

THE WEST BENGAL FIRE SERVICES ACT, 1950.

(West Bengal Act XVIII of 1950)

All Act to provide for the maintenance of a Fire brigade, for the licensing of warehouses and for certain other matters.

Whereas it is expedient to provide for the maintenance of a fire brigade, for the licensing of warehouses and for certain other matters ; It is hereby enacted as follows :—

CHAPTER I

Preliminary

1. Short title, extent and commencement.—

- (1) This Act may be called the West Bengal Fire Services Act, 1950.
- (2) It extends to the whole of West Bengal.
- (3) It shall come into force in such local areas and on such dates as the State Government may, by notification from time to time in the official Gazette, direct, and the State Government may by like notification withdraw this Act from any such local area.

2. Definitions: —In this Act, unless there is anything repugnant in the subject or context,—

- (a) "Calcutta" means Calcutta as defined in clause (ii) of Sec. 3 of the Calcutta Municipal Act, 1923 ;
- (b) "the Collector" means, in relation to Calcutta, the Collector of Stamp Revenue and in relation to any other local area the Collector of the district within which the local area is comprised ;
- (c) "the Commissioner" in relation to the Collector means the divisional Commissioner to whom the Collector is subordinate ;
- (d) "Cotton" means loose raw cotton;
- (e) "Director" means the Director of Fire Services appointed by the State Government;
- (f) "the fire brigade" means the fire brigade maintained by the State Government under section 3 ;
- (g) "fire fighting appliances" mean fire engines, fire escapes, accoutrements, equipments, tools, implements and things whatsoever used for fire fighting and include motor cars, motor cycles, tailors and other means of transport;
- (h) "jute" means raw jute, either loose or in drums, and loose jute cuttings and rejections;
- (i) "Magistrate' means a Metropolitan Magistrate or Magistrate of the First class ;

- (j) "person" includes an undivided Hindu family, and a firm or company or association of individuals whether incorporated or not;
- (k) "Prescribed" means prescribed by rules made by the State Government under this Act;
- (l) "Warehouse" means any building or place used whether temporarily or permanently for the storing or pressing or keeping of jute, gunny bars, cotton, hemp, resin, shellac, varnish, bitumen, pitch, tar, tallow, celluloid, wood (excluding furniture kept in the building or place for ordinary use), charcoal, coal, straw, hay, ulugrass, golpata, hogla, durma, raw raffan canes, cocoanut fibre, waste paper, packing boxes, inflammable chemicals or any other article which in the opinion of the State Government is inflammable and is specified by the State Government by notification in the official Gazette for the purpose of this clause ;
- (m) "workshop" means any building or place where the processing of any article is carried on for purposes of trade or business, if such processing of such article is declared by the State Government by notification in the official Gazette in this behalf to be attended with the risk of fire.

Explanation.—The expression "processing" means making, alternating, repairing, treating or otherwise dealing with any article by means of steam, electricity or other mechanical power.

CHAPTER II

3. Fire Brigade to be maintained:—The State Government shall maintain a fire brigade for fire service in the local areas in which this Act is in force.

4. Power of State Government to make orders with respect to the Fire-Brigade.—The State Government may from time to time make such general or special order as it thinks fit,—

- for furnishing the fire brigade with such fire-fighting appliances as it deems proper ;
- for building or providing stations, or hiring places, for accommodating the members of the fire brigade and keeping its fire-fighting appliances ;
- for giving rewards to persons who, have given notice of fires and to those who have rendered effective service to the fire brigade on the occasion of fires ;
- for the training, discipline and good conduct of the members of the fire brigade ;

for the speedy attendance of members of the fire brigade with necessary fire-fighting appliances on the occasions of any alarm of fire ;

for sending the members of the fire brigade with necessary fire-fighting appliances, beyond the limits of any local area in which this Act is in force, in order to extinguish fire in the neighborhood of such limits on such terms and conditions as it deems proper ;

for the employment of the members of the brigade with necessary fire-fighting appliances, in work other than extinguishing fire, on such terms and conditions as it deems proper ;

for enforcing discipline and imposing punishment on any member of the fire brigade who may infringe orders; for regulating and controlling the powers, duties and functions of the Director ; and generally, for the maintenance of the fire brigade in a due state of efficiency.

5. Powers exercisable on the occasion of a fire.—(1) On the occasion of a fire, the Director or the officer in charge of the members of the fire brigade on the spot may—

- (a) remove or may order any member of the fire brigade to remove, any persons who by their presence interfere with the due operations of the fire brigade ;
- (b) by himself or by members of the fire brigade, break into or through, or pull down, any premises for the purpose of putting an end to the fire, doing as little damage as possible;
- (c) cause the mains and pipes of any area to be shut off so as to give greater pressure of water in the place where the fire has occurred ;
- (d) exercise the same powers for dispersing any assembly of persons likely to obstruct the operation of the fire brigade, 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
- (e) generally take such measures as may appear necessary for the preservation of life and property.

(2) The Director or the officer in charge of the members of the fire brigade on the spot, may verbally nominate and depute one or more member or members of the fire brigade to act at a distance; and such member or members shall have for the time being the like powers as the Director or such officer himself possesses under this section.

6. Police officer to aid the Fire Brigade in execution of its duties.—Police-officers of all grades shall be authorised and bound to aid the fire brigade in the execution of its duties. They may close any street in or near which a fire is burning ; and they may, on their own motion or on the request of the Director or any member of the fire brigade, remove any persons who interfere by their presence with the operations of the fire brigade.

7. Non-liability of Police officer, etc. to damages.—No officer of the police and no member of the brigade shall be held liable to damages on account of any act done by him in the *bona fide* belief that such act was required for the proper execution of his duties.

8. Enquiry into origin of fire and report to Magistrate.—(1) In the case of any fire occurring within any local area in which this Act is in force, the senior most officer in rank among the members of the fire brigade in that local area or where members of the fire brigade are sent beyond the limits of any local area in which this Act is in force to extinguish fire in the neighborhood of such limits, the senior most officer in 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 having jurisdiction in the place in which such fire shall have occurred ; and the said Magistrate in any case where he may deem fit, shall summon witnesses and take evidence in order to the further ascertainment of such facts.

(2) Copies of all reports and of all evidence recorded under this section shall be furnished on application to any Fire Assurance company or other person interested, on payment of the fees payable for the copies of judicial proceedings.

CHAPTER III

9. Licence for letting off rockets, etc.— No person shall let off rockets or send up fire-balloons, or sell fire-works within any local area in which this Act is in force, without a licence. A license for letting off rockets or sending up fire-balloons shall indicate the place from where the rockets are to be let off or the fire-balloons sent up.

10. Who may grant license, fee for license.—(1) The power of granting a license under section 9 shall be exercised by the Collector.

(2) (a) The fee for a license to let off rockets or to send up fire-balloons for any particular occasion shall be one rupee.

(b) The annual fee for a license to sell fire-works shall be ten rupees payable in advance.

11. Power to withdraw or suspend license.—A license granted under section 9 may be withdrawn or suspended by the authority who granted it, at his discretion :

Provided that a license to sell fire-works shall not be withdrawn or suspended except after thirty days' notice.

12. License for warehouse or work-shops.—No building or place shall be used as a warehouse or as a workshop unless the owner or occupier thereof shall have previously obtained under this Act, a license for such use from the Collector.

13. Condition to which a building or place is to conform before issue of license.—No license to use any building or place as a warehouse or as a workshop shall be granted unless such building or place conforms to such conditions as may be prescribed.

CHAPTER IVA .

23A. Erection of temporary structures or pandals.—(1) A person who intends to erect a temporary structure or pandal with roof or walls made of straw, hay, ulu grass, golpata, hogla, darma, mat, canvas, ¹[tarpaulin, polythene sheets and high density polythene] or other like material, for use" as a place where members of the public may assemble, shall apply to the Director for permission to erect such structure or pandal and such permission shall not be refused if the structure or pandal conforms to the conditions that may be prescribed in this behalf *[and the fee as may be prescribed in this behalf is paid].

(2) No structure or pandal referred to in sub-section (1) shall be erected—

- (a) unless it conforms to the conditions referred to in subsection (1) *[and the fee referred to in sub-section (1) is paid] ; and
- (b) unless permission of the Director has been granted under sub-section (1):

Provided that where no order granting or refusing the permission is made within such period as may be prescribed in this behalf, the structure or pandal may be erected if it conforms to the conditions referred to in sub-section (1).

Explanation.—For the purpose of the above proviso, different periods may be prescribed for different kinds of structures and pandals.

24. Penalty for letting off rockets, etc.—Any person who within any local area in which this Act is in force, lets off rockets or sends up fire-balloons or sells fire-works without obtaining a license, shall be punishable, on conviction before a Magistrate,, with fine which may extend to one hundred rupees for every such offence.

¹ Added by the West Bengal Fire Services (Amendment) Act, 1988 (Act No. XI of 1988).

25. Penalty on house holders for allowing rockets, etc. to let off without license.—

If any rockets are let off or fire-balloons sent up from within the percents of any private premises or compound without a license, the owner or occupier or person under whose immediate control the premises or compound is, shall, unless he can prove that the offence was committed without his knowledge, be punishable, on conviction before a Magistrate, with fine not exceeding one hundred rupees.

26. Penalty for not taking out a license for a warehouse or workshop.—Any person who without a license uses any building or place as a warehouse or as a workshop shall be punishable, on conviction before a Magistrate, with fine not exceeding one hundred rupees for each day during which he may so use or continue to use such warehouse or workshop.

27. Penalty for using warehouse or work-shop after refusal, etc., of license.—Any person who uses any warehouse or workshop in respect of which a license has been refused, or after the license in respect thereof has been cancelled or during the time for which such license has been suspended, shall be punishable, on conviction before a Magistrate, with fine not exceeding four hundred rupees and to a further fine not exceeding one hundred rupees for every day during which any such warehouse or workshop may be so used as aforesaid.

28. Penalty for breach of conditions.—Any holder of a license who breaks any of the conditions under which a license is held in respect of any warehouse or workshop shall be punishable, on conviction before a Magistrate, with a fine not exceeding one hundred rupees for any one of such offences.

29. Penalty for failing to notify change in occupation of warehouse or work-shop.—If and so often as there be a change in the occupation of any warehouse or workshop, the person entering into occupation fails to give a notice and to pay the fees required by section 19, such person shall be punishable, on conviction before a Magistrate, with fine not exceeding twenty rupees for each day during which he may so use or continue to use such warehouse or workshop.

30. Penalty for giving false information to Collector respecting license.—Any person who gives false information to the Collector or to any person performing or exercising powers, duties and functions of the Collector under this Act, with the object of inducing him to take action under section 20 shall be punishable, on conviction before a Magistrate, with fine not exceeding one hundred rupees.

31. Penalty for using as residence of warehouse for pressing jute or cotton.—Any person who uses as a residence any portion of a warehouse used for pressing or screwing of jute or cotton if jute or cotton be then stored therein, shall be punishable with fine not exceeding twenty rupees for each day during which he may reside therein.

32. Penalty for using matchboxes, etc. in warehouse.— Any person who brings into a warehouse used for the pressing or screwing of jute or cotton be then stored or used therein, any matchboxes, match sticks or any artificial light not duly and thoroughly protected, shall be punishable, on conviction before a Magistrate, with fine not exceeding one hundred rupees for any such offence.

33. Penalty for smoking within warehouse.— Any person who smokes within a warehouse used for the pressing or screwing of jute or cotton if jute or cotton be then stored therein shall be punishable, on conviction before a Magistrate, with fine not exceeding one hundred rupees for any one of such offences.

33A. Penalty for erecting structure, etc. in contravention of Section 23 A.—Any person who erects any structure or *pandal* in contravention of the provisions of sub-section (2) of section 23A, shall be punishable, on conviction before a Magistrate, ²[with fine not exceeding one thousand rupees or with imprisonment for a term which may extend to six months or with both, and with further fine not exceeding one hundred rupees for each day.]

33B. Penalty for obstructing persons exercising powers under Section 37/A.—Any person who willfully obstructs, or offers any resistance to or impedes or otherwise interferes with the Director or any officer exercising powers under section 37A of any assistant accompanying the Director or such officer while exercising such powers, shall be punishable, on conviction before a Magistrate, with fine not exceeding one hundred rupees.

CHAPTER VI

35. Police officer may arrest offenders under Sec. 24.—(1) Any person committing an offence under section 24 may, if his name and address be unknown, be arrested by any officer of police and forthwith conveyed before a Magistrate having jurisdiction in the place in which such offence has been committed, or shall be taken to the nearest police-station within the said jurisdiction, in order that such person may be detained until he can be brought before a Magistrate or until he shall enter into a recognizance with or without sureties for his appearance before a Magistrate.

² Substituted by W. B. Fire Services (Amendment) Act, 1988 (W. B. Act XI of 1988).

(2) Whenever such person shall be taken to a police-station, the officer in charge of such station shall, as soon as possible, but in every case within twenty-four hours, cause him to be conveyed before a Magistrate having jurisdiction in the matter.

37. *Act not to apply where small quantities of inflammable articles are deposited.*—(1) Nothing in this Act shall be deemed to apply to buildings or places where small quantities of any of the articles referred to in clause (1) of section 2 are deposited.

(2) The State Government may from time to time declare by notification in the *official Gazette* what quantities of the articles referred to in clause (1) of section 2 shall be deemed to be small quantities within the meaning of this section.

37A. *Power of entry, etc.*—(1) The Director, or any officer not below the rank of a Station Officer authorised by the Director in this behalf, may enter into or upon any building or place, with or without assistants, in order to make any inspection, test, examination, survey, measurement, valuation or enquiry for the purpose of carrying into effect the provisions of this Act or of any rule made thereunder or to obtain information for fire-fighting purposes with respect to the character of the buildings and other property within the local jurisdiction, the available water supplies and the means of access thereto and other material local circumstances, which in his opinion, it is necessary for any of the purposes or in pursuance of any of the provisions of this Act or any such Rule, to obtain :

Provided that—

- (a) no such entry shall be made between sun-set and sunrise -
- (b) no dwelling house and no public building or hut which is used as a dwelling place, shall be so entered, except with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry ;
- (c) notwithstanding any power to enter any building or place hereby conferred, sufficient notice of such entry shall in every instance be given to enable the inmates of any apartment apportioned to females to withdraw to some part of the premises where their privacy need not be disturbed ;
- (d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which entry is made, to the social and religious usages of the occupants of the building or places entered.

(2) The Director or any officer referred to in sub-section (1) shall not use any force for the purpose of effecting any entry under sub-section (1) unless—

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

(3) Except when it is in this Act or in any rule made thereunder otherwise expressly provided, no claim shall lie against any person for compensation for any damage necessarily caused by any entry made under sub-section (1) or by the use of any necessary force under sub-section (2).

39. Repeal of Bengal Act I of 1893.—The Licensed Warehouse and Fire-Brigade Act, 1893, shall be deemed to be repealed on and from the date on which this Act comes into force in Calcutta ; and on and from such date—

- (a) without prejudice to the application of section 8¹ of the Bengal General Clauses Act, 1899, all rules, orders, declarations, financial arrangements and appointments made under the Licensed Warehouse and Fire-Brigade Act, 1893, shall continue in force in so far as they are not inconsistent with the provisions of this Act, until varied or rescinded ;
- (b) all assets held by the Commissioner of Police, Calcutta, for the use of and on behalf of the Fire Brigade, under the Licensed Warehouse and Fire-Brigade Act, 1893, shall pass to³ and be vested in the State.

40. Power to make rules.—(1) The State Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

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

- (1a) the determination of the fee referred to in section 4A;
- (a) the conditions referred to in section 13 to which a building or place shall conform before a license can be granted ;
- (aa) the manner of authentication referred to in sub-section (3a) of section 15 ;
- (aaa) the conditions, other than those expressly mentioned, referred to in section 17 ;
- (b) the rate percent of the annual value of a building or place, at which the annual fee for using such building or place as a warehouse or as a work-shop is to be calculated, under sub-section (2) of section 18 ;
- (c) the maximum for the annual fee under the proviso to subsection (2) of section 18 ;

³ Added by W.B. Fire Services (Amendment) Act 1988(W.B. Act XI of 1988

- (d) the times at which payment shall be made and deductions which may be made under sub-section (2) of section 23 ;
- (e) the conditions *[and the determination of the fee] referred to in sub-section (1) of section 23A and the period of time referred to in the proviso to sub-section (2) of section 23A ;
- (f). the period within which the Corporation of Calcutta or the Commissioners of a municipality shall furnish information to the Collector referred to in sub-section (2) of section 37B.