

# THE RAJASTHAN ADVOCATES WELFARE FUND ACT, 1987

## राजस्थान अधिवक्ता कल्याण निधि अधिनियम, 1987

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**THE RAJASTHAN ADVOCATES  
WELFARE FUND RULES, 1988**

**राजस्थान अधिवक्ता कल्याण निधि नियम, 1988**



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# THE BAR COUNCIL OF RAJASTHAN

## LIST OF MEMBERS OF 11<sup>TH</sup> BAR COUNCIL OF RAJASTHAN : 2009-2014

S. No.	Name, Designation & Address	Phone
1.	<b>Shri G. S. Bapna</b> Advocate General, Ex-officio Member, Government of Rajasthan, JAIPUR Rajasthan, India	0141-2564170 (O) 0141-5113183 (R) 9829214170 (M)
2.	<b>Shri Sanjay Sharma</b> <i>Chairman</i> , 1, Gopalpura Gaon Gopalpura Bypass JAIPUR, Rajasthan, India	0141-3101229 (O) 0141-2761762 (R) 9829056176 (M)
3.	<b>Shri Roshan Singh Rathore</b> <i>Vice Chairman</i> , Bhamasi House, Jaipur Raod, CHURU, Rajasthan, India	01562-251007 (R) 9414084007 (M)
4.	<b>Shri Biri Singh Sinsinwar</b> Member, Bar Council of India, A-50, Neharu Nagar Pani Pech, JAIPUR Rajasthan, India	0141-2302037 (O) 0141-2300061 (R)
5.	<b>Shri Sajjan Raj Surana</b> S-6, Jyoti Marg, Bapu Nagar, JAIPUR, Rajasthan, India	0141-2366718 (O) 0141-2711014 (R)
6.	<b>Shri Mahesh Chandra Gupta</b> 440, Gumanpura, KOTA, Rajasthan, India	0744-2391940 (R) 9414181940 (M)
7.	<b>Shri Bhawani Singh Shekhawat</b> Kishan Garh House, Jaipur Road, AJMER, Rajasthan, India	0145-2432580 (O) 0145-2630320 (R)
8.	<b>Shri Arvind Kumar Gupta</b> 'Devabhishek' A-155 Ayodhya Path, Shyam Nagar, JAIPUR, Rajasthan, India	9414076756 (M)
9.	<b>Shri Jagmal Singh Choudhary</b> 78, Paota C-Road, Laxmi Nagar, JODHPUR, Rajasthan, India	0291-2549560 (O) 0291-2544838 (R) 9414295922 (M)
10.	<b>Shri Jai Ram Beniwal</b> Plot No. 06, Paota 'B' 2 Road, JODHPUR, Rajasthan, India	0291-2544826 (O) 0291-2545396 (R)
11.	<b>Shri Naurang Singh Choudhary</b> Near D.T.O. Office Ward No.15, Purani Abadi, SRIGANGANAGAR, Rajasthan, India	0154-2452220 (R) 9414298132 (M)
12.	<b>Shri Ashok Mehta</b> C-69, 'Manak' Janpath, Lal kothi, JAIPUR, Rajasthan, India	0141-2740959 (O) 0141-2742298 (R) 9314842298 (M)
13.	<b>Shri Satyendra Kumar Gupta</b> C-79, Hari Marg, Malviya Nagar, JAIPUR, Rajasthan, India	0141-2522445 (O) 0141-2522627 (R)

<b>S. No.</b>	<b>Name, Designation &amp; Address</b>	<b>Phone</b>
14.	<b>Shri Ranjeet Joshi</b> 358, Karella Nehru Nagar, JODHPUR Rajasthan, India	9414130300 (M)
15.	<b>Shri Suresh Chandra Shrimali</b> Shastri Nagar Ext. New Housing Board Road BHILWARA, Rajasthan, India	01482-252313 (R) 9829126279 (M)
16.	<b>Shri Vijay Singh Poonia</b> H. No. 6, Janakpuri Ext. II, Imliwala Phatak, JAIPUR, Rajasthan, India	0141-2591148 (R) 9829054148 (M)
17.	<b>Shri Kuldeep Kumar Sharma</b> 2, Raj Vilas, Rathkhana Colony, BIKANER, Rajasthan, India	0151-2520460 (R) 9414142300 (M)
18.	<b>Shri Ratan Singh Rao</b> 1/174, "Matri-Kripa" Kharol Colony, UDAIPUR, Rajasthan, India	9829040255 (M) 9214450255 (M)
19.	<b>Shri Inder Raj Saini</b> Additional Advocate General, 204, Govind Nagar Ajmer Road, JAIPUR, Rajasthan, India chairman@barcouncilofrajasthan.org	0141-2352272 (R) 9414042777 (M)
20.	<b>Shri Nasir Ali Naqvi</b> Additional Advocate General, I, Kidvai Nagar, Imliwala Phatak JAIPUR, Rajasthan, India	0141-2593275 (O) 0141-2594966 (R) 9829059496 (M)
21.	<b>Shri Manoj Kumar Garg</b> 'Garg Bhawan' Paota B Road, JODHPUR, Rajasthan, India	9829027244 (M)
22.	<b>Shri Sushil Kumar Sharma</b> Additional Advocate General, B 27, J.P. Colony Imliwala Phatak, JAIPUR, Rajasthan, India	0141-2590502 (R) 9414042660 (M)
23.	<b>Shri Pushpendra Singh Bhati</b> 5, Central School Scheme, JODHPUR, Rajasthan, India	9828031412 (M)
24.	<b>Shri Ram Prasad Singaria</b> Adarsh Colony Bhinmal DISTT. JALORE Rajasthan, India vicechairman@barcouncilofrajasthan.org	9414153240 (M) 9414678636 (M)
25.	<b>Shri Rajesh Panwar</b> 2-E-7, Pratap Nagar, JODHPUR, Rajasthan, India	0291-26456999 (R) 9414133588 (M)
26.	<b>Shri R. P. Malik</b> Secretary, 17/668, Chopasani Housing Board, JODHPUR secretary@barcouncilofrajasthan.org www.barcouncilofrajasthan.org	0291-2545251 (O) 0291-2701162 (R) 9414132427 (M)

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# THE RAJASTHAN ADVOCATES WELFARE FUND ACT, 1987<sup>1</sup>

## राजस्थान अधिवक्ता कल्याण निधि अधिनियम, 1987

(Act No. 15 of 1987)

[Received the Assent of the Governor on the 20th day of April, 1987]

As amended by the following —

1. Rajasthan Act No. 20 of 1995 w.e.f. 24.5.1995; and
2. Rajasthan Act No. 09 of 2003, w.e.f. 5.4.2003.
3. Rajasthan Advocate Welfare Fund (Amendment) Ordinance, 2012 (4 of 2012). Made and promulgated by the Governor on the 25th day of May, 2012. Noti. No. F. 4(8) Vidhi/2/2012, dt. 28.5.2012, Pub. in Raj. Gaz. Exty. Part 4(Ik), dt. 28.5.2012, Pg. 5(1).
4. Rajasthan Advocate Welfare Fund (Amendment) Act, 2012 (26 of 2012) w.e.f. 25.5.2012.

An Act to provide for the constitution of an Advocates Welfare Fund and utilisation thereof for payment of certain death and retirement benefits to the advocates in the State of Rajasthan and for matter connected therewith and incidental thereto.

Be it enacted by the Rajasthan State Legislature in the Thirty-eighth Year of the Republic of India as follows:—

### CHAPTER - I

#### Preliminary

1. **Short title, extent and commencement.**—(1) This Act may be called The Rajasthan Advocates Welfare Fund Act, 1987.

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

(3) It shall come into force on such date<sup>2</sup> as the State Government may, by notification in the Official 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 Rajasthan State under Section 17 of the Advocates Act, 1961 (Central Act 25 of 1961) and who is a member of a bar association;

<sup>3</sup>[(aa) “Bar Association” means an association of lawyers registered and recognized by the Bar Council;]

(b) “Fund” means the Advocates Welfare Fund constituted under Section 3;

(c) “Bar Council” means the Bar Council of Rajasthan State constituted under the Advocates Act, 1961 (Central Act 25 of 1961);

(d) “Cessation of Practice” means removal of the name of an advocate from the State roll of advocates maintained by the Bar Council on account of his retirement or death;

<sup>1</sup> Published in Rajasthan Gazette Extraordinary, Part 4(A), dt. 21.4.1987.

<sup>2</sup> Came into force w.e.f. 14.11.1989 vide Notification No. F. 32(9) JudL/83, dt. 13.11.1989, Published in Raj. Gaz. Exty., Part-IV-C(II) dt. 13.11.1989, p. 291.

<sup>3</sup> Inserted by Rajasthan Act No. 20 of 1995 enforced w.e.f. 24.5.1995, Noti. No. F. 2(21) Vidhi-2/95, dt. 24.5.1995, Raj. Gaz. Extra Ordinary, Part IV-A, dt. 24.5.1995, pg. 77(8).

- (e) "**Dependents**" means wife, husband, father, mother and unmarried minor children of a member of the Fund and includes his widowed daughter and major children who suffer from physical disability or insanity and who are maintained by him or such of them who survive on his death;
- (f) "**Member of the Fund**" means an advocate who is admitted to the benefits of the fund under the provisions of this Act and continues to be a member thereof;
- (g) "**Nominee**" means nominee appointed by a member of the Fund to receive the benefits arising from such membership in the event of his death;
- (h) "**Prescribed**" means prescribed by the Bar Council by rules made under this Act;
- (i) "**Stamp**" or "**Welfare Fund Fee Stamp**" means stamp printed and distributed under Section 19;
- (j) "**State**" means the State of Rajasthan;
- (k) "**Suspension of Practice**" means voluntary suspension of practice as an advocate or suspension by the Bar Council for professional or other misconduct;
- (l) "**Trustee Committee**" means the Committee established under Section 4; [x x x x]
- (m) "**Vakalatnama**" means 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 legally authorised by any law to take evidence or to adjudicate or decide any dispute <sup>2</sup>[but does not include a memorandum of appearance authorising an advocate to appear on behalf of another advocate for the purpose of seeking adjournment only; and]
- <sup>3</sup>[(n) "**Year**" means a period of twelve months commencing from 1st day of July and ending on the 30th day of June next.]

## CHAPTER - II

### Constitution of Advocates Welfare Fund

**3. Constitution of Advocates Welfare Fund.**—(1) The State Government shall constitute a Fund to be called the "Advocates Welfare Fund".

(2) There shall be credited to the Fund:—

- (a) an initial amount of fifty thousand rupees to be contributed by Bar Council to the Fund at the time of its constitution;
- (b) any further contribution that may be made by the Bar Council;
- (c) the amount paid by the Bar Council under Section 13;
- (d) any voluntary donation or contribution made to the Fund by the Bar

<sup>1</sup> Word "and" deleted by Raj. Act No. 9 of 2003 enforced w.e.f. 5.4.2003. Noti. No. F. 2(10) Vidhi-2/2003, dt. 5.4.2003, Raj. Gaz. Extra ordinary Part IV-A, dt. 5.4.2003, Pg. 17 and corrected by Corrigendum of even number dt. 21.4.2003, Pub. in Raj. Gaz. Extra Ordinary, Part IV-A, dt. 22.4.2003, pg. 35.

<sup>2</sup> Substituted by Rajasthan Act No. 09 of 2003

<sup>3</sup> Added by Rajasthan Act No. 09 of 2003

Council of India, any Bar Association, any other association or institution, any advocate or any other person;

- (e) any grant which is made by the State Government to the Fund under appropriation duly made in this behalf;
- (f) any sum borrowed under Section 10;
- (g) all sums received from the Life Insurance Corporation of India on the death of a member of the Fund under any Group Insurance Policy;
- (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 under Section 16 <sup>1</sup>[towards] <sup>2</sup>[admission fees,] annual subscription and interest thereon; and
- (k) all sums collected by way of sale of stamps under Section 19.

<sup>3</sup>[(3) x x x x]

<sup>3</sup>[(4) x x x x]

## CHAPTER - III

### Establishment of Trustee Committee

**4. Establishment of the Trustee Committee.**—(1) The State Government shall, by notification in the Official Gazette, establish with effect from such date as may be specified therein a committee to be called the "Rajasthan Advocates Welfare Fund Trustee Committee".

(2) The Trustee Committee shall be a body corporate by the aforesaid name having perpetual succession and a common seal with power to acquire, hold and dispose of property and to enter into contract and shall by the said name sue and be sued.

(3) The Trustee Committee shall consist of:—

- (a) the Chairman of the Bar Council of Rajasthan who shall be the Chairman of the Trustee Committee, *ex-officio*;
- (b) the Advocate General of Rajasthan, *ex-officio* member;
- (c) the Law Secretary, Government of Rajasthan, *ex-officio* member;
- (d) the Chairman of the Executive Committee, Bar Council of Rajasthan, *ex-officio* member;
- (e) three other members of the Bar Council nominated by the Bar Council; and
- (f) the Secretary of the Bar Council who shall also be the Secretary of the Trustee Committee, *ex-officio*.

(4) A member nominated by the Bar Council under clause (e) of sub-sec. (3)

<sup>1</sup> Substituted by Rajasthan Act No. 20 of 1995

<sup>2</sup> Inserted by Rajasthan Act No. 09 of 2003

<sup>3</sup> Sub-section (3) & (4) were added by Raj. Act No. 20 of 1995, but later on deleted by Rajasthan Act No. 09 of 2003.



shall hold office for a term of four years or upto the duration of his membership in the Bar Council whichever is less.

**5. Disqualification and removal of nominated member of Trustee Committee.**—No person shall be nominated and continue to be as a member of Trustee Committee under clause (e) of sub-sec. (3) of Sec. 4 if he—

- (a) is of unsound mind and stands so declared by a competent court; or
- (b) is, or at any time has been, adjudicated insolvent; or
- (c) is or has been convicted by a criminal court for an offense involving moral turpitude, unless such conviction has been set aside; or
- (d) is a defaulter to the fund; or
- (e) is debarred from practicing on the ground of professional or other misconduct; or
- (f) ceases to be an advocate under the Advocates Act, 1961 (Central Act 25 of 1961).

**6. Resignation and casual vacancy of Nominated Member.**—(1) Any member nominated under clause (e) of sub-sec. (3) of Section 4 by the Bar Council may resign his office by giving three month's notice in writing to the Chairman of the Trustee Committee and on such resignation being accepted by the Chairman, Trustee Committee, the said member shall be deemed to have vacated his office.

(2) If any member nominated under clause (e) of sub-sec. (3) of Section 4:—

- (a) becomes subject to any of the disqualifications mentioned in Section 5; or
- (b) is absent without leave from the Trustee Committee for more than three consecutive meetings of Trustee Committee,

his seat shall thereupon become vacant.

(3) A casual vacancy of a nominated member arising under sub-sec. (1) and sub-sec. (2) shall be filled in as soon as possible in the same manner and for the same term or duration as is mentioned in Section 4.

**7. Act of Trustee Committee not to be invalidated by vacancy, defect or irregularity.**—No act done or proceedings 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 Trustee 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 proceedings not affecting the merit 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 provisions and for the purposes 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) collect, preserve, manage and utilise the Fund;
- (b) hold the amounts and assets belonging to the Fund in trust;

- (c) receive applications for admission or re-admission to the fund and dispose of such applications within ninety days from the date of receipt thereof;
- (d) receive applications from the members of the Fund, their nominee, dependents or legal representatives, as the case may be, for payment out of the Fund, and conduct such enquiry as it deems necessary for the disposal of such applications and shall dispose of the applications within ninety days from the date of receipt thereof;
- (e) record in the minutes book of the Trustee Committee its decision on the applications received under clauses (c) and (d);
- (f) pay to the applicant amounts at the rates specified in the Schedule;
- (g) send such periodical and annual reports, as may be prescribed, to the State Government and the Bar Council;
- (h) communicate to the applicant by registered post with acknowledgment due its decision on the applications for admission or re-admission to the Fund or claims to the benefit of the Fund;
- (i) appoint such officers and servants as it may think necessary for carrying out the purposes of this Act on such terms and conditions as may be prescribed; and
- (j) do such other acts as are, or may be, required to be done by it under this Act and the rules made thereunder.

<sup>1</sup>[(3) x x x x]

<sup>1</sup>[(4) x x x x]

**10. Funds, borrowing and investment.**—(1) The Trustee Committee may, with the prior approval of the State Government and the Bar Council, borrow from time to time any sum required for carrying out the purposes of this Act.

(2) The Trustee Committee shall deposit all moneys and receipt forming part of the Fund in any Scheduled Bank <sup>2</sup>[or Post Office] or invest the same in loan to any corporation owned or controlled by the Central Government or the State Government or in loan floated by the Central Government or the State Government or in any other manner as the Trustee Committee may, from time to time, decide with the approval of the State Government.

(3) All amounts due and payable under this Act and all expenditure relating to the management and administration of the Fund shall be paid out of the Fund.

**11. Accounts and Audit.**—(1) The Trustee Committee shall keep and maintain books of accounts and other books in such form and in such manner as may be prescribed.

(2) The accounts of the Trustee Committee shall be audited annually by a Chartered Accountant appointed by the Bar Council.

(3) The accounts of the Trustee Committee as audited by the Chartered Accountant together with his 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.

<sup>1</sup> Sub-sec. (3) & (4) were added by Raj Act No. 20 of 1995, but later on deleted by Raj. Act No. 09 of 2003.

<sup>2</sup> Inserted by Rajasthan Act No. 09 of 2003.

(4) The Trustee Committee shall comply with the directions issued by the Bar Council under sub-sec. (3).

(5) The Trustee Committee shall pay from the Fund the charges for the audit.

[(6) A copy of annual audit report and the audited accounts shall be sent every year to all the Bar Associations recognised and registered under the provisions of this Act].

**12. Powers and duties of Secretary.**—The Secretary of the Trustee Committee shall,—

- (a) be the chief executive authority of the Trustee Committee and responsible for carrying out its decisions;
- (b) represent the Trustee Committee in all suits and proceeding for and against the Trustee Committee;
- (c) authenticate by his signatures all decisions and instructions of the Trustee Committee;
- (d) operate the bank accounts of the Trustee Committee jointly with the Chairman of the Trustee Committee or his nominee;
- (e) convene meetings of the Trustee Committee and record its minutes;
- (f) attend the meetings of the Trustee Committee with all necessary records and information;
- (g) maintain such forms, registers and other record as may be prescribed from time to time and do all correspondence relating to the Trustee Committee;
- (h) prepare an annual statement of business transacted by the Trustee Committee during each financial year, and
- (i) do such other acts as may be directed by the Trustee Committee and the Bar Council.

**13. Transfer of Certain Money to the Fund.**—The Bar Council shall pay to the Fund annually an amount equal to twenty-five percent of the enrolment fees realised by it.

## CHAPTER - IV

### Recognition and Registration of Bar Associations

**14. Recognition and Registration of Bar Associations.**—(1) All associations of advocates known by any name functioning in any part of the State may, before a date to be notified by the Bar Council in this behalf, apply to the Bar Council in such form as may be prescribed for recognition and registration.

● **Provided** that it shall be necessary for every Bar Association seeking recognition and registration with Bar Council to be registered under the Rajasthan Societies Registration Act, 1958 (Act No. 28 of 1958):

● **Provided further** that existing Bar Associations recognised and registered by the Bar Council shall, if not already registered, get themselves registered under the Rajasthan Societies Registration Act, 1958 (Act No. 28 of 1958) within six months from the date of commencement of the Rajasthan Advocates Welfare Fund

(Amendment) Act, 2003 (Act No. 9 of 2003) failing which the Bar Council may take action under sub-sec. (5) against such Association :

● **Provided also** that the Bar Council may, for good and sufficient reasons, extend the said period of six months for a further period not exceeding one year.]

(2) Every application for recognition and registration shall be accompanied by the rules or bye-laws of the association, names and addresses of the office-bearers of the association and upto 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 thereof.

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

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

<sup>1</sup>[(5) The Bar Council may derecognise a Bar Association for neglect of its duties under the Act :

● **Provided** that no order under sub-sec. (5) shall be passed without affording an opportunity of being heard to the concerned Bar Association.]

**15. Duties of Bar Associations.**—(1) Every Bar Association shall, on or before the 15th day of April of each year, furnish to the Bar Council and the Trustee Committee a list of its members as on the 31st March of that year..

(2) Every Bar Association shall intimate to the Bar Council and Trustee Committee about,—

- (a) any change of the office bearers of the association within fifteen days from such change;
- (b) any change in the membership including admissions and readmissions <sup>2</sup>[and the change in the address of the member] within thirty days of such change;
- (c) the cessation of practice or voluntary suspension of practice <sup>2</sup>[or death] of any of its members within thirty days from the date of such cessation or suspension of practice <sup>2</sup>[or death];
- <sup>2</sup>[(cc) undertaking of any other business, profession or vocation by any of its members as soon as it comes to the knowledge of the Bar Association;] and
- (d) such other matters as may be required by the Bar Council or the Trustee Committee from time to time.

<sup>3</sup>[(3) Every Bar Association shall hold the election timely as per its constitution, rules or bye-laws and shall abide by the instructions or directions issued, from time to time, by the Bar Council of Rajasthan or the Bar Council of India.]

<sup>1</sup> Added by Rajasthan Act No. 20 of 1995.

<sup>2</sup> Inserted by Rajasthan Act No. 09 of 2003

<sup>3</sup> Added new sub-sec. (3) of Sec. 15 by The Raj. Advocate Welfare Fund (Amendment) Act, 2012 (Act No. 26 of 2012). Noti. No. F. 2(39) Vidhi/2/2012, dt. 17.10.2012, Pub. in Raj. Gaz. Extra-Ord. Part 4(क) dt. 17.10.2012, pg. 37(1) w.e.f. 25.5.2012.