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GOVERNMENT OF
TAMIL NADU
1985

[Registered No.
[Price: 45 Ps



TAMIL NADU
GOVERNMENT GAZETTE
EXTRAORDINARY PUBLISHED BY
AUTHORITY

No. 301] MADRAS, TUESDAY. AUGUST 6, 1985
AADI 22, KUROTHANA, THIRUVALLUVAR AANDU-2016

Part IV—Section 2

Tamil Nadu Acts and Ordinances.

The following Act of the Tamil Nadu Legislature received the assent of the Governor on the 1st August 1985 and is hereby published for general information: —

ACT No. 40 OF 1985.

An Act to provide for the establishment and maintenance of a Fire Service in the State of Tamil Nadu.

BE it enacted by the Legislature of the State of Tamil Nadu in the Thirty-sixth Year of the Republic of India as follows :—

CHAPTER I.

PRELIMINARY.

1. Short title, extent and commencement.—(1) This Act may be called the Tamil Nadu Fire Service Act. 1985.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force on such date as the Government may by notification, appoint; and different dates may be appointed for different areas.

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

(a) “ Director ” means the Director of the Fire Service appointed under section 4 ;

(b) “ fire-fighting property ” includes—

(i) lands and buildings used as fire stations and static water tanks ;

(ii) fire engines, appliances, equipments, tools, implements and things whatsoever used for fire-fighting;

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

(iv) uniforms and badges of rank;

(c) “ Fire Service ” means the Tamil Nadu Fire Service established and maintained under this Act ;

(d) “ fire station ” means any post or place declared, generally or specially, by the Government to be a fire station ;

(e) “ Government ” means the State Government;

(f) “ officer-in-charge of a fire station ” includes when the officer-in-charge of the fire station is absent from the station or unable from illness or other cause to perform his duties, the fire officer present at the station who is next in rank to such officer.

3. Establishment and maintenance of Fire Service.—There shall be established and maintained by the Government a Fire Service to be called the Tamil Nadu Fire Service for the areas in which this Act is in force.

4. Appointment of Director of Fire Service.—The Government shall appoint a person to be the Director of the Fire Service.

5. Superintendence and control of Fire Service.—(1) Subject to the control of the Government, the superintendence and control of the Fire Service shall vest in the Director and shall be carried on by him in accordance with the provisions of this Act and of any rules made thereunder.

(2) The Government may appoint such officers as they may deem fit to assist the Director in the discharge of his duties.

6. Appointment of Members of Fire Service.—The Government shall appoint such number of officers and servants as they think fit to be the Members of Fire Service.

7. Issue of certificate to Members of Fire Service —(1) Every person shall, on appointment as a Member of Fire Service, receive a certificate in the prescribed form under the seal of the Government or Director or an officer authorised in this behalf by the Government, and thereupon such person shall have the powers, functions and privileges of a Member of Fire 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 Fire Service and on his ceasing to be such Member, he shall forthwith surrender the certificate, uniform and badges of rank to any officer empowered to receive the same,

(3) During any term of suspension, the powers, functions and privileges vested in any Member of Fire Service shall be in abeyance, but such Member shall continue to be subject to the same discipline and penalties as he would have been if he had not been suspended

8. Auxiliary Fire Service.—(1) Whenever it appears to the Government that it is necessary to augment the Fire Service, they may raise an auxiliary service by enrolment of volunteers for such area and on such terms and conditions as they may deem fit.

(2) Every such volunteer shall receive a certificate in the prescribed form, have the same powers and protection, be liable to all such duties and penalties and be subordinate to the same authorities as a regular Member of Fire Service.

9. Expenditure on Fire Service.—(1) The entire expenditure in connection with the Fire Service shall be met out of the Consolidated Fund of the State.

(2) Notwithstanding anything contained in any law for the time being in force the local authority of any area in which this Act is in force shall pay to the Government such contribution towards the cost of the portion of the Fire Service established and maintained in that area as the Government may direct from time to time.

CHAPTER II.

POWERS OF THE GOVERNMENT, THE DIRECTOR AND MEMBERS OF FIRE SERVICE.

10. Powers of Government to make orders—The Government may, from time to time, make such general or special orders as they think fit—

(a) for providing Fire Service with such appliances and equipments, as they deem necessary;

(b) for providing adequate supply of water and for securing its availability for use;

(c) for constructing or providing stations or hiring places for accommodating the Members of Fire Service and the fire-fighting property ;

(d) for giving rewards to persons who have given notice of fires or to those who have rendered effective service to the Fire Service in the discharge of its duties;

(e) for the training, discipline and good conduct of the Members of Fire Service;

(f) for the speedy attendance of Members of Fire Service with necessary appliances and equipment on the occasion of any alarm of fire or rescue or of both ;

(g) for sending Members of Fire Service with appliances and equipments beyond the limits of any area in which this Act is in force for purposes of fire-fighting or rescue or of both in the neighbourhood of such limits ;

(h) for the employment of the Members of Fire Service in any rescue, salvage or other similar work ;

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

(j) generally for the maintenance of Fire Service in a due state of efficiency ; and

(k) for giving compensation to persons who while rendering effective service to the Fire Service in the discharge of their duties, met with accident, and in the event of their death, to the dependents.

11. Powers of Members of Fire Service on occurrence of fire— (1) On the occurrence of a fire in any area in which this Act is in force, any Member of Fire Service who is in charge of fire-fighting operations on the spot may—

(a) remove, or order any other Member of Fire Service to remove, any person who by his presence interferes with or impedes the operation for extinguishing, or preventing the spread of, fire, or for saving life or property;

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

(c) for the purpose of extinguishing, or preventing the spread of, fire, break into or break through or pull down, any premises for the passage of the hose or other appliances or equipment, to extinguish or prevent the spread of fire or cause them to be broken into or broken through or pulled down, as the occasion demands, doing as little damage as possible;

(d) require the authority in charge of water-supply in the area to fill static water tanks generally or to regulate the water mains so as to provide water at a specified pressure at the place where fire has broken out;

(e) utilise the water of any stream, cistern, well or tank or of any available Source of water, public or private for the purpose of extinguishing or preventing the spread of such fire;

(f) exercise the same powers for dispersing an assembly of persons likely to obstruct fire fighting operations 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; or

(g) generally take such other measures as may appear to him to be necessary for extinguishing-the fire or for the protection of life or property.

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

12. Powers of Director In enter info arrangements for assistance.— The Director, may with the previous sanction of the Government, enter into

arrangements with any person who employs and maintains personnel or keeps equipment for fire-fighting purposes, to secure, on such terms as to payment or otherwise as may be provided under the arrangements, the provisions by that person of assistance for the purpose of dealing with fire in any area in which this Act is in force.

13. Preventive measures.—(1). The Government, may, by notification, require the owners or occupiers of any premises or class of premises, which in their opinion, are used for any purpose which is likely to cause a risk of fire, to take such precautions as may be specified in such notification.

(2) Where a notification has been issued under sub-section (1), it shall be lawful for the Director or any officer of Fire Service authorised by the Government in this behalf to direct the removal of objects or goods likely to cause a risk of fire, to a place of safety ; and on failure of the owner or occupier to do so, the Director or such officer may, after giving the owner or occupier a reasonable opportunity of making representation, seize, detain or remove such objects or goods.

CHAPTER III.

PENALTIES.

14. Penalty for violation of duty, etc.—Any Member of Fire Service who—

(a) is found to be guilty of any violation of duty or wilful breach of any provisions of this Act or of any rule or order made thereunder; or

(b) is found to be guilty of any act of cowardice ; or

(c) withdraws from the duties or resigns 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 unless permitted under section 18;

shall 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.

15. Failure to take precautions.—Whoever fails without reasonable cause to comply with any of the requirements specified in a notification issued under sub-section (1) of section 13 or of a direction issued under sub-section (2) of that section shall be punishable with fine which may extend to five hundred rupees.

16. Wilfully obstructing fire-fighting operations.—Any person who wilfully obstructs or interferes with any Member of Fire Service who is engaged in fire-fighting operations or is exercising his powers under section 11 shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both.

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

18. Bar to other employment.— No Member of Fire 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 or the Government

19. Offences by companies.—(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 sub-section 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 officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.--For the purposes of this section,—

(a) “ company ” means any 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,

CHAPTER IV.

MISCELLANEOUS.

20. Employment on other ditties.—It shall be lawful for the Government or any officer of Fire Service authorised by them in this behalf, to employ any Member of Fire Service in any rescue, salvage or other work for which he is suitable by reason of his training and experience.

21. Inquiry into origin of fire and report to Executive Magistrate—Where any fire has occurred within any area in which this Act is in force, the senior most officer of Fire Service not below the rank of an officer in charge of a fire station in that area shall make a report thereon to the Executive Magistrate having jurisdiction over the area in which such fire occurred; and the said Executive Magistrate may, in any case where he may deem fit summon witnesses and take evidence in respect of such fire.

22. Power to obtain information.—Any officer of Fire Service not below the rank of an officer in charge of a fire station may, for the purpose of discharging his duties under this 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 the means of access thereto and other material particulars, and such owner or occupier shall furnish all the information in his possession.

23. Utilisation of water.—No charge shall be levied or collected by any authority in charge of water-supply or local authority or institution or other private person for water utilised by Fire Service for the purpose of fire-fighting operation, training or filling of static water tanks.

24. No compensation for interruption of water-supply—No authority in charge of water-supply in an area shall be liable to any claim for 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 sub-section (1) of section 11

25. Police Officers to aid.—It shall be the duty of Police Officers of all ranks to aid the Members of Fire Service in the discharge of their duties under this Act.

26. Indemnity.—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.'

27. Power to make rules.—(1) The Government may, 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:—

(a) the number and grades of officers and Members of Fire Service;

(b) the manner of appointment of Members of Fire Service;

(c) the form of the certificate to be issued to the Members of Fire Service ;

(d) the conditions of service of the Members of Fire Service including the ranks, pay and allowances, hours of duty and leave, maintenance of discipline and removal from service;

(e) the circumstances in which and the conditions subject to which the Members of Fire Service may be despatched to carry on fire-fighting operations in neighbouring areas;

(f) the conditions subject to which the Members of Fire Service may be employed on rescue, salvage or other work;

(g) the manner of service of notices under this Act;

(h) the payment of rewards to persons, not being Members of the Fire Service who render services for fire-fighting purposes;

(i) the amount of compensation payable under clause (k) of section 10 ;

(j) the employment of the Members of Fire Service or use of any equipment outside the area or on special services and the fee payable therefor; and

(k) any other matter which is to be or may be prescribed under this Act.

28. Publication of rules, commencement of rules and notifications and placing them on the table of the Legislature.—(1) (a) All rules made under this Act, shall be published' in the Tamil Nadu Government Gazette, and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(2) Every rule made or notification issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of both Houses of Legislature, and if before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

29. Provisions as to existing Fire Service.—(1) The Fire Service in existence in this State at the commencement of this Act shall be deemed to be the Tamil Nadu Fire Service established under this Act.

(2) The Members of Fire Service in existence in this State at the commencement of this Act shall be deemed to have been appointed as such under this Act.

(3) Anything done or any action taken before the commencement of this Act in relation to the establishment of Fire Service referred to in sub-section (1), in relation to any person appointed thereto shall be as valid and as effective in law as if such thing or action was done or taken under this Act:

Provided that nothing in this sub-section shall render any person guilty of any offence in respect of anything done or omitted to be done by him before the commencement of this Act.

30. Repeal and saving.—(1) If immediately before the day on which this Act comes into force in an area, there is in force in that area any law, rule, regulation or by-law having the force of law which corresponds to any provision of this Act, such law rule, regulation or by-law shall so far as it relates to any matter for which provision has been made in this Act shall on that day stand repealed.

(2) Notwithstanding the repeal of any law, rule, regulation or by-law by sub-section (1), the general responsibility of any local authority under the law governing such authority, shall not be deemed to be limited, or modified, in so far as such law requires the local authority,—

(a) to provide and maintain such water-supply and fire hydrants for fire-fighting purposes as may be directed by the Government from time to time ;

(b) to frame by-laws for the regulation of dangerous trades;

(c) to order any of its employees to render aid in fighting a fire when reasonably called upon to do so by any Member of Fire Service; and

(d) generally to take such measures as will lessen the likelihood of fires or preventing the spread of fires.

(By order of the Governor.)

S. VADIVELU,
Commissioner and Secretary to Government,
Law Department.

PRINTED AND PUBLISHED BY THE DIRECTOR OF
STATIONERY AND PRINTING MADRAS ON BEHALF OF THE
GOVERNMENT OF TAMIL NADU