

Bar Council of Maharashtra & Goa

ADVOCATES AID FUND RULES

Bar Council of Maharashtra and Goa in exercise of powers vested in it under Sub-section (1) of Sub-section (2)(a) Section 15 read with Clause 2(a) of Section 6 of the Advocates Act No.25 of 1961 frames these Rules as under:-

1. TITLE AND EXTENT

- (a) These rules shall be called Advocates Aid Fund Rules, 2005.
- (b) These rules shall extend to all Advocates enrolled with the Bar Council of Maharashtra and Goa and practicing in those States.
- (c) These rules shall come into force in States of Maharashtra and Goa on the dates of their publications in their official Gazette of those States respectively.

2. DEFINITIONS :

Unless context otherwise requires, in these rules

- (a) "Act" means The Advocates Act No.25 of 1961.
- (b) "Applicant" means an advocate enrolled with the Council and practicing in States of Maharashtra & Goa and as member of Bar Association recognized or registered under the provisions of said Act and in case of death of an advocate, his wife and / or dependent minor children.
- (c) "Council" means, the Bar Council of Maharashtra and Goa.

- (d) "Committee" shall mean the committee constituted by the Council for the management of the fund constituted under these Rules as provided hereunder.
- (e) "Disabled Advocate" means an advocate who by reason of any physical or mental disablement or infirmity is unable to practice legal profession temporarily or permanently.
- (f) "Indigent Advocate" means an advocate who is unable to maintain himself/herself or his/her family.
- (g) "Family" of an applicant shall mean his wife or her husband as the case may be, his/her any minor children or his/her parents actually dependent on him/her for maintenance.
- (h) "Fund" means the fund constituted by the Council under the provisions of the Section 6(2) of the Act and shall include all accretions by way of contributions, donations, interest or investments or sums raised or collected in such other manner as may be deemed proper by the Council.

3. OBJECT OF FUND :

The object of the fund is to provide financial assistance to the advocate, who in the opinion of the Committee is disabled and/or indigent and who deserves such financial assistance under any circumstances involving financial distress and to the wife and / or dependent minor children of such advocates.

4. THE MANAGEMENT OF THE FUND :

- (a) Fund shall be managed by the Council through a Committee consisting of five members elected by the Council from amongst the advocate members thereof.
- (b) The Secretary of the Council shall be ex-officio Secretary of the said Committee.
- (c) The Committee shall have powers to issue directions and regulations for the administration of the fund as and when necessary.
- (d) The Committee shall have power to constitute sub-committees at such places as it deems fit for better execution of the objects of this fund.
- (e) The Committee shall have power to give financial assistance only from the interest earned by the fund.
- (f) An application for financial assistance under these rules shall be made in the form as prescribed in following Schedule A.
- (g) On receipt of an application, the Committee shall by itself or through sub-committee enquire whether the applicant deserves financial assistance and determine the extent, mode and/or manner of payment of such financial assistance and for such enquiry shall have power to examine the applicant or any other person and to examine and call for any record in the possession of the Bar

Council of Maharashtra and Goa or the concerned Bar Association of which applicant is member.

- (h) The Committee shall have power to impose any condition as it may deem proper when the financial assistance is accorded.
- (i) The Committee shall have power to give financial assistance to the family of the advocate in case of his death or even after his death to his family or dependants for such period as it may deem fit.
- (j) The Committee may in its sole discretion withdraw or vary the financial assistance granted from time to time as it deems fit.
- (k) All the proceeding of the Committee and of any such committee appointed thereby shall be treated as confidential.

5. REFUND:

- (1) If an applicant or other practicing advocate makes any statement or furnishes any material or information which is discovered to be false to his/her knowledge, it shall amount to the professional misconduct under Section 35 of the Act.
- (2) The Committee shall have power in appropriate case to call upon the applicant to refund the entire amount given as assistance or any part thereof with such interest as it deems fit in case the applicant had obtained such assistance by making any material mis-statement or by suppression of any material fact or information or if after the grant of such assistance, there is change in the circumstances of the applicant.

- (3) The decision of the Committee with reference to the above said refund shall be final and conclusive and it shall be the obligation of the applicant to comply with the said decision.

6. ACCOUNTS :

- (1) The Secretary of the Council shall arrange to maintain day-to-day account of receipt and payments which will disclose all the assets of the fund.
- (2) The account of the fund shall be audited regularly on financial year basis by the auditor appointed to audit the account of the Council.
- (3) Upon the expiry of every financial year of the Council, the Secretary shall submit to the Council the report of the fund annexing thereto audited statement of the receipt and payment account, the list of assets and such other particulars as the Council may direct from time to time.

7. THE REMUNERATION AND ALLOWANCES :

None of the Member of the Committee or Secretary or any functionary of the fund shall be entitled to any remuneration or allowances from the fund for acting as functionary of this fund.

8. CONTRIBUTION TO THE FUND SHALL BE MADE AS UNDER :-

- (1) A sum equal to 10% of its actual net income of the Council set apart at the end of each financial year,

(2) Donation or grant by individuals, Government, Corporation, public trust, government, public institutions or other associations,

(3) Sums received by the Council from the Bar Association on the account of the Advocates Aid Fund and,

(4) Interest on investments of the fund.

9. INVESTMENTS :

The fund received shall be invested as per the provisions laid in The Maharashtra Advocates Welfare Fund Act, 1981.

- 10.** In the event of termination of the scheme, the Council shall handover all the assets, balances and surplus of the monies of the fund alongwith the investment made therefrom and also all its documents and records to the Trustee Committee appointed under the provisions of the Maharashtra Advocates Welfare Fund Act.

11. REPEAL

(1) The Advocates Aid Fund rules framed by this Bar Council of Maharashtra and Goa and published in the Maharashtra Government Gazette dated December 27, 1972 stand repealed on enforcement of these Rules.

(2) All transactions and grants made under the powers exercised under and all assets and liabilities of the fund constituted under such repealed Rules shall be valid and binding on the fund constituted under these rules.

SCHEDULE A**APPLICATION FOR AID TO INDIGENT AND DISABLED ADVOCATE****(Rule 3 of Advocate Aid Fund Rules 2005)**

1. Full name of applicant
In Capital letters. _____
2. Residential address

3. Name of the Advocate (In capital
letters and beginning with surname) _____

4. Date of Enrolment & registration
Number of Advocate concerned. _____

5. Name of the Bar Association with
Registration Number and date. _____
6. Place of Courts in which the
applicant is or has been practicing. _____

7. Reasons for financial aid :
(See notes (a) & (b) below) _____

8. The nature and extent of financial
aid expected from fund. _____

9. In case of death of Advocate, the
place and date of death. _____

10. Period for which the aid is required. _____
11. The names and particulars of
members of the family and their
relations to the applicant/advocate. _____

12. Average monthly professional income of the applicant (in Rs.). _____

13. Source of other income of applicant/advocate and the extent thereof and monthly income therefrom in Rupees. _____

14. Income of other members of the family of the applicant in Rupees. _____

15. Whether the applicant has applied for or received aid previously and if so, time, amount, nature and duration of such aid received ?. _____

16. Whether the applicant has applied for and/or is or was in receipt of aid from any other person, trust or institution and if so, since when ?. State the nature, extent and duration thereof. _____

17. Whether the applicant Advocate is member of the Fund under the provision of Maharashtra Advocate Welfare Fund Act ?. _____

18. Whether the applicant advocate is member of the scheme under Rule 40 of Bar Council of India Rules?. _____
19. Whether the applicant has any movable or immovable property? If yes, state the particulars thereof and the value thereof and state particulars of any encumbrances thereon. _____

20. Whether the applicant has any bank account, if so, state the particulars thereof. _____

21. Whether the applicant has any cash or investments? If yes, state the particulars thereof. _____

22. Whether the applicant is insured, if so, state the particulars of the insurance policy and whether premium is regularly paid or not. _____

23. Whether the applicant is prepared to give any Security or guarantee, if so, state the particulars thereof. _____

24. Whether the applicant has been held guilty of professional misconduct at any time by any Bar Council or High Court and if so, state the particulars thereof. _____

25. Whether any complaint of misconduct is pending against the applicant, if so, state the particulars thereof. _____

26. Whether the applicant has been convicted in a Criminal Court involving moral turpitude, if so, state the particulars thereof. _____

27. Whether the applicant has any money decree against him or her in his/her favour, if so, state the particulars thereof. _____

- (i) The particulars furnished and the statements made hereinabove are true to the best of my knowledge, information and belief.
- (ii) I agree and undertake to inform the Bar Council of any change of circumstances or conditions during the period of the aid.
- (iii) I agree and undertake to supply to the Council any particulars and information in connection with this application as may be required from time to time by the Council or the Committee or the Secretary of the Council.

This day of 2005.

Signature of the applicant.

- Note : (a) In case of disability, a medical certificate to the satisfaction of the Committee shall be furnished.
- (b) In case of the indigency, additional certificate by Advocates of not less than 15 years of standing certifying of their own knowledge the indigent circumstances of the applicant shall be furnished and none of the said Certifying advocates must be related to the applicant or be members of Council.
 - (c) In the event of the applicant being unable to sign the application, it may be signed by any other Advocate or the adult member of the family of the applicant and signature of such member or advocate must be attested by The President of concerned Bar Association.
 - (d) The certificate here-below must be furnished along with this application.

CERTIFICATE

(This form is to be filled and typed and executed as an affidavit before a Notary or competent Magistrate.)

We (1) Shri _____ age _____, Advocate, the President, (2) Shri _____ age _____, Advocate, the Secretary, both of Bar Association of _____ do hereby certify that we have personally verified the contents of the above application and we have found that all the contents and statements made above are fully true and correct to the best of our personal knowledge and we further certify that the Applicant is the Member of the family of the advocates as above and deserves to be given financial assistance from the Advocates Aid Fund constituted by the Bar Council of Maharashtra and Goa.

Date : _____

1. President

2. Secretary

These rules are approved by the Bar Council of India at its meeting dated 17th & 18th April, 2005.

Date : _____

SECRETARY
Bar Council of Maharashtra & Goa