

TAMIL NADU ADVOCATES' CLERKS WELFARE FUND ACT, 1999

157 Short title and Definitionæ. Act 25 TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY
The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 17th June 1999 and is hereby published for general infoa...ation ;— ACT No. 25 OF 1999. An Act to provide for the Cotstitution or a Welfare Fund for the benefit of Advocates, Clerks in the State of Tamil Nadu and for matters connected therewith or incidental thereto. BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the fiftieth Year of the Republic of India as follows (1) This Act may be called the Tamil Nadu Advocates' Clerks Welfare 1. Fund Act, 1999. (2) It shall come into force on such date as the State Government may, by notification, appoint

2. Jn this Act, unless the context otherwise req•Jires,—(a) "A•jyocate" mans a person whose name has been entered in the roll of advocates prepared and maintained by the Bar Council under section 17 of the Advocates Act, 1961, and who is a of a B3r Association or an Advocates Association; (b) "Advocates' Association" means an association of advocates recognised 'l Nadu Act and registered by the Bar Council under section 13 of the Tamil Nadu Advocates' ot 1987. il Nadu 49 ot 1987. Welfare Fund Act, 1987; (c) "Advocates' Clerk" means a clerk employed by an Advocate and recog- nised by such authority and in such manner as may be prescribed and who is a member of an Advocates' Clerk Association; (d) "Advocates' Clerks Association" means an association of Advocates' Clerks recogni sed and registered under section 13: (e) "Bar Associ.ttion" means an association of advocates recognised and registered by the Bar Council under section 13 of the Tamil Nadu Advocates' Welfare Fund Act, 1987; (f) "Bir Cyaa:il" means the Bar Council of Tamil Nadu constituted under Act 25 se;tion 3 of the Advocates Act, 1961 ; 1961. (g) "C3ssation of Employment" means removal of the name of an Advocates' clerk fro.n th3 Sate roll maintained by the Committee on account of his retirement; 'CC•mmittee' means the Tamil Nadu Advocates' Clerks Welfare Fund Committee constituted under section 4 ; Advocates ' Clerks Welfare Bund. GOVERNMENT GAZETTE BXTRÅORDNARY (i) " Dependant " means any of the following relatives of a deceased member of the fund; namely (i) a widow, a minor legitimate son, an un-narried legitimate daughter or a widowed mother ; and Gi) son •Jho has attained the age of eighteen years or a married datmghter who is wholly dependant on the earnings of the member at the time of his death and is infirm ; (j) " Fund " means the Tamil Nadu Advocates' Clerks Welfare Fund con— stituted under section 3 ; (k) " Government " means the State Government ; (l) "Member of the Fund" means an Advocates' Clerk admitted to the bene- ats of the fun'd and contihüing to a member thereof under the provisions of the Act ; (m) " Notification " means a notification published in the Tamil Nadu Government Gazette, and the word " Notified " shall be construed accordingly ; (n) "Retirement" means stoppage of employment as an Advocates' Clerk for reasons other than joining service or for carrying on any other gainful occupation, conununicated to, and recorded in the manner prescribed ; (o) "Stamp" means the Tamil Nadu Advocates' Clerks Welfare Fund Stamp, printed and distributed under section 12 ; (p) " Vakalat " means a Vakqlatnama, memorandum of appearance or any other document by which an Advocate or any other local practitioner is empowered to appear and plead any court, tribunal or authority. 3. (1) The Government shall, by notification, constitute a fund to be called the Tamil Nadu Advoca,es' Clerks Welfare Fund. (2) There shall be credited to the Fund,— (a) all amounts collected by way of sale of stamps under section 12 ; (b) any valuntary donation or contlibbttion made to the Fund by the Bay Council, any Bar Associaticn, any other Association or any nd vocate or any other person ; (c) (d) the death of a (e) any sum borrowed under section IO ; all sums received from the Life Insurance cf India cn the Fund under a Group Insurance Policy • any profit or dividend received from lthe Life Insurance Corpor•, •pect c: poncies of Grev.p Insurance of the n•.ñn of the Fund TÆvnL NADU GOVERNMENT GAZETTE EXTRAORDINAR% (f) any interest or dividend or other return on any investment 'made gf any part of the Fund; and (g) all sums collected under section 15. In 4. (1) The Government may, by notification, establish with effect on and Establishment from such date as may be specified therein, a Committee to be caped the Tamil of Welfare Fund Commnt- Nadu Advocates' Clerks Welfare Fund Committce. tee'. (2) The Committee shall •be a body corporate having perpetual succession and aeeömm•dn seal' With power to acquire ; hold and dispose•of property-•and shall, by the said name, sue and.be sued. (3) The •Committee shall consist of,— (4) (c) (f) the Chairman of the Bar Council , the Secretary to Government in-charge of Law; the Secretary-to

Government in-charge of Home; the Secretary to Government in-charge of Finance; the Registrar of High Court, Madras; three members to be nominated from among the Advocates' Clerk by such authority and in such manner as may be prescribed of whom one shall be nominated by the Committee as the Treasurer of the Fund; (g) a Secretary be appointed by the regulations as may be made by the Committee in this behalf; (h) the Secretary appointed under this clause shall not be eligible to vote at the meetings of the Committee; (4) The Chairman of Bar Council shall be the ex-officio Chairman of the Committee. (5) The Secretary to Government in-charge of Law, the Secretary to Government in-charge of Home, the Secretary to Government in-charge of Finance and the Registrar of High Court, Madras shall be the ex-officio members of the Committee. (6) In case the Secretary to Government in-charge of Law or the Secretary to Government in-charge of Finance, is unable to attend the meetings of the Committee for any reason, he may depute any officer of his Department not lower in rank than that of Deputy Secretary to Government to attend the meetings. (7) In case the Registrar of the High Court, Madras is unable to attend the meetings of the Committee for any reason, he may depute any officer not below the rank of Deputy Registrar to attend the meetings. (8) A member nominated under clause (d) of sub-section (3) shall hold office for term of three years or until he ceases to be a member of Advocates' Clerks Association whichever is earlier. TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY 10.5. (1) A member nominated under clause (f) of sub-section (3) of section 4 Disqualification—shall be disqualified to be a member of the Committee, and ceases to be such member, if he,— removal of of the Committee. (a) becomes of unsound mind; or (b) is adjudged as insolvent; or (c) is absent without leave of the committee for more than three consecutive meetings of the Committee: Provided that the member ceasing to hold office under this clause may be restored by the Committee, if such member makes an application for the condonation of the absence; or (d) is a defaulter to the Fund (in case he is a member of the Fund) or has committed breach of trust; or (e) is convicted by a criminal court for an offence involving moral turpitude, unless such conviction has been set aside. (2) The Government may remove any member who is or has become disqualified under sub-section (1), from the membership of the Committee: Provided that no order removing any member shall be passed unless the member has been given an opportunity of being heard. 6. (1) Any member nominated under clause (f) of sub-section (3) of section 4 Resignation by may resign his office by giving three months notice in writing to the Chairman of the nominated Committee and on such resignation being accepted by the said Chairman, he shall be deemed to have vacated his office. Committee and filling up of casual vacancies. (2) Any casual vacancy in the office of a member referred to in sub-section (1) shall be filled up, as soon as may be, and a member so nominated to such vacancy shall hold office for the residue of the term of his predecessor.

7. No act done or proceeding taken under this Act or the rules made thereunder Act of Committee not to be invalidated by the Committee shall be invalidated merely by reason of,— dated by defect, etc., Vesting and application of Fund. Functions of the Committee. (a) any vacancy or defect in the constitution of the Committee; or (b) any defect or irregularity in the election of any person as a member thereof; or (c) any defect or irregularity in such act or proceeding not affecting the merits of the case

8. The Fund shall vest in and be held and applied by the Committee subject to the provisions, and for the purposes, of this Act. 9. (1) It shall be the function of the Committee to administer the Fund. (2) In the administration of the Fund, the Committee shall, subject to the provisions of this Act and the rules made thereunder,— (a) hold the amounts and assets belonging to the Fund; (b) receive applications for admission or re-admission to the Fund, and dispose of such applications within ninety days from the date of receipt thereof; TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY (c) receive applications from the members of the Fund, their nominees or legal representative as the may be, for payment out of the Fund, conduct such enquiry as it deems necessary, for the disposal of such applications, and dispose of the applications within five months from the date of receipt thereof; (d) record in the minutes book of the Committee its decisions on the applications; (e) pay to the applicants amounts at the rates specified in the Schedule; periodicals and (f) maintain such accounts and books and send such annual reports to the Bar Council, as may be prescribed; (g) communicate to the applicants under certificate of posting the decisions of the Committee in respect of applications for admission or re-admission to the Fund or claims to the benefit of the Fund; (h) do such other acts as are, or may be, required to be done under this Act and the rules made thereunder. 10. (1) The Committee, may, with the prior approval of

the. Bar Council, Borrowing and Central Act 2 1934. borrow, from time to time, any sum required for carrying out the purposes of this Act, (2) ...The Committee shall deposit moneys and receipts forming part of the Fund in any Scheduled Bank as defined in the Reserve Bank of India Act, 1934 or invest the same in loans to any corporation owned or controlled by the Central Government or the State Government or in loans granted by the Central Government or the State Government or in any other manner as the Bar Council may, from time to time, direct with the prior approval of the Government. (3) All amounts due and payable under this Act and all expenditure relating to the management and administration of the fund shall be paid out of the Fund. (4) The accounts of the Committee shall be audited annually by a Chartered Accountant appointed by the Committee. (5) The accounts, as certified by the auditor together with the audit report thereon, shall be forwarded to the Bar Council by the Committee and the Bar Council may issue such directions as it deems fit to the Committee in respect thereof. (6) The Committee shall comply with the directions issued by the Bar Council under sub-section (5). 11 The Secretary of the Committee shall,— (a) be the Chief Executive authority of the Committee and responsible for carrying out its decisions ; (b) represent the Committee in all suits and proceedings for and against the Committee ; (c) authenticate by his signature all decisions and instructions of the Committee ; (d) operate the bank accounts of the Committee jointly with the Treasurer ; (e) convene meetings of the Committee and prepare its minutes ; (f) attend the meetings of the Committee with all the necessary records and information ; (g) maintain such forms, registers and other records as may be prescribed, from time to time, and do all correspondence relating to the Committee ; (h) prepare an annual statement of business transactions by the Committee during each financial year ; and investment of Funds. Powers and duties of 162 Tamil Nadu Advocates' welfare Fund Stamp. Recognition and Registration of Advocates' Clerk Association. Duties of Advocates' Clerks Associations. TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY 12.

(1) There shall be printed or cause to be printed by the Bar Council in such form and in such manner as may be prescribed by rules, stamp inscribed as each of the value of two " the Tamil Nadu Advocates' Clerks welfare Fund ", rupees. (2) Every vakalat or Memorandum of appearance filed before any Court, authority or tribunal shall be annexed with a stamp as specified in sub-section (1) in addition to the court fee stamps, if any, and stamp to be affixed under any other Act and no vakalat or Memorandum of appearance shall be valid unless it is so stamped ; Provided that this sub-section shall not apply to any vakalat or Memorandum of appearance filed on behalf of the Central or State Government. (3) 'The' person or authority receiving vakalat with such stamp shall, forthwith effect cancellation of the stamp by punching out the same. (4) The custody of the stamps printed under this section shall be with the Bar Council and, the supply and sale of stamps shall be in such manner as may be prescribed. 13, (1) (a) All associations of Advocates' Clerks functioning in any court may, before a date to be notified by the Committee in this behalf, (b) : any such association of Advocates' Clerks constituted after the commencement of this Act may, apply to the Committee in such form and in such manner as may be prescribed for recognition and registration as an Advocates' Clerks Association under this Act, (2) Every application for recognition and registration shall be accompanied by the rules or by-laws of the association, names and addresses of the office bearers of the association, and an up-to-date list of the members of the association with name, address, age and the ordinary place of employment of such member. (3) The Committee may, after such enquiry as it deems necessary recognise the Association as an Advocates' Clerks Association and issue a certificate of recognition and registration in such form as may be prescribed. (4) The decision of the Committee regarding the recognition and registration of an Association shall be final. 14. (1) Every Advocates' Clerks Association shall, on or before the 15th April of every year, intimate to the Committee a list of its members as on the 31st March of that year. (2) Every Advocates' Clerks Association shall intimate to the Committee of,— (a) any change of the office bearers of the Advocates' Clerks Association within fifteen days from such change ; (b) any change in number of members including admission and re-admission Within thirty days of such change ; (c) the death or retirement of any of its members within thirty days from the date of occurrence thereof ; and (d) such other matter as may be required by the Committee from time to time. TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY 163 15. (1) Every Advocate or Clerk in the State may apply to the Committee, Member in such form and in such manner as may be prescribed for admission as a member of the Fund. of the Fund. (2) On receipt of an application under sub-section (1), the Committee shall make such enquiry as it deems fit and either admit the applicant to the Fund or, for reasons to be recorded in writing

reject the application: Provided that no order rejecting an application shall be passed unless the applicant has been given an opportunity of being heard. (3) Every applicant shall pay an application fee of rupees fifty along with the application to the account of the committee. (4) Every applicant shall pay to the Fund an admission fee of rupees fifty at the time of admission or re-admission. (5) Every person admitted as a member of the Fund shall pay a membership fee of rupees one thousand. It is payable in two equal half yearly instalments. (6) A member of the Fund shall, at the time of admission make a nomination conferring on one or more dependants the right to receive the amount from the Fund in the event of his death. (7) If more than one person is nominated, the amount or share payable to each nominee shall be specified in the nomination. (8) A member of the Fund may at any time cancel a nomination by sending a notice in writing to the Committee along with a fresh nomination. Where on receipt of a nomination or otherwise, the reason to believe that any Advocates' Clerk secured admission as a member of the Fund by misrepresentation, fraud or undue influence, it shall be competent for the Committee to remove the name of such Advocates' Clerk from the membership of the Fund: Provided that no order under this sub-section shall be passed unless the person likely to be adversely affected has been given an opportunity of being heard. 16. (1) A member of the Fund shall, on cessation of employment, be entitled to receive from the Fund an amount at the rate specified in the Schedule. (2) In the event of death of a member, a consolidated amount of rupees fifty thousand shall be paid to the nominee or, where there is no nominee to his dependants. (3) A member of the Fund may withdraw his membership at any time after five years of his admission as a member of the Fund and on such withdrawal he shall be entitled to receive from the Fund an amount at the rate specified in the Schedule. Such person shall be eligible for re-admission to the Fund as a new member subject to such conditions as may be prescribed: Provided that a member suffering from permanent disablement may withdraw his membership within five years of his admission to the Fund. (4) For calculating the period of completed years of employment for the purpose of payment under this Act, every four years of employment under an Advocate if any, before the admission of a member to the Fund shall be computed, as one year of employment and added on to the number of years of employment after such admission. (5) An application for payment from the Fund shall be made to the Committee in such form as may be prescribed. (6) An application received under sub-section S, shall be disposed of by the Committee after such enquiry as it deems necessary. 16A Restriction on alienation, attachment etc., of interest of member in the Fund. Group Life Insurance for members and other benefits, Meetings of the Committee. Travelling and daily allowance to members of Committee. Review. Protection of action taken in good faith. Bar of jurisdiction of Civil Courts. Power to summon witnesses and take evidence. TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY 17. (1) The interest or the right of a member of the Fund or his nominee or legal heirs to receive any amount from the Fund, shall not be assigned, alienated or charged and shall not be liable to attachment under any decree or order of any court, tribunal or other authority. (2) No creditor shall be entitled to proceed against the Fund or the interest therein of any member of the Fund or his nominee or legal heirs. Explanation.—For the purpose of this section, "creditor" includes the State, or an official assignee or official receiver appointed under the law relating to, insolvency for the time being in force

18. The Committee may, for the Welfare of the members of the Fund,—(a) take from the Life Insurance Corporation of India, policies of Group Insurance on the life of the members of the Fund; and (b) provide for medical and educational facilities and such other benefits, as may be prescribed, for the members of the Fund and their dependants. 19. (1) The Committee shall meet at least once in three months or more often if found necessary to transact its business. (2) Five members of the Committee shall form the quorum for a meeting. Of the Committee. (9) The Chairman or in his absence, a member elected by the Members present at meeting shall preside over a meeting of the Committee. (4) Any matter coming up before a meeting of the Committee shall be decided by a majority of the members present and voting at the meeting and, in the case of any equality of votes, the Chairman or the member presiding over the meeting shall have and exercise a casting vote

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

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

shall not pass any order adversely affecting any person unless such person has been given an opportunity of making his representation. 22. (1) No suit, prosecution or other legal proceeding shall lie against any person or anything which is in good faith done intended to be done in Pursuance of this Act or any rule made thereunder. (2) No suit or other legal proceeding shall lie against the Committee or the Bar Council for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder. 23, No Civil Court shall have jurisdiction to settle, decide or deal with any question or determine any matter which is by or under this Act required to be settled, decided or dealt with or determined by the Committee

24. The Committee shall, for the purposes of any enquiry under this Act, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 in any of the following matters, (a) enforcing the attendance of any person or examining him on oath ; (b) requiring the discovery and production of documents ; of TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY (c) receiving evidence on affidavit ; and (d) issuing Commission for the examination of witnesses

25. The Government may, by notification, on the recommendation of the Committee and having due regard to the availability of the amount in the Fund, amend the rates specified in the Schedule, 26.(1)

The Government may, by notification, make rules for carrying out the purpose of this Act. (2) Every rule made or notification issued by the Government under this Act, shall, as soon as possible, after it is made or issued, be placed on the Table of the Legislative Assembly and if, before expiry of the session in which it is so placed or the next session, the Legislative Assembly makes any modification in any such rule or notification or the Legislative Assembly decides that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification. THE SCHEDULE [See sections 9(2) (e), 16(1) and 25.1 30 years as a member of the Fund 29 years as a member of the Fund 28 years as a member of the Fund 27 years as a member of the Fund 26 years as a member of the Fund 25 years as a member of the Fund 24 years as a member of the Fund 23 years as a member of the Fund 22 years as a member of the Fund 21 years as a member of the Fund 20 years as a member of the Fund 19 years as a member of the Fund 18 years as a member of the Fund 17 years as a member of the Fund 16 years as a member of the Fund 15 years as a member of the Fund 14 years as a member of the Fund 13 years as a member of the Fund 12 years as a member of the Fund 11 years as a member of the Fund 10 years as a member of the Fund 9 years as a member of the Fund 8 years as a member of the Fund 7 years as a member of the Fund 6 years as a member of the Fund 5 years as a member of the Fund 4 years as a member of the Fund 3 years as a member of the Fund 2 years as a member of the Fund 1 year as a member of the Fund (By Order of the Governor.) 491 Rs 30,000 29,000 28,000 27,000 26,000 25,000 24,000 23,000 22,000 21,000 20,000 19,000 18,000 17,000 16,000 15,000 14,000 13,000 12,000 11,000 10,000 9,000 8,000 7,000 6,000 4,000 2,000 1,000 K. PART-IASARATHY. Secretary to Government, Law Department.