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THE ORISSA FIRE SERVICE ACT, 1993

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LAW DEPARTMENT

NOTIFICATION

The 28th December, 1993

No. 16456/Legis.—The following act of the Orissa Legislative Assembly having been assented to by the Governor on the 27th December, 1993 is here by published for general information.

ORISSA ACT 30 OF 1993

THE ORISSA FIRE SERVICE ACT, 1993

AN ACT TO PROVIDE FOR THE FIRE PREVENTION AND FIRE SAFETY MEASURES IN THE STATE AND FOR THE CONSTITUTION OF A STATE FIRE SERVICE TO CARRY OUT FIRE FIGHTING MEASURES.

BE it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India as follows—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Orissa Fire Service Act, 1993.

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

(3) This section and sections 2, 3 and 4 shall come into force at once, and the remaining provisions of this Act shall come into force on such date as the State Government may, by notification, appoint, and different dates may be appointed for different provisions of this Act and for different areas, and any reference in any such provision to the commencement of this Act shall, in relation to an area, be construed as a reference to the coming into force of that provision in that area.

Provided that in any area to which fire prevention or fire safety measures have been extended prior to the commencement of this section by the existing Fire Service Branch of Orissa Police administered and regulated by the Orissa Police Manual, it shall come into force in that area on the appointed day.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "appointed day" means the date on which the Director is appointed under section-4;
- (b) "building" means a house, outhouse, warehouse, godown, stable, latrine, urinal, shed, hut, wall (other than a boundary wall) or any other structure, whether of masonry, bricks, wood, mud, metal or other material ;
- (c) "Director" means the Director of Fire Service appointed under section 4;
- (d) "fire fighting appliances" means fire-engines, fire-escapes, accoutrements, equipments, tools, implements and things whatever used for fire-fighting, and includes motor vehicles and other means of transport used in connection with fire-fighting;
- (e) "fire prevention and fire safety measures" means such measures as are necessary for the prevention, control and fighting of fire and for ensuring the safety of life and property in case of fire;
- (f) "Fire Service" means the Orissa Fire Service constituted under section 3;
- (g) "Fire Station" includes any post or place as the State Government may, by general or special order, declare to be a Fire Station;
- (h) "local area" means any area over which a local authority has jurisdiction;
- (i) "member" means a member of the Fire Service;
- (j) "Officer-in-charge of Fire Station" includes, when the Officer-in-charge of the Fire Station is absent from the Station or is unable to perform his duties, the senior most member who is next in rank to such officer present at the station ;
- (k) "premises" means any land or any building or part of a building appurtenant thereto;
- (l) "prescribed" means prescribed by rules;
- (m) "rules" means rules made under this Act.

CHAPTER II

CONSTITUTION, MAINTENANCE, SUPERINTENDENCE AND CONTROL OF FIRE SERVICE

Constitution of Orissa Fire Service.

3. (1) On and from the appointed day, there shall be constituted and maintained, for the purpose of providing smooth and efficient fire fighting services in the State, a fire force to be called the Orissa Fire Service, of which, the entire fire fighting personnel forming the existing Fire Service Branch of the Orissa Police shall be deemed to be the members.

(2) The existing Fire Service Branch of the Orissa Police shall cease to be a Branch of the Orissa Police on and from the appointed day.

Appointment of Director, officers and other members.

4. (1) The Fire Service shall consist of a Director and such other officers and staff as its members, as may be prescribed from time to time.

(2) The State Government may appoint any person not below the rank of an Inspector-General of Police to be the Director of Fire Service who shall exercise such powers and discharge such functions as are or may be conferred or imposed by or under the provisions of this Act and the rules.

(3) The State Government may appoint such other officers under any prescribed designations to assist the Director, and the officers so appointed shall exercise such powers and perform such duties as may be conferred or imposed by or under the provisions of this Act and the rules within such local area as may be assigned to them by the Director.

(4) Subject to rules, if any, the members and staff other than those specified under the preceding sub-sections shall be appointed by the Director or any other officer or officers as may be authorised by the State Government.

Terms and conditions of service.

5. The terms and conditions of service of the members shall, subject to the provisions of this Act, be governed by rules and regulations as are applicable to Government Servants.

Auxiliary fire force.

6. Whenever it appears to the State Government that it is necessary to augment the Fire Service, it may, subject to rules, if any, raise an auxiliary force by enrolment of volunteers for such area and on such terms and conditions as it may deem fit.

Control and superintendence.

7. The general superintendence and control of the Fire Service throughout the State shall vest in the Director.

CHAPTER III

POWERS AND FUNCTIONS OF STATE GOVERNMENT, DIRECTOR AND OTHER MEMBERS

Powers of State Government to make orders with respect to Fire Service.

8. The State Government may from time to time make such general or special orders as it thinks fit—

- (i) for equipping the members with such fire-fighting appliances as it deems proper;
- (ii) for building or providing Fire Stations, or hiring places, or accommodating the members and keeping its fire-fighting appliances;
- (iii) for giving rewards to persons who have given notice of fires and to those who have rendered effective service to the Fire Service on the occasion of fires in case of their accidents while rendering such service, or to their dependants where such accidents result in the death of such persons;
- (iv) for the speedy attendance of members with necessary fire-fighting appliances on the occasion of any alarm of fire;
- (v) for sending the members with necessary fire-fighting appliances beyond the limits of any area in which this Act is in force in order to extinguish fire in the neighbourhood of such limits on such terms and conditions as it deems proper;
- (vi) for the employment of the members, on such terms and conditions as it deems proper, in any work not connected with extinguishing fire, for which the Fire Service may, in its opinion, be usefully and appropriately employed.

Powers exercisable on occasion of fire.

9. (1) On the occasion of fire, the Director or any officer or member-in-charge of a Fire Station on the spot, may—

- (i) remove, or may order any member to remove, any person who by his presence interferes with, or impedes, the operation for extinguishing the fire or for saving life or property;
- (ii) close any street or passage in or near which a fire is burning;
- (iii) for the purpose of extinguishing the fire, enter, break into or through or pull down any premises for the passage of fire fighting appliances or cause them to be broken into or through or pulled down, doing as little damage as possible;
- (v) cause the mains and pipes of any area to be shut off so as to give better pressure of water in the place where fire has occurred or broken out;
- (v) cause the water of any stream, cistern, tank, well or other available source of water-supply, public or private, to be utilised for the purpose of extinguishing, or limiting the spread of, such fire;

- (vi) exercise the same powers for dispersing any assembly of person likely to obstruct the fire-fighting operation, as if he were an officer-in-charge of a Police Station and as if such an assembly were an unlawful assembly and shall be entitled to the same immunities and protection as such an officer, in respect of the exercise of such powers; and
- (vii) generally take such measures as may appear necessary for extinguishing the fire or for the preservation of life and property.

(2) Any damage done on the occasion of fire by the members of fire service in the due discharge of their duties shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

Preventive measures.

10. (1) The State Government may, by notification, require the owners or occupiers of premises in any area in which this Act is in force or of any class of premises used in any such area for purposes which, in its opinion, are likely to cause risk of fire, to take such precautions as may be specified in the notification.

(2) On the issue of the notification under sub-section (1), it shall be lawful for the Director or any member authorised by the State Government in this behalf to direct the removal of objects or goods likely to cause risk of fire to a place of safety and, on failure of the owner or occupier to do so, the Director or the member so authorised may, after giving the owner or occupier a reasonable opportunity of making representation, seize, detain or remove such objects or goods or cause the same to be seized, detained or removed.

Power to obtain information.

11. (1) The Director or any member not below the rank of an Officer-in-charge of a Fire Station as may be authorised by the Director, may, for the purpose of obtaining information for fire-fighting purposes, require the owner or occupier of any building or other property to supply such information with respect to the character of such building or other property, the available water-supplies and the means of access thereto and such owner or occupier shall furnish all the information so required.

(2) If any information required under sub-section (1) is not furnished within a reasonable time, or the Director or the member so authorised has reason to believe that any information furnished is inaccurate, the Director or the member so authorised may, for the purpose of obtaining or verifying the information, enter into any such building or any place, with or without assistance, after giving such notice to the owner or occupier as may be prescribed:

Provided that—

- (a) no such entry shall be made between sun-set and sun-rise; and
- (b) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the buildings or places entered.

(3) The Director or the member referred to in sub-section (2) shall not use any force for the purpose of effecting any entry under the said sub-section, unless—

- (a) such entry cannot otherwise be effected; and
- (b) there is reason to believe that any offence is being or has been committed against any provision of this Act or any rule made thereunder.

Despatch of fire-fighting personnel to other areas.

12. The Director or any officer authorised by the State Government in this behalf may, on the occasion of a fire or other emergency in any area in which this Act is not in force, order the despatch of the members with necessary fire-fighting appliances to carry on fire-fighting operations in such other area and thereupon all the provisions of this Act and the rules made thereunder shall apply to such area during the period of fire or emergency, as the case may be, or during such period as the Director or the officer so authorised may specify.

Enquiry into origin of fire and report to Magistrate or Tahasildar.

13. In the case of any fire occurring within any area in which this Act is in force, the senior most officer in the rank among the members in that area or where the members are sent beyond the limits of an area in which this Act is in force to extinguish fire in the neighbourhood of such limits, the senior most officer in the rank among the members so sent, shall ascertain the facts as to the origin and cause of such fire and shall make a report thereon to the Magistrate or the Tahasildar having jurisdiction in the place in which such fire occurred; and the said Magistrate or the Tahasildar, as the case may be, in any case where he may deem fit, summon witnesses and take evidence in order to further ascertain such facts.

Employment of other duties.

14. It shall be lawful for the State Government or any officer authorised by it in this behalf to employ the members upon any rescue, salvage or other works for which the members are suitable by reason of their experience and the fire-fighting appliances.

CHAPTER IV

PENALTIES

Penalty for violation of duty.

15. Any member who—

- (a) is found to be guilty of violation of any duty or wilful breach of any provision of this Act or any rules or order made thereunder; or
- (b) is found to be guilty of cowardice; or
- (c) withdraws from the duties of his office without permission or without having given previous notice of at least two months; or
- (d) being absent on leave, fails without reasonable cause to report himself for duty on the expiration of such leaves,

shall, on conviction, be punishable with imprisonment which may extend to three months, or with fine which may extend to an amount not exceeding three months' pay of such member, or with both.

Failure to give information.

16. Any person who, without just cause, fails to communicate the information in his possession regarding outbreak of fire, shall on conviction be punishable with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Failure to take precautions.

17. Any person who fails, without reasonable cause, to comply with the requirements specified in a notification issued under sub-section (1) of section 10 or of a direction issued under sub-section (2) of that section shall, on conviction, be punishable with a fine which may extend to five hundred rupees.

Willful obstruction of fire-fighting operation.

18. Any person who wilfully obstructs or interferes with any member engaged in fire-fighting operations shall, on conviction, be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Penalty for false report.

19. Any person who knowingly gives or causes to be given a false report of the outbreak of fire to any person authorised to receive such report by means of a statement, message or otherwise shall, on conviction, be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER V

MISCELLANEOUS

Liability of property owner to pay compensation.

20. Any person whose property catches fire on account of any act of his own or his agent, done deliberately or by criminal negligence, shall be liable to pay compensation to any other person or persons suffering damage to his property on account of any action taken under clauses (iii) and (v) of section 9 by any officer or member mentioned therein or any person acting under the authority of any such officer or member.

Police Officers to aid.

21. It shall be the duty of the Police Officers of all ranks to aid the members in the execution of their duties under this Act.

Information on outbreak of fire.

22. Any person who possesses any information regarding an outbreak of fire shall communicate the same, without delay, to the nearest Fire Station.

Consumption of water.

23. No charge shall be made by any local authority for water consumed by the Fire Service in fighting fires, filling static water tanks or such other purposes.

No compensation for interruption of water supply.

24. No authority in charge of water supply in any area shall be liable to any claim for compensation for damage caused by reason of any interruption of supply of water occasioned under clause (v) of section 9.

Protection of action taken in good faith.

25. No suit, prosecution or other legal proceedings shall lie against the Government or any person including a member for anything which is done or intended to be done in good faith in pursuance of this Act or any rules or orders made thereunder.

Power to make rules.

26. (1) The State Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely:—

- (a) measures necessary for the prevention, control and fighting of fire and for ensuring the safety of life and property in case of fire;
- (b) the designations under which the officers may be appointed under sub-section (3) of section 4 to assist the Director;
- (c) the manner of appointment and the terms and conditions of service including their pay, allowances and other remunerations, if any, their hours of duties, leave and other ancillary matters;
- (d) matters relating to auxiliary fire force that may be raised under section 6;
- (e) the manner of service of notice under sub-section (2) of section 11;
- (f) the employment of members or use of any fire-fighting appliances under section 12 in any area in which this Act is not in force and the employment of the members under section 14 on special services;
- (g) any other matter which is required to be, or may be, prescribed.

(3) Until rules are made under this section, the rules in force immediately before the appointed day and applicable to the Officers and staff of the Fire Service Branch of the Orissa Police shall, so far as they are not inconsistent with the provisions of this Act, continue in force and apply to the members.

(4) All rules made under this Act shall, as soon as may be after they are made, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions and if during the said period the State Legislature makes any modification therein, the rules shall thereafter have effect only in such modified form, so, however, that such modification shall be without prejudice to the validity of anything previously done under the rules.

Saving.

27. Nothing in this Act shall be deemed to limit, modify or derogate from the general responsibility of any local or other authority under any law for the time being in force in the matter of fire-fighting or fire prevention.

Powers to remove difficulties.

28. If any doubt or difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion may require, by order, do anything not inconsistent with the provisions of this Act or the rules made thereunder, which appears to be necessary for the purpose of removing the doubt or difficulty:

Provided that no order shall be issued under this section after the expiry of a period of two years from the date of commencement of this Act.

By order of the Governor

P. K. PANIGRAHI

Secretary to Government