

Assam Act No. XIII of 1985

(Received the assent of the President on 20th September 1985)

THE ASSAM FIRE SERVICE ACT, 1985

**An
Act**

to provide for the maintenance of a Fire Service Force in the State of Assam.

Preamble. Whereas it is expedient to provide for the maintenance of a Fire Service Force for the licensing of warehouses and for certain other ancillary matters in the State of Assam ;

It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Assam Fire Service Act, 1985.

(2) It extends to the whole of Assam.

(3) It shall come into force in such area and on such date as the State Government may, by notification from time to time in the Official Gazette, appoint and the State Government may, by like notification, withdraw the operation of the provisions of this Act from any such area.

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

(a) "Inspector General of Police" means the Inspector General of Police, Assam who has been appointed as Inspector General of Police, Assam under Section 4 of the Police Act, 1861 (Act V of 1861).

(b) "Director" means the Director of Fire Service Force appointed under Section 4.

(c) "Fire fighting property" includes—

- (i) Lands and buildings directly or indirectly connected with fire fighting ;
- (ii) Fire engines, equipments, tools, implements and things whatsoever used for fire fighting ;
- (iii) Motor vehicles and other means of transport used in connection with fire fighting ;
- (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) "Force" means the Assam Fire Service Force maintained under this Act ;
- (f) "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 ;
- (g) "Prescribed" means prescribed by rules made under this Act by the State Government ;
- (h) "Ware-house" 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 as inflammable.

Explanation :—Godowns, Factories, Workshop, Shops etc. dealing in any manner with prescribed inflammable articles will be regarded as "Ware-house" for purpose of this Act ;

- (i) "Place" means either enclosed, or covered or open land having buildings or premises within 75 ft. on any side of its surroundings ;
- (j) "Work-shop" 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 articles which in the opinion of the State Government are considered as inflammable and are prescribed 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 ;

- (k) "Licensing Authority" means the Deputy Commissioner or such officer as may be authorised by the State Government ;
- (l) "Member" means and includes a member of the Force who performs operational, supervisory, directional and executive duties in such ranks as may be prescribed by the State Government.

MAINTENANCE OF THE FIRE SERVICE FORCE

Maintenance of Fire Force 3. There shall be maintained by the State Government a Fire Force to be called the Assam Fire Service Force.

Appointment of Director of Fire Service. 4. The State Government may appoint a person to be Director of Assam Fire Service Force who shall be an Officer of the rank of Deputy Inspector General of Police, Assam.

Superintendence and control of the force. 5. (1) The superintendence and control of the Force shall vest in the Director under the general control and supervision of the Inspector General of Police, Assam 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 Director may with the approval of the State Government delegate any of his powers, functions and duties under this Act to such subordinate officer as he may deem fit.

Appointment
of members
of the Force.

6. (1) The Director or such other officer of the force as the State Government may authorise in this behalf, shall appoint the members of the Assam Fire Service Force in accordance with the rules made under this Act.
- (2) Subject to the provisions of Article 311 of the Constitution of India and the rules prescribed by the State Government, the Director may, at any time dismiss, suspend or reduce in rank or award any of the punishment to any member of the subordinate ranks whom he shall think responsible for remiss or negligence in the discharge of his duty or considered unfit for the same. The Director may also award any one or more punishment as provided in the Assam Services (Discipline and Appeal) Rules, 1964. The provisions of the said rules shall apply, mutatis mutandis, with regard to procedure of awarding punishment and other disciplinary actions. Provided that the Inspector-General of Police, Assam, reserves the right of revision of hearing of appeal in case of natural injustice or fragrant irregularities in the case.

Issue of certificate to the member of the Force.

7. (1) Every person shall, on appointment to the force, receive a certificate in the prescribed form under the seal of the Director or an officer authorised in this behalf by the State Government, and thereupon such

person shall have the powers, functions and privileges of a member of the force 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 member of the force, and on his ceasing to be such member, he shall forthwith surrender the certificate to any officer empowered to receive the same.

(3) During any period of suspension, the powers, functions and privileges vested in any member of the force 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.

Auxiliary Fire Force. 8. Whenever it appears to the State Government that it is necessary to augment the force, it may raise an auxiliary force by enrolment of volunteers for such areas and on such terms and conditions as it may deem fit.

Powers of State Government to make orders. 9. The State Government may, from time to time, make such general or special orders as it thinks fit —

- (a) for providing the force with such appliances and equipment 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 force and its fire fighting appliances;
- (d) for giving rewards to persons who have given notice of fires and to those who have rendered effective service to the force on the occasion of fires ;

- (e) for the training, discipline and good conduct of the members of the force ;
- (f) for deciding or determining the cadre or terms and conditions of service of the members of the force and also member 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 the speedy attendance of members of the force with necessary appliances and equipment on the occasion of any alarm of fire;
- (h) for sending members of the force 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;
- (i) for the employment of members of the force in any rescue, salvage or other special types of jobs ;
- (j) for enforcing discipline and imposing punishment on any member of the force who may violate orders ;
- (k) for regulating and controlling the powers, duties and functions of the Director and of other members of the force ; and
- (l) generally for the maintenance of the Force in due state of efficiency.

Powers of
members of
the force on
occasion of
fire.

10. On the occasion of fire in any area in which this Act is in force, any member of the force who is in-charge of fire fighting operations on the spot may. —

- (a) remove, detain or order any other member of the force 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 ;
- (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 doing 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 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 limiting the spread of such fire ; provided that in cases of any damage done to any source of water, stream, cistern, well or tank belonging to a member of the public or association or body corporate while utilising water in accordance with the provisions of this section under this Act the State Government may entertain at its discretion claims for compensation preferred by any affected person or party or body corporate as the case may be on merit of each case;
- (e) exercise the same powers for dispersing an assembly of persons likely to obstruct the 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 be entitled to the same immunities and protection as such an officer, in respect of the exercise of such powers;
- (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 member of the force working under his order or instructions will be civilly or criminally prosecuted in the court of law.

Power of Director to make arrangement for supply of water.

11. 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.

Power of Director to enter into arrangement for assistance.

12. The Director may, with the previous sanction of the State Government, enter into arrangements with any person who employs and maintains personnel or equipment or both for fire fighting purposes, to secure, on such term as to pay or otherwise as may be provided by or under arrangements, the provision for the purpose of dealing with fire occuring in any area in which this Act is in force.

Preventive measures and Licences.

13. (1) 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 and that no license to use any building or place as a warehouse shall be granted unless such buildings or place conforms to such precautionary measures taken by the owner or occupier thereof as may be directed by the licensing authority.

- (2) The owner or occupier of any building or place which was being used as a warehouse immediately before the date on which this Act comes into force shall have to apply for obtaining a license from the appropriate licensing authority within thirty days from the date on which this Act comes into force.

- (3) A license granted under this Act may be withdrawn or suspended by such authority who granted it.
- (4) Where on application, a license or renewal of a license is refused, withdrawn or suspended, the licensing authority shall record in writing the reasons for such refusal with due intimation to the applicant.
- (5) Every license granted under sub-section (2) above shall be required to be renewed annually. Application for renewal shall be made to the licensing authority who shall refer the case to the Director and the licensing authority shall grant or refuse renewal as may be recommended by the Director.

Appeals.

14. Any person aggrieved by an order of the licensing authority refusing, withdrawing or suspending any license may file an appeal before the prescribed authority in prescribed manner within thirty days of such refusal, withdrawal or suspension. Provided that for the purpose of this section, the prescribed authority means the Director, in cases where the licensing authority is an officer subordinate to the Director and the State Government where the licensing authority is the Director or the Deputy Commissioner.

Power to
seize, remove
or destroy
goods etc.

15. In case a warehouse is detected using it without a license, it shall be lawful for the Director or any officer authorised by the State Government in this behalf, to direct removal of prescribed article 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 seize, detain, remove, dispose or destroy such objects or goods in such manner as may be prescribed by the

State Government. Director or such officer as may be authorised, will not be liable to pay any compensation in any manner to any person in this respect.

Change of
occupation.

16. Whenever a change in the occupation of any warehouse or workshop occurs, the person entering into the occupation of the same shall, within two weeks of his so entering into occupation, give notice in writing to the licensing authority of such changes of occupation and shall thereupon pay a fee, as may be prescribed and his name shall accordingly be substituted in the license in respect of the warehouse or workshop for the name of the last occupier.

Fire Work.

17. 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 authorised.

Place of public
gathering
for entertain-
ment.

18. (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; 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.
- (2) (i) 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; and
- (ii) advance payment of such fees as may be prescribed is made.

Explanation :—Theatres, Cinemas, Circus, Fairs Mellas and such other like matters come under provision of this Section.

Temporary structure of pandals.

19. 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 for permission to erect such structure or pandal and such permission may be granted for a stipulated period; provided that :—

(i) it conforms to such conditions as may be specified by the Director ;

(ii) advance payment of such fees, as may be prescribed is made ; and

(iii) in the opinion of the Director it is not unsafe for public gathering.

Conditions for granting license for warehouses and work-shops, etc.

20. For carrying out the purposes of any or all the provisions of Sections 13,14,15,17,18 and 19 of this Act, the State Government may prescribe conditions in respect of —

(i) 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 ;

(ii) determination of fees and method of calculation of fees and the manner in which payment has to be made in this respect :

(iii) type or schedules or forms to be used in respect of granting license; and

(iv) the precautionary measures to be taken in a warehouse.

Power of granting license. 21. Power of granting license under this Act shall be exercised by the Licensing Authority or by such officer who may be authorised by the State Government in this behalf.

EXPENDITURE ON MAINTENANCE OF FORCE.

Expenditure on the force. 22. The entire expenditure in connection with the force shall be met out of the Consolidated Fund of the State of Assam; provided that the State Government may recover from any local authority of any area in which this Act is in force, such contribution towards the cost of the portion of the Force maintained in that area as the State Government may direct from time to time.

Levy of fire tax. 23. (1) There may be levied a fire tax on lands and buildings which are situated in any area in which this Act is in force and on which property tax by whatever name called is levied by any local authority in that area.

(2) The fire tax shall be levied in the form of a surcharge on the property tax at such rate not exceeding ten percent of such property tax as the State Government may, by notification, in the Official Gazette, determine.

Mode of assessment collection, etc. of Fire Tax. 24. (1) The authorities for the time being empowered to assess, collect and enforce payment of property tax under the law authorising the local authority of the area to levy such tax shall, on behalf of the State Government and subject to any rules made under this Act, assess, collect and enforce payment of the fire tax in the same manner as the property tax is assessed, paid and collected; and for this purpose, they may exercise all or any of the powers they have under the

law aforesaid and the provisions of such law including provisions relating to returns, appeals, reviews, revisions, references and penalties shall apply accordingly.

- (2) Such portion of the total proceeds of the fire tax as the State Government may determine shall be deducted to meet the cost of collection of the tax.
- (3) The proceeds of the fire tax collected under this Act reduced by the cost of collection shall be paid to the State Government in such manner and at such intervals as may be prescribed.

Fixation of fees and procedure for payment.

25. (1) The State Government may prescribe such fees and such procedure for payment of fees as it may deem fit, for granting any license under any of the provisions of this Act.
- (2) The State Government may prescribe such fees and such charges and such conditions as it may deem fit for purpose of different types of special jobs that may be undertaken by the Assam Fire Service Force and that the authority on whose request such job is undertaken will be bound to make such payment.
- (3) Where members of the force are sent beyond the limits of any area in which this Act is in force, in order to extinguish a fire in the neighbourhood of such limits, the owner or occupier of the premises where the fire occurred or spread shall be liable to pay such charges or fees as may be prescribed in this behalf.
- (4) The fee referred to in sub-section (1), (2) and (3) shall be payable within one

month of the service of a notice of demand by the Director on the owner or occupier and if not paid within that period, it shall be recoverable as an arrear of land revenue.

ACQUISITION OF FIRE FIGHTING PROPERTY

Prohibition
against trans-
fer of fire
fighting
property.

26. No local authority of any area in which this Act is in force, shall after the commencement of this Act in that area, transfer or otherwise part with any fire fighting property without previous sanction of the State Government.

Acquisition
of fire fight-
ing proper-
ty.

27. (1) If, after making such inquiry and investigation as it deems necessary and after giving the local authority an opportunity to make its representations, the standard of efficiency of the fire fighting personnel and equipment maintained by the local authority is not adequate to meet the normal requirement of the areas, the state Government may acquire the fire fighting property of the local authority by publishing in the Official Gazette a notice to the effect that the State Government has decided to acquire such property on payment of its market value. A copy of such notice shall also be served on the local authority ;

(2) when a notice as aforesaid is published in the Official Gazette, the property specified in such notice shall, on and from the beginning of the date on which the notice is so published, vest absolutely in the State Government free from all encumbrances.

Principles
and method
of deter-
mining com-
pensation.

28. (1) The amount of compensation payable in respect of any fire fighting property acquired under this Act shall be the market value of such property on the date of issue of the notice referred to in

section 27 that is, the price which it would have fetched in the open market if it had been sold on that date ;

- (2) the amount of compensation shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say—
 - (a) when the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement ;
 - (b) where no such agreement can be reached the state Government shall appoint as Arbitrator a person who is, or has been or is qualified for appointment, as a judge of a High Court ;
 - (c) the State Government may, in any particular case nominate a person having expert knowledge as to the nature of the property acquired to assist the Arbitrator and where such nomination is made, the local authority concerned may also nominate an assessor for the same purpose ;
 - (d) at the commencement of the proceedings before the Arbitrator, the State Government and the local authority shall state what in their respective opinion is a fair amount of compensation ;
 - (e) the Arbitrator shall after hearing the dispute make an award determining the amount of compensation which appears to him to be just ; and in making the award he shall have due regard to the circumstances of each case and the provision of this section ;
 - (f) nothing in the Arbitration Act, 1940 shall apply to arbitrations under this Section.

Appeals from awards in respect of compensation.

29. Where the State Government or a local authority is aggrieved by an award of the Arbitrator under Section 28, it may within thirty days from the date of such award prefer an appeal to the High Court within whose appellate jurisdiction the acquired property is situated.

Power of Arbitrator.

30. The Arbitrator appointed under Section 28, while holding arbitration proceedings under this Act, shall have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits; and
- (d) issuing commissions for examination of witness.

Penalties for violation of preventive measures.

31. (1) Any person who violates any of the provisions under Sections 13, 17, 18, 19 and 20 of this Act, shall be punishable, on conviction before a Magistrate with imprisonment which may extend to two years or with fine which may extend to five thousand rupees or with both.
- (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 withdrawn during the time for which such license has been suspended shall be punishable, on conviction before a Magistrate with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

- (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 before a Magistrate, with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.
- (4) If there be a change in the occupation of any warehouse, the person entering into occupation fails to give a notice and to pay the fees required under Section 16 or if a license is not renewed timely as required under Section 13(5) such person or the owner or occupier of such warehouse shall be punishable on conviction before a Magistrate, with fine which may extend to twenty rupees per day.
- (5) Any person who wilfully obstructs or offers any resistance to or impedes or otherwise interferes with the Director or any Officer exercising powers under Section 15, or any assistant accompanying the Director or such Officer while exercising such powers, shall be punishable, on conviction before a Magistrate with imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both.
- (6) Any person who wilfully obstructs or interferes with any member of the force 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 hundred rupees or with both.
- False report.** 32. 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 for three months or with fine not exceeding five hundred rupees or with both.

Transfer to other area.

33. 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 neighbouring area in which this Act is not in force, order the despatch of the members of the force with necessary appliances and equipment to carry on fire fighting operations in such neighbouring area and thereupon all the provisions of this Act and the rules made thereunder shall apply to such area during period of fire or emergency or during such period as the Director may specify.

Employment on other duties.

34. It shall be lawful for the State Government or any officer authorised by it in this behalf to employ the force in any rescue, salvage or other work for which it is suitable by reason of its training, appliances and equipment. It shall also be the duty of the Fire Service Force to provide appropriate services and relief to the people in distress situation.

Enquiry into origin of fire and report to Magistrate.

35. 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 force in that area 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 occurs; and the said Magistrate shall, in any case where he may deem fit, summon witnesses and take evidence in order to further ascertain such facts. Such Magistrates will submit his findings to the Government provided that copies of all reports and of all evidence recorded under this Section shall be furnished on application

to any Fire Assurance Company or other persons interested on payment for such copies.

Power to obtain information.

36. Any officer of the force 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.

37. (1) The Director or any member of the force authorised 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 whether precautions against fire required to be taken on such place have been so taken.

(2) No claim shall lie against any person for compensation for any damage necessarily caused by any entry made under sub-section (1).

Consumption of water.

38. No charge shall be made by any local authority for water consumed in fire fighting operations by the force.

No compensation for interruption of water supply.

39. 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 Section 10.

Police Officer
to aid.

40. Police Officers of all grades shall be authorised and bound to aid the fire service in execution of its duties. They may close any street in or near where a fire is burning and they may on their own motion or on the request of the Director or any member of the force, remove or detain, any person who interfere by their presence with the operations of the fire fighting.

Indemnity.

41. No officer of the Police and no member of the fire service shall be liable to damages on account of any act done by him in the bonafied belief that such act was required for the proper execution of his duties under this Act.

Failure to
give infor-
mation.

42. 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 part of section 176 of the Indian Penal Code.

Bar to other
employment.

43. No member of the force 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 asso-
ciation, free-
dom of
speech etc.

44. (1) No member of the Assam Fire Service Force under this Act shall, without the previous sanction in writing of the State Government or of the prescribed authority—

(a) be a member of, or be associated in any way with any trade union, labour unions, 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 organisation not recognised as part of the force or is not of a purely social, recreational and 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 or is of a prescribed nature.

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

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

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

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

Penalty for violation of duty, etc. 45. Any member of the force who—

- (a) is found to be guilty of any violation of 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 leave, or
- (e) accepts any other employment or office in contravention of the provisions of Section 43 of this Act,
- (f) contravenes the provisions of Section 44 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 both.

Operation of 46. Nothing in this Act shall be deemed to prevent any person from being prosecuted under other Law for any act or omission which constitutes an offence under that Act not barred.

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.

Protection of 47. (1) In any suit of criminal proceeding against acts of members of the force. (1) In any suit of criminal proceeding against any member of the Assam Fire Service Force for any act done by him in pursuance of order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such order.

- (2) Such plea may be proved by the production of the order directing the act, and if it is so proved, the member of the Force thereupon be discharged from liability in respect of the act so done by him.

Power to
make rules.

48. (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 powers, such rules may provide for—
- (a) the number and grades of officers and members of the force ;
- (b) the manner of appointment of members of the force ;
- (c) the form of the certificate to be issued to the members of the Force under Section 7(I) of this Act ;
- (d) the conditions of the service of the members of the Force including their rank, pay, allowances, house rent and leave, maintenance of discipline and removal from service;
- (e) the circumstances in which and the conditions (including the levy of fee) subject to which members of the force carry on fire fighting operations in neighbouring areas;
- (f) the conditions subject to which members of the force may be employed on rescue, salvage or other work;
- (g) adoption of precautionary measures for premises in any area or of any place used for purposes which in the opinion of the State Government are likely to cause a risk of fire;

- (h) the manner in which and the intervals at which the proceeds of the fire tax levied under this Act, shall be paid to the State Government; the conditions under which a license may be granted and the fees to be levied thereof; the authority to which appeals against refusal, withdrawal, suspension of license shall lie and the manner in which such appeal shall be filed and the fees to be paid thereof;
 - (i) the manner of service of notice under this Act;
 - (j) the procedure to be followed in arbitration proceedings under Sections 29 and 30 of this Act;
 - (k) the payment of rewards to persons, not being members of the force who renders services for fire fighting purposes;
 - (l) the compensation payable to members of the force in case of accidents or to their dependents in case of death while engaged on duty;
 - (m) for the employment of members of the force or use of any equipment outside the area or on special services and the fee payable thereof; and
 - (n) any other matter which is to be or may be prescribed.
- (3) All rules under this section shall be laid for a total period of not less than fourteen days before the State Legislature as soon as possible after they are made and shall be subjected to such modifications as the State Legislative Assembly may make during the session in which they are so laid or the session immediately following.

Repeal and Savings.

49. (1) Immediately on coming into force of this Act, all existing laws or rules in force in any area shall stand repealed. But such repeal shall not debar:—
- (a) to provide and maintain such water supply and fire hydrants for fire fighting purposes as may be directed by the State Government from time to time;
 - (b) to frame bye-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 the force; and
 - (d) generally to take such measures as will lessen the likelihood of accidental fire or preventing the spread of such fire.
- (2) Notwithstanding such repeal,
- (a) Any appeal, application, enquiry or investigation pending, shall be disposed of, continued, held or made, as the case may be, in accordance with the corresponding provisions of this Act.
 - (b) All notifications, orders issued, powers conferred, forms prescribed, local jurisdiction defined, punishment awarded, sentences passed under any Act which was in force before commencement of this Act, shall be deemed to have been issued, conferred, prescribed, passed or defined under the corresponding provisions of this Act.

Public Servants.

50. All members of the Assam Fire Service Force under this Act shall be deemed to be public servants as defined under Section 21 of the Indian Penal Code (Act. No. XIV of 1860).

MD. SAADULLAH,
Secretary to the Govt. of Assam,
Legislative Department.