

THE ODISHA FIRE SERVICE (AMENDMENT) ACT, 2022

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LAW DEPARTMENT
NOTIFICATION
The 27th January, 2023

No.2776-I-Legis-27/2021/L.— The following Act of the Odisha Legislative Assembly having been assented to by the Governor on the 19th January, 2023 is hereby published for general information.

ODISHA ACT 1 OF 2023
THE ODISHA FIRE SERVICE (AMENDMENT) ACT, 2022
AN
ACT
TO AMEND THE ODISHA FIRE SERVICE ACT, 1993.

BE it enacted by the Legislature of the State of Odisha in the Seventy-third Year of the Republic of India as follows :—

Short title and commencement.

1. (1) This Act may be called the Odisha Fire Service (Amendment) Act, 2022.

(2) It shall come into force on such date as the State Government may, by the notification, appoint.

Amendment of Long title.

2. In the Fire Service Act, 1993 (hereinafter referred to as the principal Act), for the long title, the following long title shall be substituted, namely:—

“An Act to provide for fire prevention and fire safety measures and providing emergency services in the State and for the constitution of State Fire and Emergency Service to carry out firefighting and emergent service measures and for the matters connected therewith or incidental thereto.”

Odisha
Act, 30
of 1993

Amendment of
Section 1.

3. In the principal Act, in Section 1, in sub-section (1), for the words “Odisha Fire Service”, the words “Odisha Fire and Emergency Service” shall be substituted.

Amendment of
Section 2.

4. In the principal Act, in section 2,—

(a) for clause (c), the following clause shall be substituted, namely:—

“(c) “Director General” means the Director General of Fire and Emergency Service appointed under section 4;”,

(b) after clause (c), the following clauses shall be inserted, namely:—

“(c-1) “Disaster” means as defined in the Disaster Management Act, 2005

(c-2) “emergency service” includes any service provided for, or connected with, prevention of any danger or threat of any disaster and to mitigate any serious situation or occurrence of such disasters by providing immediate rescue, restoration and relief;”;

(c) for clause (f), the following clause shall be substituted, namely:—

“(f) “Fire Service” in relation to providing firefighting and emergent service measures, means Odisha Fire and Emergency Service constituted under section 3;”;

(d) after clause (h), the following clause shall be inserted, namely:—

“(h-1) “Local Authority” means a municipality constituted under Article 243Q and a Panchayat constituted under Article 243B of the constitution of India for the rural area;”.

Amendment of
Section 3.

5. In the principal Act, in Section 3, in sub-section (1), for the words “firefighting services in the State a fire force to be called the Odisha Fire Service”, the words and comma “fire fighting and emergency services in the State, a force to be called the Odisha Fire and Emergency Service” shall be substituted.

6. In the principal Act, in Section 4,—

- (a) for the existing marginal heading, the following marginal heading shall be substituted, namely:—

“Appointment of Director General, officers and other members and their powers and functions.”;

- (b) the word “Director”, wherever it occurs, the words “Director General” shall be substituted,

- (c) in sub-section (1), for the words “Fire Service”, the words “Fire and Emergency Service” shall be substituted; and

- (d) for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) The State Government may appoint any person not below the rank of Additional Director General of Police to be the Director General of Fire and Emergency Service who shall, subject to superintendence and control of the State Government, 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 made thereunder.

(2-a) without prejudice to the provisions of this Act, the Director General, as the head of the force shall discharged following functions, namely;—

- (a) keep liaison with the State Government for the development of fire and emergency service;
- (b) frame the policies in relation to the development of fire and emergency service in the state and on approval by the State Government, take steps to implement the same;
- (c) prepare and submit plans and proposals to the State Government with regards to the periodical review of fire equipment, fire property and fire manpower for effective implementation of fire and emergency service by the authorities;
- (d) take or cause to be taken such effective steps and measures in cases of major fires, house collapse and other emergency services;

- (e) investigate or cause to be investigated the cause of fire and advise the authorities for implementing fire precautionary measures;
- (f) appoint such number of officers, staff or employees as may be necessary to assist any Officer of the State fire and emergency service while exercising his powers or discharging his duties or functions under this Act or the rules made thereunder;
- (g) Implement the effective Human Resource Development policies in accordance with the prescribed Jobs at each level of fire and emergency service personnel and for that purpose, he may establish advance training centers; and Implement the effective Human Resource Development policies in accordance with the prescribed Jobs at each level of fire and emergency service personnel and for that purpose, he may establish advance training centers; and
- (h) represent the State Government on National and International forums with a view to updating the standard of fire and emergency service in the state.”.

Omission of
Section 7.

7. In the principal Act, Section 7, shall be omitted.

Amendment of
Section 8.

8. In the principal Act, in Section 8:—

(a) for clause (i), the following clause shall be substituted, namely;—

“(i) for equipping the member with such firefighting, rescue and restoration appliances and imparting specialised training as it deems proper;”;

(b) in clause (ii), for the words “firefighting appliances”, the words “firefighting, rescue and restoration appliances”, shall be substituted;

(c) in clause (iii), for the words “Fire Service on the occasion of fires”, the words and comma “Fire and Emergency Service on the occasion of fires and emergency services,” shall be substituted;

(d) for clause (v), the following clause shall be substituted, namely:—

“(v) for sending the members with necessary firefighting, rescue and restoration appliances beyond the limits of any area in which this Act is in force in order to extinguish fire or undertake rescue and restoration, in the neighbourhood of such limits on such terms and conditions as it deems proper;” and

(e) in clause (vi), for the words “extinguishing fire, for which the fire service” the words “extinguishing fire and providing emergency services for which the Fire and Emergency Service” shall be substituted.

Insertion of new Section 8A.

9. In the principal Act, after Section 8, the following section shall be inserted, namely:—

“Delegation of power.

8A(1) the State Government may, by notification, direct that any power and function exercisable by it under this Act, except the power to make rules, may also be exercisable by the Director General, subject to such conditions and exceptions, if any, as may be specified therein.

(2) The Director General may, by order, delegate its powers and functions conferred under this Act and rules made thereunder to any of its officers subordinate to him, subject to such conditions and restrictions, if any, as may be specified therein.”.

Amendment of Section 9.

10. In the principal Act, in Section 9,—

(i) in sub-section(1),—

(a) in the opening portion, for the words and comma “occasion of fire, the Director”, the words and comma “occasion of fire or emergency services, the Director General” shall be substituted;

(b) in clause (i), for the words “fire or”, the words “fire or dealing with emergency services” shall be substituted;

(c) for clause (iii), the following clause shall be substituted, namely:—

“(iii)for the purpose of extinguishing the fire or undertaking rescue and restoration work, enter, break into or through or pull down any premises for the passage of firefighting or rescue and restoration appliances or cause them to be broken into or through or pull down, doing as little damage as possible;”;

(d) in clause (vi), after the words “firefighting” and the before the word “operation”, the words “or rescue and restoration” shall be inserted; and

(e) in clause (vii), for the words “fire or”, the words “fire or undertaking the rescue and restoration or” shall be substituted,

(ii) in sub-section (2), for the words “members of fire service”, the words “members of Fire and Emergency Service” shall be substituted; and

(iii) after sub-section (2), the following sub-section shall be inserted,
Namely:—

“(3) The Director General may, with the previous sanction of the State Government, enter into an agreement with any agency or local or other authority which maintains the said fire and emergency service within or beyond the limits of any area in which this Act is in force for providing personnel or equipment or both, for firefighting, rescue and restoration purposes, on such terms and conditions as may be provided by or under the agreement on reciprocal basis, in public interest.”.

Amendment of
Section 10.

11. In the principal Act, in Section 10, after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) The Director General or any member authorised by the State Government in this behalf, direct the owner or occupier of any premises which likely to have risk of fire, shall obtained fire safety recommendations and fire safety certificate on payment of such fees and in such manner as may be prescribed.

(4) In order to ensure effective fire prevention and life safety measures of any premises, the owners or occupiers of such premises, which are likely to cause risk of fire, as may be prescribed in this behalf,

shall appoint a Fire Safety Supervisor having such qualification as may be prescribed and the fire safety supervisor so appointed shall be issued with an enrolment certificate by the Director General or any officer authorised in this behalf under his signature and seal of the office in the prescribed format”.

Amendment of
Section 12

12. In the principal Act, in Section 12, for the words “firefighting appliances to carry on firefighting operations”, the words “firefighting, rescue and restoration appliances to carry on firefighting, rescue and restoration operations” shall be substituted.

Amendment of
section 14.

13. In the principal Act, in section 14, for the words and comma “rescue, salvage”, the words and comma “rescue, restoration or salvage”, shall be substituted.

Amendment of
Chapter IV

14. In the principal Act, in Chapter IV, for the heading “PENALTY”, the heading “OFFENCES AND PENALTIES” shall be substituted.

Amendment of
Section 17.

15. In the principal Act, in Section 17, for the words “a fine which may extend to five hundred rupees”, the words “imprisonment of either description for a term which may extend to three months or with fine which may extend to three lakh rupees, or with both” shall be substituted.

Amendment of
Section 18

16. In the principal Act, in Section 18 including with its marginal heading, the following section shall be substituted namely:—

“Willful
obstruction
of fire
fighting,
rescue or
restoration
operations.

18. Any person who wilfully obstructs or interferes with any member engaged in fire fighting, rescue or restoration operations shall, on conviction, be punishable with imprisonment of either description for a term which may extend to 3 months or with fine which may extend to fifty thousand rupees, or with both.”.

Amendment of
Section 19

17. In the principal Act, in Section 19, for the words beginning with, “imprisonment” and ending with the words “or with both”, the words “imprisonment of either description, for a term which may extend to three month or with fine which may extend to five thousand rupees, or with both” shall be substituted.

Insertion of
new Sections
19A,
19B,19C,19D
AND 19E.

18. In the principal Act, after Section 19, the following sections shall be inserted, namely:—

“Penalty for
non-
appointment
of fire safety
supervisor

19A.(1) If any owner or occupier of a premises fails to appoint a fire safety supervisor under sub-section (4) of Section 10 within the period of thirty days from the date of receipt of notice given in this behalf by the Director General or any officer authorised by him, such owner or occupier shall be deemed to be in default and shall be liable to pay penalty of not less than ten rupees per square meter and not exceeding fifty rupees per square meter per month of the built up area of the premises including the common area thereof as may be determined by the Director General.

(2) The penalty shall be recovered from such owner or occupier as arrear of land revenue, if not paid.

Compounding
of offences.

19B. (1) Any offence committed under sections 15 to 19 (both inclusive) or any rule made under this Act may, either before or after the institution of prosecution, be compounded by such officer and on payment of such amount as the State Government may, by notification, specify:

Provided that no offence shall be compoundable which is committed by failure to comply with a notice order or requisition issued by the Director General or any other officer authorised under this Act and rules made thereunder until the same has been complied with so far as the compliance is possible.

(2) Where an offence has been compounded under sub-section(1), no proceeding or further proceeding, as the case may be, shall be initiated or continued against the offender in respect of the offence so compounded, and the offender, if in custody, shall be discharged forthwith.

Offence by
Companies.

19C. (1)Where an offence under this Act has been committed by a company, every person who, at the time, the offence was committed, was in-charge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this clause shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due

diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part, of any Director, Manager, Secretary or other Officer of the company, such Director, Manager, Secretary or other officers shall also be deemed be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:— for the purpose of this Section,—

- (a) “Company” means a body corporate and includes a firm or other association of individuals; and
- (b) “Director”, in relation to a firm, means a partner in the firm.

Cognizance of offence.

19D. No court shall take cognizance of an offence under this Act except on a complaint made by the Director General or any officer authorised by him, in writing, in this behalf.

Jurisdiction.

19E. No court other than the court of Judicial Magistrate First Class, shall try an offence punishable under this Act.”.

Insertion of new Chapter IVA.

19.In the principal Act, after Chapter IV, the following chapter shall be inserted, namely:—

“CHAPTER IVA APPEALS

Appeal.

19F. (1) Any person aggrieved by any notice or order of any Fire Service Officer, issued or made under this Act and rules made thereunder, may prefer an appeal against such notice or order to the Appellate Authority as may be prescribed who may be lower in rank than the second Appellate Authority, within thirty days from the date of receipt of the notice or order, as the case may be:

Provided that the Appellate Authority may admit the appeal after expiry of thirty days, if he is satisfied that the appellant was prevented by sufficient cause for not filing it within that period.

(2) An appeal to the appellate authority shall be accompanied by a copy of the notice or order appealed against and on payment of such

fees, as may be prescribed.

(3)The order of the appellate authority may be challenged in Second Appeal before the Second Appellate Authority, as may be prescribed, within a period of sixty days of passing the order whose decision thereon shall be final.”.

Amendment of Section 27.

20. In the principal Act, in Section 27, after the words “fire prevention” occurring at the end, the words “or undertaking rescue relief and restoration” shall be inserted.

Insertion of new Section 27A.

21. In the principal Act, after Section 27, the following Section shall be inserted, namely:—

“Act to have overriding effect and effect of other laws.

27A (1)The provisions of this Act shall have overriding effect notwithstanding anything contained in any other State laws for the time being in force, in so far as the provisions relating to fire prevention and life safety are concerned.

(2) Subject to the provisions of sub-section (1), the provisions of this Act shall be in addition to, and not, save as expressly provided hereinabove, be in derogation of the provisions of any relevant law for the time being in force in any area in which this Act is in force.”.

General Amendment.

22. In the principal Act, for the expression “Director” wherever it occurs, the expression “Director General” shall be substituted.

By Order of the Governor
DHANESWAR MALLICK

Principal Secretary to Government (I/c)