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NOTIFICATION

No. H. 12018/231/2013-LJD, the 1st May, 2013. The following Act of the Mizoram Legislative Assembly, which received the assent of the Governor of Mizoram is hereby published for general information.

The Mizoram Fire Service Act, 2013 (Act No. 7 of 2013)

{Received the assent of the Governor of Mizoram on the 17th April, 2013}.

A N

ACT

To provide for the maintenance of Fire & Emergency services for the State of Mizoram;

Whereas it is expedient to provide for the maintenance of a Fire Force, and for certain other ancillary matters.

It is enacted by the State Legislature in the Sixty fourth year of the Republic of India as follows:-

CHAPTER – 1

PRELIMINARY

1. Short title, extent and commencement:

- (1) This Act may be called the Mizoram Fire Services Act, 2013.
- (2) It extends to the whole of the State of Mizoram.
- (3) It shall come into force in such area on such date as the State Government may, by notification in the Official Gazette, direct; and the State Government may, by notification, withdraw the operation of the provisions of this Act from any such area.

Provided that when the fire brigade is sent to any place outside any such area this Act shall be deemed to be in force in such place for all purposes connected with service therein.

2. Definitions:

In this Act, unless the context otherwise requires:-

- (a) “Director” means the Director of the Mizoram Fire & Emergency Services appointed under section 4 of this Act;

- (b) "Fire fighting property" includes –
 - (i) lands and buildings used as fire stations,
 - (ii) fire engines, equipment, 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-Station" means any post or place declared, generally or specially, by the State Government to be a Fire-Station;
- (d) "Force" means Mizoram Fire & Emergency Service personnel maintained under this Act;
- (e) 'member of fire brigade' includes persons engaged in the Mizoram Fire & Emergency Services and Volunteers in the Auxiliary Fire Brigade;
- (f) "Officer-in-charge of the 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;
- (g) 'Occupier' means a person living in, or otherwise using, any land or building owned by him, or a person who, for the time being, is paying, or is liable to pay, to the owner the rent or fee, or is making, or is liable to make contractual payment to the owner for adjustment of rent or fee, or damages, or any portion thereof, on account of occupation of any land or building, and includes a rent free tenant;
- (h) 'Owner' means a person who, for the time being, is receiving the rent of any land or building or any part of any land or building, either on his own account or as an agent of a person, or trustee for a society for any religious or charitable purpose, or as a receiver who would receive such rent if the land or the building or any part thereof were let to a tenant;
- (i) "Prescribed" means prescribed by rules made under this Act.

CHAPTER – 2 MAINTENANCE OF THE FIRE FORCE

3. Maintenance of Fire force:

There shall be maintained by the State Government a Fire Force to be called the Mizoram Fire & Emergency Services.

4. Appointment of Director of Fire & Emergency Services:

The State Government may appoint a person to be the Director of Mizoram Fire & Emergency Services from an officer not below the rank of Deputy Inspector General of Police.

5. Superintendence and Control of the Fire Force:

- (1) The Superintendence and control of the force shall be under the general control and supervision of the Director, Fire & Emergency Services and shall be carried on by him in accordance with the provision of this Act and Rules made there under.
- (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 power, functions and duties under this Act to such subordinate officer as he may deem fit.

6. Appointment of members of the Force:

The Director or such other officer of the force as the State Government may authorize in this behalf shall appoint members of the force in accordance with the rules made under this Act.

7. Issue of Certificate to member of the Force:

- (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 authorized 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 a 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 term 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.

8. Auxiliary Fire Force:

Whenever the State Government feels 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.

9. Power of State Government to make orders:

The State Government may from time to time make such general or special orders as it may deem fit –

- (1) for providing the force with such appliances and equipments as it deem proper;
- (2) for providing adequate supply of water and for securing that it shall be available for use;
- (3) for constructing or providing stations or hiring places for accommodating the members of the force and its fire fighting appliances;
- (4) 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;
- (5) for the training, discipline and good conduct of the members of the force;
- (6) for the speedy attendance of members of the force with necessary appliances and equipment on the occasion of any alarm of fire;
- (7) for sending members of the force with appliances and equipments beyond the limits of any area in which this Act is in force for purposes of fire fighting in the neighborhood of such limits;
- (8) for the employment of the members of the force in any rescue, salvage or other similar work;
- (9) for regulating and controlling the powers, duties and functions of the director;
- (10) generally for the maintenance of the force in a due state of efficiency; and
- (11) for establishment of Fire Station or Sub- Fire Station.

10. Powers of members of the force on occasion of Fire:

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 operation on the spot may –

- (1) remove, or order any other member of the force to remove who by his presence interferes with or impedes the operation for extinguishing the fire or for saving life or property;
- (2) close any street or passage in or near a fire is burning;
- (3) for the purpose of extinguishing fire, break into or through or pull down, any premises for the passage of hose or appliances or cause them to be broken into or through or pulled down, doing as little damage as possible;
- (4) require the authority in charge of water supply in the area to regulate the water mains 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 of any available source of water, public or private for the purpose of extinguishing or limiting the spread of such fire;

- (5) 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 such 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;
- (6) generally take such measure as may appear to him to be necessary for extinguishing the fire or for the protection of life or property;
- (7) require Telecom Companies to assist in tracing and recording fire calls.

11. Power of Director to make arrangement for supply of Water:

The Director may, with the previous sanction of the State Government, enter into an agreement with the authority in charge of water supply in any area for securing an adequate supply of water in case of fire, on such terms as to payment or otherwise as may be specified in the agreement.

12. Power of Director to enter into arrangement for assistance:

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 terms as to payments or otherwise as may be provided by or under the arrangements, the provision by that person or assistance for the purpose of dealing with fire occurring in any area in which this Act is in force.

13. Preventive measures:

- (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 risk of fire, to take such precaution 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 the force authorized by the State 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 object or goods, at the expense of the owner.
- (3) **License for letting off Rockets etc.:**
No person shall let off rockets or send up fire balloons or sell fire works within any area in which this Act is in force without license.
- (4) **Fire prevention and fire safety of buildings:**
The owner or occupier of building shall make or carry out arrangements necessary for fire prevention and fire safety which shall conform to the regulations mentioned at Clause 28, 29 and 35 of Aizawl Municipal Council Building Regulations, 2012 or any other relevant clauses under National Building Code of India 2005.

14. Place of public gathering for entertainment:

- (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 by the local authority duly constituted by the State Government for purposes of public safety; and
(ii) Unless 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.

15. Temporary structure of pandals:

A person who intends to erect a temporary structure or pandal with roof or walls made of straw, hay, 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 in the opinion of the Director it is not unsafe for public gathering.

CHAPTER - 3
EXPENDITURE ON MAINTENANCE OF FORCES

16. Expenditure on the force:

The entire expenditure in connection with the force shall be met out of the Consolidated Fund of the State, provided that the State Government may recover from a 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.

17. Levy of Fire tax:

- (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 as the State Government may, by notification, in the Official Gazette, determine.

18. Mode of assessment, collection etc. of Fire tax:

- (1) The authorities for the time being empowered to assess, collect and enforce payment of property tax under the law authorizing the local authority of the area to levy, such tax shall, on behalf of the state government and subject to any rule 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 power they have under the law aforesaid and the provisions of such law including provisions relating to return, 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 of Mizoram in such manner and at such intervals as may be prescribed.

19. Fees:

- (1) 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 neighborhood of such limits, the owner or occupier of the premises, where the fire occurred or spread shall be liable to pay such fee as may be prescribed in this behalf.
- (2) The fee referred to in sub-section (1) shall be payable within one month of the service of a notice of demand by the Director on the owner or occupier and if it is not paid within that period, it shall be recoverable as an arrear of land revenue.

CHAPTER – 4 PENALTIES

20. Penalty for violation of duty etc.:

Any member of the force 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) 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;

the Director or any subordinate officer empowered by the State Govt. subject to the provision of Article 311 of the Constitution of India may at any time dismiss, remove, suspend or reduce in rank or award any of the punishment to any member of sub-ordinate ranks in the force. However, the Secretary, Government of Mizoram, Home Department reserves the right of remission of hearing appeal in case of natural injustice or irregularities in the case.

21. Failure to give information:

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.

22. Failure to take precautions:

Whoever fails without reasonable cause to comply with any of the requirements specified in the 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 thousand rupees and the Director shall be competent authority to impose such fine.

23. Willfully obstructing fire fighting operation:

Any person who willfully 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 thousand rupees or with both.

24. False Report:

Any person who knowingly gives or causes to be given a false report of the out-break of a fire to any person authorized to receive such report by means of a statement, message or otherwise shall be punished with imprisonment for three months or with fine not exceeding five thousand rupees or with both.

CHAPTER – 5 GENERAL AND MISCELLANEOUS

25. Training Centres:

The State Government may establish and maintain one or more training centres in the state for providing courses of instruction in the prevention and extinguishment of fire and may close down or re-establish any such centre.

26. Bar to other employment:

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.

27. Transfer to other area:

The Director or any officer authorized 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 dispatch of the members of the force with necessary appliances and equipments 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 the period of fire or emergency or during such period as the Director may specify.

28. Employment on other duties:

It shall be lawful for the State Government or any Officer authorized 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.

29. Liability of property owner to pay compensation:

- (1) Any person whose property catches fire on account of any action of his own or of his agent done deliberately or negligently shall be liable to pay compensation to any other person suffering damage to his property on account of any action taken under Sub - Section 3 of Section 10 of this Act by any officer mentioned under the authority of such officer.
- (2) All claims under sub-section (1) shall be preferred to the District Magistrate within 30 days from the date when the damage was caused.
- (3) The District Magistrate shall, after giving the parties an opportunity of being heard, determine the amount of compensation due and pass an order stating such amount and the person liable for the same, and the order so passed shall have the force of a decree of a civil court.

30. Inquiry into origin of fire and report to Magistrate:

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 Director and to the District Magistrate having jurisdiction in the place in which such fire occurs, and the District Magistrate shall in any case where he may deem fit summon witnesses and take evidence in order to further ascertain such facts.

31. Power to obtain information:

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 any other materials, particulars, and such owner or occupier shall furnish all the information in his possession.

32. Power of entry:

- (1) The Director or any member of the force authorized by him in this behalf may enter any of the places specified in any notification issued under section 13 for the purpose of determining whether precautions against fire required to be taken on such place have been so taken.
- (2) Saving as otherwise expressly provided in this Act, no claim shall lie against any person for compensation for any damage necessarily caused by any entry made under sub-section (1).

33. Consumption of water:

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

34. No compensation for interruption of Water supply:

No authority in charge of water supply in an area shall be liable to any claims 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 sub-section 4 of Section 10 of this Act.

35. Police Officers to aid:

It shall be the duty of Police Officers of all ranks to aid the members of the force in the execution of their duties under the Act.

36. Information on outbreak of fire:

Any person who possesses any information regarding an outbreak of fire shall communicate the same without delay to the nearest fire station.

37. Indemnity:

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

38. Power to make rules:

- (1) The State Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for –
 - (a) the number and grades of officers and members of the force,
 - (b) the manner of appointment of members of the force;
 - (c) the service conditions of members of the force including their ranks, pay and allowances, hours of duty and leave, maintenance of discipline and removal from service;
 - (d) the circumstances in which and the condition (including the levy of fee) subject to which members of the force may be dispatched to carry on fire fighting operations in neighbouring areas,
 - (e) the conditions subject to which members of the force may be employed on rescue, salvage or other work;
 - (f) the manner in which and the intervals at which the processes of the fire tax levied under this Act shall be paid to the State Government;
 - (g) the manner of service of notice under this Act;
 - (h) the payment of rewards to persons, not being members of the force, who render services for fire fighting purposes;
 - (i) the compensation payable to members of the force in case of accidents or to their dependants in case of death while engaged on duty;
 - (j) the employment of members of the force 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.

39. Repeal and Savings:

If immediately before the day on which this Act comes into force in an area, there is in force in that area any law or rule having the force of law which corresponds to this Act, such corresponding law in so far as it relates to any matter for which provision has been made in this Act shall on that day stand repealed.

Provided that such repeal shall not be deemed to limit, modify or derogate from the general responsibility of any local authority –

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

Secretary,
Law & Judicial Department,
Govt. of Mizoram.