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PART - IV

GOVERNMENT OF MEGHALAYA

LAW (B)-DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION

The 30th March, 2012.

No.LL(B) 95/2003/85.—The Meghalaya Fire and Emergency Services Act, 2012 (Act No. 5 of 2012) is hereby published for general information.

MEGHALAYA ACT NO. 5 OF 2012.

(As passed by the Meghalaya Legislative Assembly)

Received the assent of the Governor on 29th March, 2012

Published in the Gazette of Meghalaya Extra-Ordinary issue dated 30th March, 2012.

THE MEGHALAYA FIRE AND EMERGENCY SERVICES ACT, 2012

An

Act

to provide for the maintenance of Fire and Emergency Service in the State of Meghalaya.

Whereas, it is expedient to provide for the maintenance of fire and emergency services in the State of Meghalaya;

It is enacted by the Legislature of the State of Meghalaya in the Sixty-third Year of the Republic of India as follows: -

Short title,
extent and
commencement.

1. (1) This Act may be called the Meghalaya Fire and Emergency Services Act, 2012.

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

- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definations.

2. In this Act, unless there is anything repugnant to the subject or context -

(a) "Act" means the Meghalaya Fire and Emergency

Services Act, 2012;

(b) "Director" means the Director of Fire and Emergency

Services appointed under Section 5;

(c) "Fire fighting property" includes -

(i) lands and buildings directly or indirectly connected with fire fighting;

(ii) fire engines, equipments, tools, implements and materials whatsoever used for fire fighting;

(iii) motor vehicles and other means of transport used in connection with fire fighting; or

(iv) uniform and badges or rank;

(d) "Fire Station" means any post or place declared, generally or specifically by the State Government to be a fire station;

(e) "Services" means the Meghalaya Fire and Emergency Services maintained under this Act;

(f) "Jurisdiction" means an area over which a Fire Station usually operates;

(g) "Licensing Authority" means such officer as may be authorized by the State Government;

(h) "Member" means and includes a member of the service who performs operational, supervisory, directional and executive duties in such ranks as may be prescribed by the State Government;

(i) "Officer in-charge" of a Fire Station includes the Fire Officer next in rank to the Officer in-charge of Fire Station or any other Officer holding charge of the Fire Station in absence of the Officer-in-charge;

(j) "Owner" includes occupier of a building, property, place, warehouse, workshop;

(k) "Pandal" means puja pandals and other pandals for big public gathering but does not include erection of pandals in private compound or places for use during bereavement, marriage ceremony and such other occasions in private gathering;

(l) "Place" means either enclosed or covered or open land having buildings or premises within 22 meters on any side of its surroundings;

(m) "prescribed" means prescribed by rules made under this Act by the State Government;

(n) "State Government" means the Government of the State of Meghalaya;

(o) "Treasury" means the Government Treasury.

(p) "Warehouse" means any building or place used whether temporarily or permanently for storing, keeping or otherwise dealing in any manner of such articles which in the opinion of the State Government are considered inflammable;

Explanation:- Godowns, factories, workshops, shops dealing in any manner with prescribed inflammable articles will be regarded as "Ware House" for the purpose of this Act;

(q) "Workshop" means any building or place where the processing of any article is carried on for purposes of trade or business, if such possessing of such articles which in the opinion of the State Government is considered inflammable and are notified in this respect;

Explanation:- The expression "processing" means making, altering, repairing, treating or otherwise dealing with any article by means of steam, electricity or other mechanical power;

(r) "Local Authority" means any Local Body and include Municipal Boards, Town Committees, Cantonment Boards, Durbar Shnongs or Village Councils and such other bodies as may be notified by the Government.

Constitution of Fire & Emergency Services,

3. There shall be constituted by the State Government, a service to be called the Meghalaya Fire and Emergency Services.

Composition of the service.

4. The service shall consist of the following, namely. -

(a) all members of the Meghalaya Fire and Emergency Services who were recruited before the commencement of this Act;

(b) all members recruited to the service in accordance with the provisions of this Act and rules;

Appointment of Director of Fire & Emergency Services.

5. The State Government may appoint a person to be Director of the Meghalaya Fire and Emergency Services borne on the IPS Cadre of the rank of Inspector General of Police, Meghalaya.

Superintendence and control of the service.

6. (1) The superintendence and control of the service shall vest in the Director who shall be under the administrative control and supervision of the State Government in the Home (Police) Department and shall be carried on by him in accordance with the provisions of this Act and the rules made thereunder.

- (2) The State Government may create such posts and appoint such officers as it may deem fit to assist the Director in the discharge of his duties.
- (3) The State Government may create as many divisions in the State as required and may also create such posts in such divisions and appoint such Divisional Officers as it may deem fit to assist the Director in the discharge of his duties throughout the State.
- (4) The Director may with the approval of the State Government delegate any of the powers, functions and duties under this Act to such subordinate officer as he may deem fit.
- Appointment of members of the Services.**
7. (1) The Director or such other officer not below the rank of Deputy Director shall appoint the members of the Meghalaya Fire and Emergency Services in accordance with the rules made under this Act.
- (2) Subject to the provisions of Article 311 of the Constitution of India and the Meghalaya Services (Discipline and Appeal) Rules 2011 the Officers of the service, as the State Government may authorize in this behalf, may at any time dismiss, suspend or reduce in rank or award any of the punishment to any member of the subordinate found responsible for remiss or negligence in the discharge of his duty or considered unfit. The Officer may also award any one or more punishment as provided in the Meghalaya Services (Discipline and Appeal) Rules, 2011. The provisions of the said rules shall apply, *mutatis mutandis*, with regard to procedure of awarding punishment and other disciplinary actions.
- Issue of certificate to the member of the Services.**
8. (1) Every person shall, on appointment to the service, receive a certificate in the prescribed form under the seal of the Director or an officer not below the rank of Deputy Director and thereupon such person shall have the powers, functions and privileges of a member of the service under this Act.
- (2) The certificate referred to in sub-section (1) shall cease to have effect when the person named therein ceases for any reason to be a member of the service, and on his ceasing to be such member, he shall forthwith surrender the certificate to any officer empowered to receive such certificate.
- (3) During any period of suspension, the powers, functions and privileges vested in any member of the service, shall be in abeyance but such member shall continue to be subject to the same discipline as he would have been if he had not been suspended.
- Auxiliary Fire Force.**
9. Whenever it appears to the State Government that, it is necessary to augment the service, it may enroll trained Home Guard Volunteers for such areas and on such terms and conditions as may be prescribed.
- Powers of State Government to make orders.**
10. The State Government may, from time to time, make such general or special orders as it thinks fit and such order may be: -
- (a) for providing the services with such appliances and equipments as it deem proper,
- (b) for providing adequate supply of water and for securing that it shall be available for use,

(c) for constructing or providing station or hiring places for accommodating the members of the services and its fire fighting appliances;

(d) for giving rewards to persons who have given notice of fires and to those who have rendered effective support to the service on the occasion of fires;

(e) for the training, discipline and good conduct of the members of the service.

(f) for deciding or determining the cadre or terms and conditions of service of the members of the service and also members of other staff or creating such additional ranks and framing rules in respect of service conditions and conduct rules as it may deem fit;

(g) for sending members of the service with appliances and equipment beyond the limits of any area in which this Act is in force for purposes of fire fighting in the neighbourhood of such limits on such terms and conditions and under such exigencies of situation as it deems proper;

(h) for the employment of members of the service in any rescue, salvage or other special types of jobs or operations;

(i) for regulating and controlling the powers, duties and functions of the Director and other members of the service;

(j) generally for the maintenance of the service in due status of efficiency; and

(k) for conducting mock drill and in doing so all such powers as referred to in section 11 of the Act shall be exercisable by the members of the service.

Powers of members of the services on the occasion of fire.

11. In the event of fire in any area, any member of the service who is in charge of fire fighting operations on the spot may -

(a) remove, detain or order any other member of the service to remove any person who by his presence interferes with or impedes the operation for extinguishing the fire or for saving life or property;

(b) close any street or passage in or near which a fire is burning or raging;

(c) for the purpose of extinguishing fire, break into or through or pull down, any premises for the passage of those engaged in fire fighting or appliances or cause them to be broken into or through or pulled down causing as little damage as possible;

(d) require the authority in charge of water supply in the area to regulate the water-machine so as to provide water at a specified pressure at the place where fire has broken out and utilize the water of any stream, cistern, well or tank or any available source of water, public or private, for the purpose

- of extinguishing or limiting the spread of such fire:
- (e) exercise the same powers for dispersing an assembly of persons likely to obstruct the fire fighting operations as if he were an Officer incharge of a Police Station and as if such an assembly were an unlawful assembly. He shall be entitled to the same immunities and protection as an officer in-charge of a Police Station shall be in exercise of such powers; and
- (f) generally take such measures as may appear to him to be necessary for extinguishing the fire or for the protection of life or property and for which no Officer in-charge or any member of the service working under his order or instructions will be civilly or criminally prosecuted in the court of law.
12. The Director may, with the previous sanction of the State Government, enter into agreement with the authority incharge of water supply in any area for securing adequate supply of water in case of fire on such terms as to payment or otherwise as may be specified in the agreement.
13. (1) The State Government may, by notification in the Official Gazette, require owners or occupiers of premises in any area or of any class of premises used for purposes which in its opinion are likely to cause a rise of fire, to take such precautions as may be specified in such notification.
- (2) In case a warehouse is detected without a license, it shall be lawful for the Director or any Officer not below the rank of Station Officer, to direct the removal of prescribed article which are hazardous and likely to cause fire to a place of safety and on failure of the owner or occupier to, do so, the Director or such Officer may seize, detain, remove, dispose or destroy such objects or hazardous goods. Such goods which have been seized, shall be destroyed or disposed off by public auction or by calling sealed tenders and the proceeds shall be deposited into the Treasury. The Director or such Officer not below the rank of Station Officer, shall not be liable to pay any compensation in any manner to any person in this respect.
14. No building or place shall be used for purpose of manufacturing, making or otherwise dealing in any manner, in respect of fire works without previously obtaining a license for the same from the licensing authority or such officer as may be authorized.
15. (1) No building or structure of any kind shall be used for public gathering for amusement, entertainment or any other purposes where public may assemble, unless the owner, or occupier thereof shall have previously obtained a license.
- (2) Application for such license shall be made to the licensing authority who shall refer the case to the Director and the Licensing Authority shall grant or refuse such license as may be recommended by the Director.
- (3) No license shall be granted unless the building or structure conforms to such rules and conditions as may be prescribed for purposes of public safety.
- (4) Advance payment of such fees as may be prescribed, is made.
- Explanation:** - Theaters, Cinemas, Circus, Fairs, Mellas and such other like matters come under provisions of this Section but does not include gathering in private compound or places for use during bereavement, marriage ceremony and such other occasions in private gathering.
- power of Director to make arrangement for supply of water.
- preventive measures and licences.
- fireworks.
- Place of public gathering for entertainment.

Temporary structure or pandals.	16. A person who intends to erect a temporary structure or pandal with roof or walls made of straw, hay, ulugrass, galpata, hogla, darma, mat, canvas or other like materials for use as a place where members of the public may assemble shall apply to the licensing authority and the Licensing Authority shall grant or refuse such license as may be recommended by the Director subject to clause (k) of Section 2.
Conditions for granting license for ware-houses and workshops etc.	17. For carrying out the purposes of any or all the provisions of Sections 13, 14, 15 and 16 of this Act, the Licensing Authority may prescribe conditions in respect of - <ul style="list-style-type: none"> (a) the limit of minimum or maximum quantity of such inflammable articles that may be stored, used or otherwise dealt with in a particular warehouse or workshop; (b) determination of fees and method of calculation of fees and the manner in which payment has to be made in this respect; (c) type or schedules or forms to be used in respect of granting license, and (d) the precautionary measures to be taken in a warehouse.
Power of granting license.	18. Power of granting license under this Act shall be exercised by the Licensing Authority or by such officer who may be authorized by the State Government in this behalf.
Expenditure on the service.	19. The entire expenditure in connection with the service shall continue to be met out of the Consolidated Fund of the State of Meghalaya where the head of expenditure already existed before the commencement of this Act.
Penalties for violation of preventive measures.	20. (1) Any person who violates any of the provisions under Sections 14, 15, 16 and 17 or any provision of the Act, shall be punishable, on conviction by a Magistrate of First class, with imprisonment which may extend to two years or with fine which may extend to one lakh rupees or with both. <p>(2) Any person who uses any warehouse or any workshop in respect of which a license has been refused or after the license in respect thereof has been suspended or withdrawn during the time for which such license has been suspended shall be punishable, on conviction by a Magistrate of First class, with imprisonment which may extend to one year or with fine which may not be less than one lakh rupees or with both.</p> <p>(3) 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 by a Magistrate, with imprisonment which may extend to six months or with fine which may extend to one lakh rupees or with both.</p> <p>(4) Any person who willfully obstructs or offers any resistance to or impedes or otherwise interferes with the Director or any Officer exercising powers under sub-section (2) of Section 13, or any assistant accompanying the Director or such Officer while exercising such powers, shall be punishable, on conviction by a Magistrate with imprisonment which may extend to six months or with fine which may extend to ten thousand rupees or with both.</p> <p>(5) Any person who willfully obstructs or interferes with any member of the services who is engaged in fire fighting operations, shall be punishable with imprisonment, which may extend to three months or with fine, which may extend to five thousand rupees or with both.</p>
Information of outbreak of fire.	21. Any person who possesses any information regarding an outbreak of fire shall communicate the same without any delay to the nearest Fire Station.

Failure to give information.	22. Any person who without just cause fails to communicate information in his possession regarding an outbreak of fire shall be deemed to have committed an offence punishable under the first paragraph of Section 176 of the Indian Penal Code.
False report	23. Any person who knowingly gives or causes to be given a false report of the outbreak of a fire to any person authorized to receive such report by means of a statement, message or otherwise shall be punishable with imprisonment for three months or with fine which shall not be less than one thousand rupees or with both.
Employment on other duties.	24. It shall be lawful for the Director to employ the member of the service in any rescue, salvage or other work for which it is suitable by reason of its training, appliances and equipment to provide appropriate services and relief to the people in distress situation.
Enquiry into origin of fire and report.	25. (1) Where any fire has occurred within any area in which this Act is in force, the senior-most officer in rank among the members of the service in that area shall ascertain the facts as to the origin and cause of such fire and shall make a report thereon to the Director. The Director after having ascertained the facts into the origin or cause of the fire, may furnish, on application, to any Fire Assurance Company a report on payment of the prescribed fee. (2) If after enquiry it was ascertained that the cause of the fire is unknown or caused by negligence of the owner or occupier of any building or other property, or arson, the Station Officer in whose jurisdiction the fire occurred, shall submit a First Information Report (F.I.R.) to the Police Station of that area for investigating the case.
Power to obtain information.	26. Any officer of the service not below the rank of Officer in Charge of a Fire Station may for the purpose of discharging his duties under the Act require the owner or occupier of any building or other property to supply information with respect to the character of such building or other property, the available water supplies and means of access thereto and other material particulars. and such owner or occupier shall furnish all the information in his possession.
Power of entry.	27. (1) The Director or any member of the service authorized by him in this behalf may enter any building, warehouse, workshop, cinema halls or place for purpose of any enquiry under this Act and for determining whether any inflammable articles are stored illegally or whether precautions against fire required to be taken in such place have been so taken. (2) No claim shall lie against any member of the service for compensation for any damage necessarily caused by any entry made under sub-section (1).
Copnsumption of water.	28. No charge shall be made by any local authority for water consumed in fire fighting operations by the service
No compensation for interruption of water supply.	29. No authority or in charge of water supply in an area shall be liable to claim compensation for damage by reason of any interruption of supply of water occasioned only by compliance of such authority with the requirement specified in clause (d) of Section 11.
Police Officer to aid.	30. It shall be the duty of Police Officers of all ranks to aid the members of the service in the execution of their duties under the Act
Indemnity.	31. No suit, prosecution or other legal proceedings shall lie against any member of the Fire and Emergency Service or police or any person for anything which is done or intended to be done in good faith or in pursuance of this Act or any rule or order made thereunder.
Bar to other employment.	32. No member of the service shall engage in any employment or office whatsoever other than his duties under this Act unless expressly permitted to do so by the Director.

Restrictions respecting rights to form association, freedom of speech etc.

33. (1) No member of the Meghalaya Fire and Emergency Service under this Act shall, without the previous sanction in writing of the State Government -

- (a) be a member of, or associated in any way with any trade union, labour union, political association or with any class of trade unions;
- (b) be a member of, or associated in any way with any society, institution, association or organization not recognized as part of the service or is not a purely social, recreational or, religious nature; or
- (c) communicate with the press or publish or cause to be published any book, letter or other document except where such communication or publication is of a purely literary, artistic or scientific character.

Explanation: - If any question arises as to whether any society, institution, association or organization is of a purely social, recreational or religious nature under clause (b) of this subsection, the decision of the State Government shall be final.

(2) No member of the service shall participate in or address any public meeting or take part in any demonstration or strike organized by any political party or for any other purpose affecting discipline of the Services or other purposes as may be prescribed.

(3) Any member of the service who contravenes the provisions of this section shall, without prejudice to any other action that may be taken against, be punishable with imprisonment for a term, which may extend to two years or with fine, which may extend to ten thousand rupees or with both.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Act 2 of 1974) an offence under this section shall be cognizable and bailable.

Reward.

34. Any officer not below the rank of Divisional Fire Services Officer may reward a member of the services for outstanding/exemplary/rate devotion to duty, discipline, courage, or any acts of merit as follows.

- (a) **Director** : The Director may award highly commendations/commendation in the service books and/or cash reward as may be prescribed.
- (b) **Deputy Director** : The Deputy Director may also award highly commendations/commendation in the service books and/or cash reward as may be prescribed.
- (c) **Divisional Fire Services Officer** : Divisional Fire Service Officer may recommend any member (s) of the service to the Deputy Director or Director for cash reward and commendations.

- Penalty for violation of duty, etc.** 35. Any member of the service who -
- (a) is found to be guilty of any violation of duty or willful breach of any provision of this Act or any rules or order made there under; or
 - (b) if 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 leave; or
 - (e) accepts any other employment or office in contravention of the provisions of Section 32 of this Act; or
 - (f) contravenes the provisions of Section 33; shall also be liable to departmental proceedings notwithstanding any other action taken under any other provision of the Act.
- Rules governing discipline of personnel.** 36. Fire and Emergency Service personnel in the State shall be governed by the existing relevant Discipline and Appeal Rules and other Service Conduct Rules in force, as applicable to the Indian Police Service, the State Police Service and others serving in the Police establishment.
- Operation of other Law not barred.** 37. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission, which constitutes an offence under that Act;
- Provided that no such prosecution, civil or criminal, shall be instituted except with the previous sanction of the State Government or of the authority prescribed in this behalf by the State Government if the act is done or purported to be done in the discharge of his official duty.
- Training.** 38. The State Government may establish a training centre in the State for providing courses or instructions in the prevention and extinguishment of fire and may close down or re-establish any such center.
- Public Servants.** 39. All members of the Meghalaya Fire and Emergency Service under this Act shall be deemed to be public servants as defined under Section 21 of the Indian Penal Code (Act No.45 of 1860) and clause (c) of section 2 of the Prevention of Corruption Act, 1988.
- Fire and Emergency Service personnel always on duty.** 40. (1) The personnel of the service who are not on leave or under suspension shall, for all purposes of this Act, be considered to be always on duty and may at any time be deployed in any part of the State.
- (2) The State Government shall, however, ensure the grant of at least one day off in a week to all personnel or make provision of appropriate compensatory benefits in lieu of such weekly off, if under extraordinary situations the same cannot be granted to any of them.

(3) Personnel of the service shall not abdicate his duties or withdraw himself from his place of posting or deployment, without proper authorization.

Explanation: An officer or personnel who, being absent on authorized leave, fails without reasonable cause to report for duty on the expiry of such leave, shall be deemed within the meaning of this Section to withdraw himself from the duties of his office.

(4) No personnel shall engage in any other employment, or office of profit whatsoever, other than his duties under this Act.

Power of State Government to make rules.

41. (1) The State Government may, by notification in the Official Gazette, make rules in respect of the gazetted and non-gazetted members of the service and 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, -

- (a) to regulate appointment;
- (b) to regulate promotion;
- (c) for the compensation payable to the members of the service in case of accidents or to their dependence in case of death while engaged on duty;
- (d) to regulate the functions of the service;
- (e) to provide for twenty four hours access to the public; and
- (f) any other matter which is to be, or may be, prescribed under this Act.

(3) Every rule made under this Act shall, as soon as after it is made, be laid in the Legislature of the State of Meghalaya.

Power to remove difficulty.

42. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient, for removing difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the commencement of this Act.

(2) Every order made under this section shall, as soon after it is made, be laid before the Legislature of the State of Meghalaya.

L. M. SANGMA,
Secretary to the Government of Meghalaya,
Law Department.