 1,000 in the discretion of the court.

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\* Substituted as per notification No. D1-48851/79 dt. 18<sup>th</sup> May, 1989, published in K.G. No. 34, dt. 22-8-89.

- (6) Other applications under the Arbitration Act-not less than Rs. 100 and not more than Rs. 1000, in the discretion of the Court)

**\*12.** In appeals from orders under the Code of Civil Procedure, and in appeals or revisions from orders under any special statutes not otherwise provided for, the fee shall be at the discretion of the Court, subject to a minimum of Rs. 100 and a maximum of Rs. 500).

**13.** The fee in Insolvency proceedings shall be fixed by the Court subject to:-

- (1) Creditor's petitions - \* (a minimum of Rs. 100 and a maximum of Rs. 500)
- (2) Applications under Sections 4,54 or 55 of the Insolvency Act - \*(a minimum of Rs. 150 and a maximum of Rs. 500)
- (3) Applications for annualment of adjudications - \* (a minimum of Rs. 100 and a maximum of Rs. 500).
- (4) Other petitions - \*(a minimum of Rs. 100 and a maximum of Rs. 500).

**14.** The fee in the following cases shall be calculated as follows:-

\*\*((1) Applications for Succession certificates or Letters of Administration in the discretion of the Court subject to a minimum of Rs. 100 and a maximum of Rs. 300 in a Munsiff's Court and a minimum of Rs. 150 and a maximum of Rs. 500 in a Sub Court or District Court.)

(2) Applications for Probate or letters of Administration with the Will annexed:

- (i) Where the genuineness of the Will is disputed – as prescribed in Rule 6(2) subject to \*(a minimum of Rs. 100 and a maximum of Rs. 1000)
- (ii) Where the genuineness of the Will is not disputed – one half of the fee prescribed in Rule 6(2) subject to \*(a minimum of Rs. 50 and a maximum of Rs. 500)

(3) Other applications under the Indian Succession Act – in the discretion of the Court, subject to \*\* (a minimum of Rs. 100 and a maximum of Rs. 500)

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\*Substituted as per notification No. D1-48851/79, dt. 18<sup>th</sup> May, 1989, Published in K.G. No. 34, dt. 22-8-89.  
 \*\* Substituted as per Notification No. D1-44851/79 dt. 18<sup>th</sup> May, 1989 Published in K.G. No. 34, dt. 22-8-89.

(4) Applications under the Guardian and Wards Act and Lunacy Act – in the discretion of the Court, subject to \*(a minimum of Rs. 100 and a maximum of Rs. 500)

(5) Land Acquisition cases:-

(i) As between the State and the claimants – at the rates prescribed in Rule 6(2), on the amount claimed in excess of the award subject to a minimum of \*(Rs. 100 and a maximum of Rs. 3,000.)

\*\* (Provided that when a case is compromised, settled or withdrawn or is decided solely on the admission of the parties without any investigation or is decided ex-parte or dismissed for default before any evidence is recorded, the fee payable shall be one half of the scheduled rate subject to a minimum of Rs. 35 and a maximum of Rs. 100)

(ii) As between rival claimants-on the amount in dispute, as in an Original Suit.

(6) Matrimonial Cases including petitions for divorce, dissolution of marriages or restitution of conjugal rights – in the discretion of the Court subject to \*(a minimum of Rs. 100 and maximum of Rs. 500)

(7) Proceedings relating to compensation under the Indian Telegraph Act and the

Indian Electricity Act – one half of the fee at the rates specified in Rule 6(2) on the amount claimed in excess of the award subject to \*(a minimum of Rs. 100 and a maximum of Rs. 500.)

(8) Petition relating to elections under Municipal, Village Panchayat, Village Union and other Acts – in the discretion of the Court, subject to \*(a minimum of Rs. 200 and a maximum of Rs. 1,500.)

(9) Proceedings relating to patents, designs, copy-right, trade marks and merchandise marks – in the discretion of the Court, subject to \*(a minimum of Rs. 500 and a maximum of Rs. 2,500.)

Provided that, where damages are claimed, the fees shall not be less than the fee calculated according to the rates in Rule 6(2) on the amount allowed or disallowed.

(10) Applications under the Kerala Agriculturist's Debt Relief Act (31 of 1958)

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\*Substituted as per Notification No.D1-48851/79, dt.18<sup>th</sup> May,1989 Published in KG No.34,dt. 22.08.1989

\*\* Proviso added as per Notification No.D116933/71, dt.1.12.1971, published in KG No.1, dt. 4.1.1972

(i) Under Section 11 – the fee allowable under Rule6(2) as on a suit on a mortgagae.

(ii) Under Section 15 – as fixed by the Court subject to \*(a minimum of Rs.100 and a maximum of Rs.500)

(iii) Other applications – as fixed by the Court subject to a minimum of Rs.25 and a maximum of Rs.200

15. In interlocutory applications not otherwise provided for, the Court may allow in its discretion, a fee which shall not be \*(less than Rs.25 and more than Rs.250)

16. The fee in other proceedings of an original nature, not otherwise provided for, shall be in the discretion of the Court, subject to a minimum of Rs.25 and a maximum of Rs.250.



**17.** When a suit or appeal is reheard on review, the fee for rehearing shall be one half of the fee allowable on the amount or value of the claim as calculated under Rule 6 or 7.

### HIGH COURT

**18.** In appeals from original or appellate decrees, the fee shall be on the same scale as in the Lower Court; but when such appeals are compromised, settled, withdrawn or dismissed for default, the fee shall be;

- (1) one half of the fee as calculated above, if the appeal was on the ready list; and
- (2) one fourth of the fee, if the appeal was not on the ready list;

Provided that the fee shall not be less than \*(Rs. 150) in the first or second appeals.

**19.** In appeals from awards in Land Acquisition Cases, the scale of fees shall be as prescribed in Rule 18, provided that as between the State and a Party, the maximum fee allowable shall be Rs. 3,000.

**20.** In appeals from orders, the fee shall be in the discretion of the Court, subject to \*(a minimum of Rs. 150 and a maximum of Rs. 5,000).

**21.** In Civil Revision Petitions and all cases not otherwise provided for the fee shall be as fixed by the Court subject to \*(a minimum of Rs. 150 and maximum of Rs. 500).

\*Substituted as per Noti. No. D1-4885279 dt. 18<sup>th</sup> May, 1989, Published in K.G. No. 4 dt. 22-8-89.

**22.** When an appeal is reheard on review, The fee payable shall be one half of the amount as calculated under Rule 18, subject to \*(a minimum of Rs. 150).

**23.** In Original Petitions under Articles 226, 227 or 228 of the Constitution of India and Writ Appeals, the fee shall be in the discretion of the Court subject to \*(a minimum of Rs. 200 and a maximum of Rs. 1,000).

**24.** The fee in the following cases shall be as fixed by the Court subject to the minimum and maximum specified-

- (a) Election Appeals - \*(a minimum of Rs. 1,000 and a maximum of Rs. 5,000)

- (b) References and revisions under fiscal Statutes - \*(a minimum of Rs. 250 and a maximum of Rs. 3,000).
- (c) Proceedings under Section 301 of the Indian Succession Act, 1925 - \*(a minimum of Rs. 250 and a maximum of Rs. 1,000).
- (d) Civil Miscellaneous References under the Divorce Act, Stamp Act, etc - \*(a minimum of Rs. 150 and a maximum of Rs. 500).
- (e) Contempt Proceedings - \*(a minimum of Rs. 100 and a maximum of Rs. 1000)
- (f) All Proceedings of an Original nature, not otherwise provided for - \*(a minimum of Rs. 200 and a maximum of Rs. 1000).

**25.** In cases coming under Rules 18 and 19, an additional fee, calculated at one-third of the fee prescribed under these rules, shall be payable to a junior practitioner, provided he was on record at least from the date fixed for the appearance of the respondent.

**26.** In Interlocutory applications in pending cases and in all miscellaneous applications which are decided on the merits after contest, the Court may fix a reasonable fee, which shall not exceed \*(Rs. 100).

### **GENERAL**

**27.** For the purpose of these rules, a matter shall be deemed to have been heard by the Court which would ordinarily hear it.

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\*Substituted as per Noti. No. D1-48852/79 dt. 18<sup>th</sup> May, 1989, Published in k.G. No. 34, dt. 22-8-89.

**28.** The Court may, in any special case, where the work involved is very great or the proceedings are unduly long, award a fee higher than the fee allowable under the foregoing rules:

Provided that:

- (1) It shall record its reasons for the same in writing, and
- (2) The fee awarded shall not exceed twice the fee allowable under the rules.

**29.** (1) The amount or value of the claim for the purpose of these rules shall be the value as set forth in the plaint, memorandum of appeal, cross – objection, or petition, as the case may be, and, where court –fee are payable **ad valorem** the value on which such court fees are paid. Where the claim does not admit of valuation but is valued for purposes of jurisdiction, the fee shall, otherwise ordered by the Court, be calculated on such value.

(2) In suits for accounts, the amount or value of the claim shall be the amount shown in the plaint or the amount finally adjudged to be due whichever is higher.

**30.** Fractions of a rupee in the amount or value of a claim shall be ignored in calculating the fee payable.

**31.** In case in which the subject matter of the claim does not admit of valuation, the Court shall fix a reasonable fee, having regard to the time occupied in the preparation and hearing of the case and the nature of the questions raised therein.

**32.** If several defendants or respondents who have a joint or common interest succeed upon a joint defence or upon separate defences substantially the same, not more than one fee shall be allowed, unless the Court otherwise orders for reasons to be recorded in writing. If only one fee be allowed, the Court shall direct to which of the defendants or respondents it shall be paid or shall apportion it among the several defendants or respondents in such manner as the Court shall think fit.

**33.** If several defendants or respondents, who have separate interests, set up separate and distinct defences and succeed thereon, a fee for one advocate for each of the defendants or respondents, who shall appear by a separate advocate may be allowed in respect of his separate interest. Such fee, if allowed, shall be calculated with reference to the value of the separate interest of each defendant or respondent in the manner herein before prescribed.

**34.** If any case, where the Court has not fixed the fee, the minimum fee prescribed by these rules shall be taken to be the fee payable.

**35.** Where a suit or an appeal is remanded, a fee calculated at one-third of the fee allowable under these rules shall be allowed for the hearing after remand, in addition to the fee allowable for the original hearing. Where the appellate Court has called for a finding only, no additional fee shall be allowed for appearances before the Court from which the finding has been called for.

**\*(36** Advocates' fee for the purpose of computing day's costs shall not be less than Rs. 15 and not more than Rs. 50 in a Munsiff's Court and not less than Rs. 50 and not more than Rs. 100 in the High Court, District Court or Sub Court.)

**37.** Nothing in these rules shall be deemed to affect any agreement between an advocate and his client regarding fees.

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\*Substituted as per Noti. No. D1-4885179 dt. 18-5-1989.

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## BAR COUNCIL OF INDIA

21, rouse Avenue Institutional Area  
New Delhi-110 002

STBC (Cir.) No. 5/2008

Dated : 21-4-2008

From

Mr. S. Radhakrishnan,  
Secretary,  
Bar Council of India.

To

Secretaries,  
of all the State Bar Councils.

Sub: Amendment of Rule 7, Chapter III,  
Part IV of the Rules of the Bar Council of India.  
Ref: Our Circular No. 20/2007 dated 22-12-2007.

Sir,

Please refer to our Circular No. 20/2007 dated 22-12-2007 intimating you about the amendment of Rule 7, Chapter III, Part IV of the Bar Council of India Rules.

The Bar Council of India at its meeting held on 14<sup>th</sup> October, 2007 amended Rule 7, Chapter III, Part VI of the Rules of the Bar Council of India vide Resolution No. 128/2007. The amendment was communicated to you vide above noted circular. The amendment was sent to the Gazette of India for publication. A copy of the amended rule as published in the Gazette dated February, 16, 2008 is sent herewith for your information.

Yours faithfully,

Sd/-  
(S. RADHAKRISHNAN),  
SECRETARY.

Encl: as above.

PART III – SEC. 4) THE GAZETTE OF INDIA, FEBRUARY, 16, 2008(MAGHA 27, 1929)

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**BAR COUNCIL OF INDIA**

New Delhi-110002, the 17 January 2008

**Bar Council of India at its meeting held on 14.10.2007 passed Resolution No. 128/2007 amending Rule 7, Chapter-III, Part-VI of the Rules of the Bar Council of India which is given below:-**

**Rule 7. “An Officer after his retirement or otherwise ceasing to be in service for any reasons, if enrolled as an Advocate shall not practice in any of the Judicial, administrative Courts/Tribunals/authorities, which are presided over by an officer equivalent or lower to the post which such officer last held.”**

**State or**

**Explanation: “An officer shall include Judicial Officer, Officer from**

**or**

**Central Services and Presiding Officers or Members of the Tribunals Authorities or such Officers as referred under Section 30(ii) of the Advocates Act, 1961.”**

S. RADHAKRISHNAN  
Secy.

6-459 G1/2007.

**BARN COUNCIL OF INDIA****21, Rouse Avenue  
Institutional Area  
New Delhi-110002.**

STBC(Cir.) No. 7/2008

Dated: 30.4.2008

From

Shri S. Radhakrishnan,  
Secretary,  
Bar Council of India,  
New Delhi.

To

Secretaries  
of all the State Bar Councils.

Sub:- Amendment to Rule 36, in Section IV, Chapter II,  
Part VI of the Bar Council of India Rules regarding  
Advertisement by Advocates.

Sirs,

Bar Council of India at its meeting held on 24<sup>th</sup> March, 2008 amended the  
above rule by adding the following proviso:

**RESOLUTION NO. 50/2008**

Resolved that the following amendment of Rule 36 in Section IV,  
Chapter II, Part VI of the Bar Council of India Rules by incorporating a  
proviso in  
terms of resolution passed by the Joint Consultative Conference be and is  
hereby approved."

“PROVIDED that this Rule will not stand in the way of advocates furnishing

website information as prescribed in the Schedule under intimation to and as approved by the Bar Council of India. Any additional other input in the particulars than approved by the Bar Council of India will be deemed to be violation of Rule 36 and such advocates are liable to be proceeded with misconduct under Section 35 of the Advocates Act, 1961”

P.T.O.

### SCHEDULE

1.	Name	
2.	Address	
	Telephone Numbers	
	E-mail id	
3(a)	Enrolment Number	
(b)	Date of Enrolment	
(c)	Name of State Bar Council where originally enrolled	
(d)	Name of State Bar Council on whose roll name stands currently	
(e)	Name of the Bar Association of which the Advocate is Member	
4.	Professional and Academic Qualifications	
5.	Areas of Practice (Eg. : Civil, Criminal, Taxation, Labour etc.)	

(NAME & SIGNATURE)

Declaration:

I hereby declare that the information given is true.

(NAME & SIGNATURE)”



The above Amendment has been approved by the Hon'ble Chief justice of India as provided for under proviso to Section 49(1)(j) of the Advocates Act, 1961.

Yours faithfully,  
Sd/-  
(S. RADHAKRISHNAN)  
SECRETARY.