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PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT FIRE PREVENTION AND LIFE SAFETY MEASURES BILL, 2013.

GUJARAT BILL NO. 21 OF 2013.

A BILL

to make effective provisions for the fire prevention, safety and protection of life and property, in various types of buildings and temporary structures or shamiyana or tents or mandap likely to cause a risk of fire in different areas in the State of Gujarat and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to make effective provisions for the fire prevention, safety and protection of life and property in various types of buildings and temporary structures or *shamiyana* or *tents* or *mandap* likely to cause a risk of fire, in different areas in the State of Gujarat, fire service fee, constitution of a special fund and for the purposes connected therewith or incidental thereto;

It is hereby enacted in the Sixty-Fourth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Gujarat Fire Prevention and Life Safety Measures Act, 2013.

Deginations.

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

(3) It shall come into force in any area on such date as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different areas and for different provisions of the Act.

2. (1) In this Act, unless the context otherwise requires, —

(a) “**building**” shall have the meaning assigned to it in the GDCR or relevant law or any law for the time being in force in the area in which this Act is in force; and includes places or premises comprising land or building, or part of a land or building, outhouses, if any, appertaining to such building or part thereof and petrol, diesel or gas lines, communication lines, power installations or pumps, whether authorized or otherwise;

(b) “**building bye-laws**” means the building bye-laws, rules or regulations made under any relevant law and includes GDCR or regulations, by whatever name they are called, or any other building rules or regulations made under any other law for the time being in force and are in operation in the area in which this Act is in force;

(c) “**Chief Fire Officer**” means a person as classified under section 10;

(d) “**Commissioner**” shall have the meaning assigned to it in clause (9) of section 2 of the Gujarat Provincial Municipal Corporations Act, 1949; Bom. LIX of 1949.

(e) “**Director**” means a person appointed under section 6;

(f) “**disaster**” shall have the meaning assigned to it in clause (h) of section 2 of Gujarat State Disaster Management Act, 2003; Guj. 20 of 2003.

(g) “**emergency services**” means services required to be rendered in case of manmade or natural disaster or any eventuality where the life is at risk;

(h) “**erector**” means a person or an association of persons, whether corporate or otherwise, who erects or makes *shamiyana* or *tents* or *mandap* or any structure for occupation of people on a regular or temporary basis;

- (i) **"fees"** means fees levied under section 30;
- (j) **"fire division"** means a territory of State comprising such number of fire sub-divisions as may be prescribed; and declared generally or specially by the State Government to be a fire division for the purpose of this Act;
- (k) **"fire prevention and life safety measures"** means such measures as are necessary in accordance with the building bye-laws or as required by or under the provisions of any law or the National Building Code of India, for the time being in force, for the prevention, control and fighting of fire and for ensuring the safety of life and property in case of fire;
- (l) **"fire region"** means territory comprising such number of fire divisions as may be prescribed and declared generally or specially by the State Government to be a fire region for the purpose of this Act;
- (m) **"fire safety officer"** means a person appointed under section 12 of this Act as the Fire Safety Officer by the owners and occupiers of certain premises and buildings as specified in this behalf to ensure fire prevention and fire safety measures installed in such premises and buildings;
- (n) **"Fund"** means fund constituted under section 32;
- (o) **"GDCR"** means the General Development Control Regulations made under clause (m) of sub-section (2) of section 12 of Gujarat Town Planning and Urban Development Act, 1976; President's Act No. 27 of 1976.
- (p) **"Licensed Agency"** means a person or an association of persons licensed under sub-section (1) of section 28;
- (q) **"Housing Society"** includes all registered residential and non-residential or mixed housing societies, association of owners or co-owners of flat occupancy, building premises and associations of owners as defined under the Gujarat Ownership of Flats Act, 1973; Guj. 13 of 1973.
- (r) **"local authority"** means a municipal corporation, nagar panchayat, municipality, district panchayat, taluka panchayat, gram panchayat, notified area committee or cantonment board constituted under relevant local authority law;

- (s) **"Local Fire service"** means the local fire service as may be notified by the State Government under section 3.
- (t) **"National Building Code of India"** means the book or books containing Fire Prevention and Life Safety Measures to be implemented in the buildings, places, premises, workshops, warehouses and industries, published from time to time by the Bureau of Indian Standards;
- (u) **"nominated officer"** means an officer possessing the prescribed qualifications and nominated by the Director or the Regional Fire Officer or the Chief Fire Officer to perform duties and functions laid down under this Act;
- (v) **"occupancy"** means the principal occupancy for which a building or a part of a building is used or intended to be used including subsidiary occupancies which are contingent upon it; President Act No. 27 of 1976.
- (w) **"occupier"** shall have the meaning assigned to it in clause (xvi) of section 2 of the Gujarat Town Planning and Urban Development Act, 1976;
- (x) **"owner"** shall have the meaning assigned to it in clause (xvii) of section 2 of the Gujarat Town Planning and Urban Development Act, 1976 and shall also include the housing society; President Act No. 27 of 1976.
- (y) **"premises"** means any land or any building or part of a building and includes the garden ground and outhouse, if any, appertaining building or part of a building; and any land or any building or part of a building appurtenant thereto which is used for storing explosives explosive substance and dangerously inflammable substance;
- (z) **"prescribed"** means prescribed by rules made under section 57;
- (za) **"Regional Fire Officer"** means a person appointed under section 8;
- (zb) **"regulations"** means regulations made by the Director under section 58;
- (zc) **"shamiyana or tents or mandap"** means a temporary structure with roof or walls made of straw, hay, ulu grass, golpatta, hogla, darma, mat, canvas, cloth or other like material which is not adopted for permanent or continuous occupancy.

President
Act No. 27
of 1976.

Guj. 20 of
2003.

(2) Words and expressions used in this Act but not defined shall have the meaning assigned to them in the Gujarat Town Planning and Urban Development Act, 1976 or the Gujarat State Disaster Management Act, 2003 or any other law relating to local authorities, as the case may be, and the rules made thereunder.

CHAPTER II

ORGANIZATION, SUPERINTENDENCE, CONTROL AND MAINTAINANCE OF FIRE SERVICE

3. (1) There shall be one State fire service for the whole of the State and all officers and subordinate ranks of the fire service shall be liable for the posting to any office of the fire service:

One fire service
for whole of
State.

Provided that, the State Government may, by notification in the *Official Gazette*, declare any Fire Brigade or any other Local Fire Service of any local authority of the State, by whatever name called, that the same shall form or shall not form the part of State Fire Service at any time:

Provided further that, this provision shall not apply to the private fire services maintained for providing fire protection coverage to specific building or industry by the owner or occupier thereof.

(2) Notwithstanding anything contained in this Act or any other law for the time being in force relating to the local authorities, the State Government may, by notification in the *Official Gazette*, declare the services relating to any fire brigade or fire prevention a part of State Fire Service with effect from such date as may be specified in the notification.

(3) Upon such declaration under sub-section (2),-

- (i) the officers and employees responsible for providing the fire services in the areas of such local authority, shall be deemed to have been absorbed in the State Fire Service, subject to such terms and conditions as may be notified;
- (ii) terms and conditions applicable to the employees after such absorption shall be such as may be decided by the State Government,
- (iii) all proceeding pending before any fire officer, immediately before the declaration, be deemed to be proceeding pending before him in his capacity as the holder of the office to which he is deemed to be appointed under sub-clause (2),

- (iv) all assets, rights and liabilities relating to the fire services of such local authorities shall stand transferred to the State Fire Service, subject to such terms and conditions as the State Government may deem fit,
- (v) the State Government may take such necessary actions as it deems fit.

**Superintendence
of Fire Service
to vest in State.**

4. The superintendence of, and control over, the Fire Service throughout the State shall vest in the State Government and the Fire Service shall be administered by the State Government in accordance with the provisions of this Act and of any rules made thereunder through such fire officers as the State Government may, from time to time, appoint in this behalf.

**Constitution and
classification of
Fire Service.**

5. (1) Subject to the provisions of this Act, the State fire service shall consist of such number of staff in several ranks and have such organisation and have such powers, functions and duties as the State Government may, by general or special order, determine.

(2) The State Government may prescribe by rules, -

- (a) the different posts of the State Fire Service;
- (b) the mode of recruitment of staff, grade of post, the qualification, pay, allowances and other conditions of service of the officers and other staff engaged therein and matters connected therewith;

(3) The State Government may, by notification in the *Official Gazette*, review the existing pattern of the existing different fire services in the State and if deem fit may modify:

Provided that, for local fire services the rules framed in under this subsection may not include mode of recruitment of staff, pay, allowances and matters connected therewith.

(4) Save as otherwise provided by or under this Act, every person holding office either as a Chief Fire Officer or Fire Officer or staff or an employee (by whatever designation called) on an existing Fire Brigade or Fire Service of any authority on the date immediately before the commencement of this Act shall continue to hold office on the same terms and conditions as were applicable to him immediately before such date and shall exercise such powers and perform such duties as before and in addition to those as are conferred on them by or under this Act.

**Appointment
of Director.**

6. (1) The State Government shall appoint a person to be the Director and such other officers and staff as may be necessary from time to time to assist the Director while exercising the powers or discharging the duties or functions conferred under this Act or the rules made thereunder.

(2) The jurisdiction of the Director so appointed shall extend to the entire State in matters relating to fire services.

(3) Subject to the control, directions and superintendence of the State Government, the Director shall exercise such powers and perform such duties as are conferred and imposed upon him by this Act or the rules made thereunder.

7. (1) Without prejudice to the provisions of sub-section (3) of section 6, the Director shall, - Powers, duties and functions of Director.

- (i) function as the Head of Department in the office of the Director;
- (ii) subject to the rules made in this behalf, the Director may appoint subordinate staff only on the recommendations of the Gujarat State Subordinate Services Selection Board on such terms and conditions of salaries and allowances as may be fixed by the State Government;
- (iii) keep liaison with the Central Government and the State Government offices for the development of fire services;
- (iv) frame the policies in relation to the development of fire services in the State and, on approval by the State Government, take steps to implement the same;
- (v) exercise superintendence and control over all authorities in the matters relating to fire prevention and fire safety measures; and subject to the approval of the State Government, issue such directions to any authority in respect of fire services maintained or required to be maintained by them;
- (vi) represent the State Government on National and International forums with a view to updating the standard of fire services in the State;
- (vii) prepare and submit plans and proposals to the State Government with regard to the periodical review of fire equipment, fire property and fire manpower for effective implementation of fire services by the authorities;
- (viii) take or cause to be taken such effective steps and measures in cases of major fires, house collapse and other emergency services;
- (ix) investigate or cause to be investigated the cause of fire and advise the authorities for implementing fire precautionary measures;

- (x) advise the State Government to set up additional Fire Training Centre or Centres for imparting training to the officers and staff of local authorities so as also to cater to the need of the various factories, commercial and mercantile establishments in the private sector and to implant training to officers and the staff or to provide them the trained and qualified fire service personnel;
 - (xi) requisite fire-fighting equipment of any authority or any institution or individual, which in his opinion is required for the purpose of extinguishing fire in any area ; and to determine the amount of compensation payable in respect of such equipment of in the area of which authority, such fire operation is required to be carried out;
 - (xii) exercise such other powers and perform such other duties and functions as may be conferred, imposed or allotted to him by or under the provisions of this Act.
- (2) The Director, with the approval of the State Government, direct and regulate all matters of firefighting equipment, machinery and appliances, training, observation of persons and events mutual relations, distribution of duties, study of laws, orders and modes of proceedings and all matters of executive detail or the fulfillment of duties and maintenance of discipline of fire officers and members of the Fire Service under him.
- (3) The Director shall appoint such number of officers and employees as may be necessary to assist any Fire Officer of the State Fire Services, while exercising his powers or discharging his duties or functions under this Act or the rules made thereunder.
- (4) When the Director is informed, on a complaint made or otherwise that default has been made in the performance of any duty imposed on an authority by or under this Act or by or under any enactment in relation to firefighting measures or operations for the time being in force, the Director, if satisfied after due inquiry, that the alleged default has been made, may, by order, fix a period for the performance of that duty and communicate such order to the authority.
- (5) If the duty is not performed within the period so fixed, the Director may appoint such other person to perform it, and may direct that the expenses of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the person or the authority, as the case may be.
- (6) If the expense and remuneration are not so paid, the Director may make an order directing the bank in which any moneys of the person or the authority are deposited or the person in-charge of the local Government Treasury or of any other place of security in which the **moneys** of the authority are deposited, to pay such expenses and remuneration from such

moneys as may be standing to the credit of the authority in such bank or may be in the hands of such person or as may, from time to time, be received from or on behalf of the authority by way of deposit by such bank or person, and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the authority in respect of any sum or sums so paid by it or him out of the moneys of the authority so deposited with such bank or person.

(7) The Director or any Fire Officer, authorised by general or special order in this behalf, may, for the purpose of discharging his duties under this Act, require the owner or occupier of any building or other property as may be specified to supply information with respect to the character of such building or other property as may be specified, the available water supplies and means of access thereto any other material particulars, and such owner or occupier shall furnish all the information in his possession.

(8) The Director may, with the previous sanction of the State Government, enter into an agreement with any fire service or the authority which maintains the said fire service, beyond the limits of any area in which this Act is in force for providing personnel or equipment or both, for firefighting purpose on such terms and conditions as may be provided by or under the agreement on reciprocal basis in public interest.

(9) The Director may, with the previous sanction of the State Government, enter into arrangements with any person or organisation who employs and maintains personnel or equipment or both, for firefighting purposes, to secure, on such terms as to payment or otherwise as may be provided by or under the arrangements, the provision by that person or organization for assistance for the purpose of dealing with fire occurring in any area in which this Act is in force.

8. (1) For the purpose of providing adequate number of officers and staff for meeting the needs of fire services, having regard to the population, potential fire hazards in certain industries and large commercial and mercantile establishments and buildings and the number of fire stations required to be provided for and maintained, the State Government may, for the purpose of securing fire prevention and life safety measures within the State, by notification in the *Official Gazette*, constitute as many fire regions as it deems fit.

Constitution of
fire region.

(2) Every notification issued under sub-section (1) shall define the limits of the region to which it relates.

(3) The State Government shall, for each fire region, appoint a person to be the Regional Fire Officer.

(4) Subject to the control, direction and superintendence of the Director, the Regional Fire Officer, shall exercise such powers and perform such duties as are conferred and imposed upon him by this Act or the rules made thereunder or orders issued in this behalf.

(5) Without prejudice to the provisions of sub-section (4), the Regional Fire Officer shall, -

- (i) function as the Head of the Fire region;
- (ii) prepare the fire management plan for the region.

(6) The qualifications for appointment and other conditions of service of the Officer, appointed in sub-section (3) shall be such as may be prescribed.

Division of fire
region into fire
divisions.

9. The State Government may, by notification in the *Official Gazette*, divide each fire region into such fire divisions as may be specified in the notification. The fire divisions may comprise of the area of one or more local authority. The fire division may also be further divided into fire stations and define their boundaries as may be necessary for administrative and operational efficiency.

Appointment of
Fire Officers.

10. (1) For the purposes of this Act, the State Government may appoint, for each,-

- (a) fire division, a person as the Divisional Fire Officer,
- (b) fire station, a person as the Station Fire Officer.

(2) The qualifications for appointment and other conditions of service of the Officers, appointed in sub-section (1) shall be such as may be prescribed.

(3) For the purposes of this Act, the State Government may for each Local Fire Services,-

- (a) classify the category of Chief Fire Officer taking into consideration the population and class of local authority or authority or such other factors as may be prescribed;
- (b) prescribe the norms and qualification of the each category of Chief Fire Officer;

(4) Subject to sub-section (3), the State Government may by an order direct the local authority or the authority, as the case may be, to appoint a person to be the Chief Fire Officer.

Powers, duties
and functions of
Fire Officers.

11. (1) Subject to the control, directions and superintendence of the Director, the Regional Fire Officer or the Chief Fire Officer appointed under sub-section (3) of section 8 and under section 10 respectively, shall exercise such powers and perform such duties as are conferred and imposed upon him by this Act or rules or orders made there under.

(2) Without prejudice to the provisions of sub-section (1), in case of fire prevention and disaster, the Regional Fire Officer or the Chief Fire Officer, as the case may be, for their jurisdiction shall in case of any fire or emergency act as commanding officer for that event and all other fire services engaged shall work under him.

(3) Without prejudice to the provisions of sub-sections (1) and (2), the Regional Fire Officer or the Chief fire officer, as the case may be, shall for their jurisdiction, be the head of the office.

12. (1) To ensure the effective fire prevention and life safety measures of the buildings or premises as may be specified by an order by the State Government in this behalf, every factory or the owner and occupier or occupiers individually or jointly, as the case may be,-

Appointment
of Fire Safety
officer.

(i) shall appoint a fire safety officer, having such qualifications as may be prescribed;

(ii) send the compliance report to the Regional Fire Officer or the Chief Fire Officer, as the case may be, under section 18.

(2) The fire safety officer so appointed under sub-section (1) shall, be issued by the Regional Fire Officer or the Chief Fire officer, as the case may be, the enrolment certificate under his signature and seal of the office in the prescribed form.

(3) In case of a vacancy of the fire safety officer appointed under sub-section (1), either on resignation or otherwise, the factory or the owner and occupier or occupiers individually or jointly, as the case may be, shall be required to immediately appoint the fire safety officer.

(4) In case of non-appointment of the fire safety officer, as envisaged under this section (1), the Regional Fire Officer or the Chief Fire Officer, as the case may be, may take such steps as he deems necessary, which includes report to the Labour Commissioner for the closure of the factory and in other cases to the relevant authority for necessary action under relevant law.

CHAPTER III

REQUISITION, COMPENSATION FOR FIRE EQUIPMENT

13. (1) Where, the Director or the Chief Fire Officer or any other Fire Officer of any authority, who is in-charge of a fire fighting operation requires firefighting equipment or property of any other authority or any institution or individual, he may by order requisite such equipment or property for the purpose of extinguishing fire in any area and take possession thereof from the authority or any institution or individual, as the case may be.

Requisition of
fire fighting
property.

(2) As soon as may be, after the firefighting operations are over, such officer shall release the equipment or property, taken possession of by requisition under sub-section (1) and restore the same to the authority, institution or individual from whose possession such property was taken.

(3) Where any firefighting equipment or property is requisitioned under sub-section (1), there shall be paid to the owner of such property, compensation the amount of which shall be determined in accordance with the principles hereinafter set out, that is to say,—

- (a) where the amount of compensation can be fixed by agreement between the Director or, as the case may be, the Chief Fire Officer and the owner of the firefighting property, it shall be paid in accordance with such agreement;
- (b) where no such agreement can be reached, the Director or, as the case may be, the Chief Fire Officer shall refer the matter to the District Magistrate having jurisdiction over the area in which the firefighting equipment or property was kept, used or procured and the Magistrate shall, after hearing the parties and such other persons as he deems necessary, fix the amount of compensation taking into consideration the rent which the firefighting equipment or property would normally fetch if rented out for a similar purpose. The orders of the District Magistrate fixing the amount of compensation shall be final.

Functions in
case of fire.

14. (1) In case of any fire in any area, the Director or the Regional Fire Officer or the Chief Fire Officer or any other Fire Officer who is in-charge of firefighting operations on the spot may,—

- (a) remove, or order any other fire officer or fire personnel to remove, any person who by his presence, interferes with or impedes the operations for extinguishing the fire or for saving life or property ;
- (b) close any street or passage in or near which fire has taken place;
- (c) 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 for the purpose of extinguishing fire :

Provided that, the owner or occupier, as the case may be, of any such premises shall be paid reasonable compensation to the extent of the damage so caused in such manner as may be prescribed;

- (d) 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 the 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;

- (e) exercise, in the absence of aid from the police, 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;
- (f) generally take such measures as may appear to be necessary for extinguishing the fire or for the protection of life or property.

(2) Any damage cause to any premises or property, due to fire, by members of the 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.

15. It shall be lawful for the officer-in-charge of the fire-fighting operations to draw water from any source in the area which he considers necessary for such operations and on such occasions as may be required and the authority or owner or occupier having control over such water source shall supply water for that purpose at such rates as may be prescribed.

Power to
arrange
supply of
water.

16. Notwithstanding anything contained in section 14, the Regional Fire Officer or the Chief Fire Officer of any authority or any other officer authorised in this behalf, may enter into agreement with any person who employs and maintains personnel or equipment or both for fire-fighting purposes, to secure, on such terms as may be prescribed, the provisions of that person of assistance for the purpose of dealing with fires occurring in any area.

Power to
enter
into
agreement.

CHAPTER IV

TRAINING TO FIRE PERSONNELS

17. (1) The State Government may establish and maintain training centres in the State for providing courses of instruction in the prevention and extinguishment of fire for the personnel of any Fire Service and private services of industries, hotels, multi-storied buildings and such other Government and non-Government establishments as which the State Government may specify.

Training.

(2) The State Government may extend the training facilities at such centres to be established under sub-section (1) to the fire service under the control of local bodies and industrial undertakings on payment of fees as may be prescribed.

- (3) The State Government may prescribe such fee and such procedure as it may deem fit for providing a course of instruction in the prevention and extinguishment of fire.

CHAPTER V

PROVISIONS RELATING TO FIRE PREVENTION AND LIFE SAFETY MEASURES

Requirement
for fire
prevention
and life
safety
measures.

18. (1) Without prejudice to the provisions of any other law or the rules, GDCR or building bye-laws made thereunder or the National Building Code of India, relating to fire prevention and life safety measures as in operation in the State for the time being in force, housing society or the owner or where the owner is not traceable, the occupier, who are either individually or jointly responsible, of a building as classified by regulations or part thereof, shall provide fire prevention and life safety measures therein :

Provided that the owner or the occupier, as the case may be, shall, -

- (i) provide minimum firefighting and life safety installations as provided in the regulations;
- (ii) maintain the fire prevention and life safety measures in operational condition at all times, in the manner and specifications specified in regulations.

- (2) The regulations so made shall be notified in the *Official Gazette*.

Manner of
compliance
for
prevention
and life
safety
measures.

19. (1) Notwithstanding anything contained in any other law for the time being in force, -

- (a) no authority empowered to issue the occupancy certificate, shall issue the same, unless it is satisfied that the owner or the occupier, either individually or jointly, has complied with the provisions of section 18;
- (b) in case of building or part thereof, on the date of commencement of this Act, where development permission is issued and construction is not commenced or the construction is commenced but not completed or the construction is completed but occupancy certificate is not issued, and where the housing society or the owner or the occupier, individually or jointly liable, as the case may be, is required to comply the provisions of section 18, the Regional Fire Officer or the Chief Fire Officer, as the case may be, shall either *suo moto* or otherwise serve on the owner or occupier, as the case may be, a notice in the manner as may be prescribed and direct him to undertake and carryout fire prevention and life safety measures, as

deemed necessary, within two months from the commencement of this Act, or within such period or periods as may be extended by the State Government by order in writing:

Provided that any owner or the occupier, as the case may be who has been served with the notice under clause (b), or not may undertake and carryout fire prevention and life safety measures, as required to be complied under the provisions of section 18 or as mentioned in the notice issued by the Regional Fire Officer or the Chief Fire Officer or the nominated officer, as the case may be, for getting fire safety certificate.

(2) - The owner or the occupier, individually or jointly, as the case may be, shall inform to the Regional Fire Officer or the Chief Fire Officer or the nominated officer, about the compliance with respect to sub-section (1).

(3) The owners or occupiers, as the case may be, who are liable individually or jointly liable, for the building or part thereof, shall furnish to the Regional Fire Officer or the Chief Fire Officer or the nominated officer, certificate regarding the maintenance and operational condition of fire prevention and life safety measures; as specified by the regulations, issued by a Licensed Agency regarding the compliance of the fire prevention and life safety measures as required under the provisions of section 18.

20. The owners or occupiers, as the case may be, individually or jointly, who are liable to provide fire protection and life safety measures in building or part of building or premises, who, at any time, fail to comply with regard to sub-section (1) of section 19, shall be deemed to be in default. In case, where a fire safety certificate is issued earlier shall remain suspended for a period from the date of the notice for non-compliance issued by the Regional Fire Officer or the Chief Fire Officer or nominated officer and till the date compliance is made to the satisfaction of the Regional Fire Officer or the Chief Fire officer or nominated officer, as the case may be, and the same shall be duly recorded on the fire safety certificate.

Consequences
for
non-
compliance
of section 19.

21. (1) The Regional Fire Officer or the Chief Fire Officer or the nominated officer, as the case may be, may scrutinise the compliances, with regard to the requirement of section 18, made by the owners or the occupiers, as the case may be, either independently or jointly, may after making necessary inquiry, if any, issue fire safety certificate.

Suspension,
termination
and
punishment.

(2) If the owner or occupier, as the case may be, fails to comply with the directions issued by the Regional Fire Officer or the Chief Fire Officer or the nominated officer, the fire safety certificate, issued under

sub-section (1) shall be cancelled after giving owner or occupier an opportunity of hearing to show-cause.

(3) The owner or occupier of the building or premises whose fire safety certificate has been cancelled due to default on his part, shall not be entitled to occupy the building or premises on the ground of non-compliance of fire prevention and life safety measures under section 18.

(4) No person shall tamper with, alter, remove or cause any injury or damage to any fire prevention and life safety equipment installed in any such building or part thereof or instigate any other person to do so.

Safety
Measures
for fire
hazardous
materials.

22. (1) The State Government may, by notification in the *Official Gazette*, frame the regulations in respect of categorization of fire hazardous materials, trade and premises used for such purposes.

(2) Upon issuances of notification under sub-section (1) has, it shall be lawful for the Director or the Regional Fire Officer or the Chief Fire Officer or the nominated officer or any fire officer authorised either by the Director or the Regional Fire Officer or the Chief Fire Officer to direct the removal of objects or goods likely to cause the risk of fire, to a place of safety and on failure by the owner or occupier to do so, the Director or the Regional Fire Officer or the Chief Fire Officer or fire officer may, after giving the owner or occupier a reasonable opportunity of making the representation, seize, detain or remove such objects or goods. The opportunity of representation as aforesaid may be dispensed with to avoid an imminent or alarming foreseeable risk of fire.

Assistance
of police in
fire
prevention
and
firefighting
operation.

23. In firefighting operations or any other duties relating to seizure, detention or removal of any goods involving risk of fire, it shall be the duty of a police officer or members of the police force to assist and aid to the Director or such fire officer in performance of such duties under this Act.

Power to
entry and
inspect.

24. (1) The Director or the Regional Fire Officer or the Chief Fire Officer or the Nominated Officer may, after giving three hours' notice to the housing society or occupier or if there is no occupier, to the owner of any place or building or part thereof, as the case may be, enter and inspect such place or building or part thereof at any time between sunrise and sunset where such inspection appears necessary for ascertaining the adequacy or contravention of fire prevention and life safety measures:

Provided that, the Director or the Regional Fire Officer or the Chief Fire Officer or the Nominated Officer may enter into and inspect any such place or building or part thereof at any time if an industry is working or an entertainment or function is going on at such place,

building or part thereof, or if it appears to him to be expedient and necessary to do so in order to ensure safety of life and property.

(2) The Director or the Regional Fire Officer or the Chief Fire Officer or the Nominated Officer shall be provided with all possible assistance by the owner or occupier, as the case may be, of such place or building or part thereof for carrying out the inspection under sub-section (1).

(3) The owner or occupier or any other person shall not obstruct or cause any obstruction to the entry of a person empowered or authorised under this section into or upon any land or building or shall not molest such person after such entry for inspection.

(4) When any such place or building or part thereof used as a human dwelling is entered under sub-section (1), due regard shall be paid to the social and religious sentiments of the occupiers; and before any flat, apartment or a part of such building in the actual occupancy of any woman, who, according to the custom does not appear in public, is entered under sub-section (1), notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

(5) Where the inspection is carried out by the Nominated Officer under the preceding provisions of this section, he shall give a report of such inspection to the Director or the Regional Fire Officer or the Chief Fire Officer of the authority concerned.

25. (1) Without prejudice to the prosecution for an offence of non-compliance of the notice issued under clause (b) of sub-section (1) of section 19, the Director or the Regional Fire Officer or the Chief Fire Officer may, in the event of non-compliance of any such notice, take such steps including exercising the power to have the place, building or any part thereof sealed and / or disconnected facilities of water, power and drainage under section 26, as may be necessary for the compliance of such notice.

Steps to be taken for non compliance of notice.

(2) All expenses incurred by the Director or the Regional Fire Officer or the Chief Fire Officer in relation to any steps taken by him under sub-section (1) shall be payable on demand, by the owner or occupier on whom such notice is served, and shall, if not paid within fifteen days after such demand be recoverable, as if it were the arrears of tax on property and the provisions under the relevant law or any other law for the time being in force and is in operation within the area of jurisdiction of the local authority concerned for recovery of arrears of tax on property, shall apply *mutatis mutandis* for such recovery as they apply to the recovery of arrears of tax on property or where any such law is not in operation then, as an arrears of land revenue.

Evacuation
and power
to seal.

26. (1) If the Director or the Regional Fire Officer or the Chief Fire Officer is satisfied that due to inadequacy of fire prevention and life safety measures the condition of any place or building or part thereof is in imminent danger to person or property, then notwithstanding anything contained in this Act, or any other law for the time being in force, he shall, by order in writing, require the persons in possession or in occupation of such place or building or part thereof to remove themselves forthwith from such place or building or part thereof.

(2) If an order made by the Director or the Regional Fire Officer or the Chief Fire Officer under sub-section (1) is not complied with, he may direct, -

- (a) the authority responsible for supply of electricity or supply of water, to disconnect the supply of electricity or water, as the case may be;
- (b) any police officer having jurisdiction in the area to remove such persons from such place or building or part thereof and such authority or police officer shall comply with such directions.

(3) After the removal of the persons under sub-section (1) or sub-section (2), as the case may be, the Director or the Regional Fire Officer or the Chief Fire Officer shall cause such place or building or part thereof, to be sealed by such police officer forthwith.

(4) No person shall remove such seal except under a written order made by the Director or the Regional Fire Officer or the Chief Fire Officer *suo motu* or on an application of the owner or occupier.

CHAPTER VI

PROVISIONS FOR TEMPORARY STRUCTURES

Provisions
for
temporary
structures.

27. (1) The State Government may by notification in the *Official Gazette*, declare any class of temporary occupancy such as a *mandap*, *shamiyana* or tents or such other temporary structures for hosting any event, which, in its opinion, is likely to cause a risk of fire.

(2) The measures for fire prevention and life safety to be taken by the promoter, organiser, owner or occupier of such premises where such temporary structures are likely to take place or the erectors of temporary structures or *shamiyana* or tents or *mandap*, as the case may be, shall be such as may be prescribed.

(3) The Regional Fire Officer or the Chief Fire Officer or the Nominated Officer may grant permission for the use of the temporary structures or *shamiyana* or tents or *mandap*, as the case may be, ensuring an undertaking in the prescribed form is given by the promoter, organiser, owner or occupier.

(4) The Director or the Regional Fire Officer or the Chief Fire Officer or the Nominated Officer may enter and inspect any temporary structure about the correctness of the declaration and may point out the inadequacy, if any, with a direction to comply within a specified time.

(5) If the directions of the inspecting officer are not complied with within the time so given, the inspecting officer may seal the temporary structure or *shamiyana* or tents or *mandap* or dismantle such structure and the costs incurred therefore shall be recovered from such defaulter.

(6) The Regional Fire Officer or the Chief Fire Officer or any officer authorised by him in this behalf shall direct the removal of encroachments or objects or goods likely to cause a risk of fire or any obstruction to firefighting, to a place of safety, and on failure of the owner, occupier or erector, as the case may be, to do so, he may, after giving the owner or occupier or erector, as the case may be, a reasonable opportunity of making representation, report the matter to the Sub-Divisional Magistrate, in whose jurisdiction the premises or temporary structure or *shamiyana* or tents or *mandap* is situated, requesting to adjudicate the matter:

Provided that where the Regional Fire Officer or the Chief Fire Officer considers such encroachments or objects or goods to be an imminent cause of risk of fire or obstruction to firefighting, he may direct the owner or the occupier or erector of such premises or building to remove the encroachments or objects or goods forthwith and report the matter to the Sub-Divisional Magistrate accordingly.

(7) On receipt of a report under sub-section (6), the Sub-Divisional Magistrate may make an order to seize, detain or remove such encroachment; or objects or goods likely to cause a risk of fire or obstruction to firefighting.

(8) The person charged with the execution of the order made under sub-section (7), shall forthwith make an inventory of the objects and goods which he seizes under such order, and shall, at the same time, give a written notice as may be prescribed in this behalf, to the person in possession thereof at the time of seizure, that the said objects or goods shall be sold as mentioned in the order as if the same are not claimed within the stipulated time specified in the notice.

(9) On the failure of the person in whose possession the objects or goods were at the time of seizure to claim the seized goods pursuant to notice given under sub-section (8), the Sub-Divisional Magistrate shall sell them by public auction.

(10) Any person aggrieved by a notice or order of the Sub-Divisional Magistrate under sub-section (8) may, within thirty days from the date of such order, prefer an appeal to the Director:

Provided that the Director may entertain an appeal after the expiry of the said period of thirty days if he is satisfied that there was sufficient cause for not filing the appeal within prescribed period.

(11) An appeal to the Director shall be made in such form and shall be accompanied with a copy of the notice or the order appealed against and with such fees as may be prescribed and the order passed by him shall be final.

CHAPTER VII

LICENSED AGENCY

Licensed
Agency.

28. (1) The Director may grant a license to a person or association of persons as he thinks fit, to act as a Licensed Agency for the purposes of this Act.

(2) Any person intending to have or renew such license shall apply to the Director in the prescribed form and in the prescribed manner along with such fee as may be prescribed.

(3) On receipt of an application made under sub-section (2), the Director may, after holding such inquiry as he deems fit, either grant the license in the prescribed form for a period of two years or renew the same for a like period or, for reasons to be recorded in writing, by order refuse to grant or renew the license.

(4) Where the Director has reason to believe that any person to whom a license has been granted has contravened any of the provisions of this Act or of the rules or has failed to comply with the conditions of the license or is unfit by reason of incompetency, misconduct or any other grave reasons, the Director may, after giving to the person a reasonable opportunity to show cause, for reasons to be recorded in writing, by order suspend or cancel the license.

Work to be
carried out
by the
licensed
Agency.

29. (1) No person other than a Licensed Agency shall carry out the work of providing fire prevention and life safety measures or performing such other related activities required to be carried out in any place or building or part thereof:

Provided that, if the Regional Fire Officer or the Chief Fire Officer is satisfied that, for any reason, to be recorded in writing, the owner or occupier is not able to carry out the fire prevention and fire safety measures in any such place or building or part thereof through a Licensed Agency, the Regional Fire Officer or the Chief Fire Officer may, with the approval of the Director, authorise any other licensed agency to carry out such work. The cost for the work carried out shall be recovered from the owner or the occupier, as the case may be.

(2) The Licensed Agency shall give a certificate under sub-section (3) of section 19 as to the compliance of the fire prevention and life safety measures or maintenance thereof unless without there being actual compliance or maintenance as specified in the regulations.

CHAPTER VIII

LEVY OF FIRE FEE AND OTHER CHARGES

30. (1) For the purpose of providing for the cost of fire prevention and life safety services in the State, the State Government may levy and collect a fire fees on lands and buildings which are situated in any area in which this Act is in force notwithstanding any declaration made under proviso to sub-section (1) of section 3.

Levy of fire fees.

(2) The fire fees shall be levied at such rate in terms of percentage of such property tax as the State Government may, by notification in the *Official Gazette*, determine from time to time:

Provided that, the State Government may determine different rate of percentage for different areas or different local authority or authorities.

31. (1) The authorities empowered to assess, collect and enforce payment of property tax under the relevant 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 fee in the same manner as the property tax is assessed, paid and collected and for this purpose, and may exercise all or any of the powers conferred on them under the relevant law and the provisions of such law including provisions relating to return, appeals, reviews, reference and penalties shall apply accordingly.

Mode of assessment, collection, etc. of fire fees.

(2) Such portion of the total proceeds of the fire fees as the Government may determine shall be deducted to meet the cost of collection of the fire fee.

32. (1) There shall be constituted a fund to be known as "Fire Prevention and Life Safety Fund".

Constitution of fund.

(2) The proceeds of fire fees and penalties (other than fines) recovered under this Act, shall first be credited to the Consolidated Fund of the State and after deduction of the expenses of collection and recovery therefrom, under appropriation duly made by law in this behalf, be entered in, and transferred to, fund constituted under sub-section (1).

- (3) Any amount transferred to the fund under sub-section (2) shall be charged on the Consolidated Fund of the State.
- (4) The amount in the fund shall be expended in such manner and under such conditions as may be prescribed, for the purposes of this Act.
- (5) The fund shall be reflected into the budget estimate of the respective authority and the accounts in respect thereof shall be maintained and audited in accordance with the procedure prescribed for the purpose of maintenance of accounts in the relevant law or the rules and orders made thereunder as are applicable to the respective authority.

CHAPTER IX

APPEAL

Appeal. 33. Any person aggrieved by —

- (i) the notice issued under clause (b) of sub-section (1) of section 19, or
- (ii) the refusal of the Regional Officer or the Chief Fire Officer to pass an order under sub-section (4) of section 26, may prefer an appeal to the Director. Such appeal shall be made in such manner and accompanied with such fees, as may be prescribed. The Director after giving a reasonable opportunity to the appellant of being heard, pass an order, and every such order passed under this section shall be final:

Provided that in case of local fire service of any local authority, in so far as the area comprising of Municipal Corporation is concerned, the Commissioner shall be the appellate authority.

**Limitations
for filing
Appeal.**

34. No appeal under section 33 shall be entertained unless, such appeal is preferred within fifteen days from the date of service of notice or the date on which the refusal is communicated to the Director or the Commissioner, as the case may be:

Provided that, the Director or the Commissioner, as the case may be, may admit the appeal preferred after the expiration of the fifteen days if he is satisfied that the appellant had sufficient cause for not preferring the appeal within said period.

CHAPTER X

OFFENCES AND PENALTIES

35. No court inferior to that of a Metropolitan Magistrate or Judicial Magistrate First Class shall try an offence punishable under this Act or the rules made thereunder. **Jurisdiction of Court.**
36. No court shall entertain any suit, application or other proceedings in respect of any notice given under section 19 or any action taken under sub-section (2) of section 26 or an order of refusal to permit removal of seal passed under sub-section (4) of section 26 and sub-section (10) of section 27 of this Act or no action or any order shall be called in question otherwise than by preferring an appeal as provided by this Act. **Bar of Court.**
37. Save in the case of cognizable offences, no court shall take cognizance of an offence punishable under this Act or the rules made thereunder except on the complaint made by the Regional Fire Officer or the Chief Fire Officer or any other officer authorised by him in this behalf. **Cognizance of offence.**
38. (1) The Director or the Regional Fire Officer or the Chief Fire Officer, or any officer authorised in this behalf by the Director may by general or special order, either before or after the institution of the proceedings, compound any offence made punishable by or under this Act or the rules made thereunder or withdraw from such proceedings at any stage. **Compounding of offence or withdrawal of proceedings.**
- (2) When an offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged, and no further proceedings shall be taken against him in respect of the offence compounded.
39. (1) Whoever contravenes any of the following provisions,- **Offences and penalties**
- (a) under sub-section (1) of section 18, fails to provide and maintain the fire prevention and life safety equipment in good repair and efficient condition;
 - (b) under sub-section (1) of section 19, fails to comply with the notice directing to undertake and carry out fire prevention and life safety measures;
 - (c) under sub-section (4) of section 21, tampers with, alters, removes or causes any injury or damage to any fire prevention and life safety equipment installed in a building or instigating any other person to do so;
 - (d) under sub-section (2) of section 22, after non-compliance of the direction of removal of objects or goods likely to cause the risk of fire to a place of safety, causes obstruction in authorized seizure, detention, and removal of such objects or goods;

- (e) under sub-section (3) of section 24 obstructs the entry by an authorized or empowered person or molests such person after such entry for inspection; under sub-section (4) of section 26, removes the seal of the building without written order made by the Regional Fire Officer or the Chief Fire Officer;
- (f) under sub-section (4) of section 27, fails to comply with the directions issued by the Director or the Regional Fire Officer or the Chief Fire Officer;
- (g) under sub-section (1) of section 29 carries out the work of providing fire prevention and life safety measures, or performing such other related activities by a person other than the Licensed Agency; or
- (h) under sub-section (2) of section 29 giving a certificate under sub-section (3) of section 19 without there being actual compliance or maintenance of fire prevention and life safety measures and equipment;

Without prejudice to any other action taken or which may be taken under any of the provisions of this Act, be punished with imprisonment for a term which shall not be less than one month which may extend up to two years or fine which shall not be less than rupees 10,000 which may extend to rupees 1,00,000, or both and where the offence is continuing one with a further fine which may extend to rupees 3000 for every day during which such offence continues after the conviction for the first such offence.

(2) Whoever —

- (a) wilfully attempts, in any manner whatsoever, to evade any fee or interest leviable under this Act, or
- (b) contravenes any of the provisions of this Act or the rules for which no specific penalty has been provided for by this Act, or
- (c) fails to comply with the requirement of any order or any notice or any direction, issued under any of the provisions of this Act or the rules, by the Director or any authority or the Regional Fire Officer or the Chief Fire Officer of such Authority or any other officer authorised by any of them, for which no specific penalty has been provided by this Act, shall, on conviction, be punished, —

- (i) in case where the amount, of fees and/or interest exceeds rupees 50,000 during the period of a year, with imprisonment for a term which shall not be less than three months but which may extend to two years or with fine or with both;
- (ii) in case where such amount is less than rupees 50,000 during a year, with imprisonment for a term which shall not be less than one month but which may extend to one year or with fine or with both;
- (iii) in case of contravention of any provision of this Act or the rules made thereunder or failure to comply with the requirement of any order or notice as aforesaid, with imprisonment for a term which shall not be less than three months but which may extend to two years or with fine or with both.

(3) Whoever aids or abets any person in commission of any offence specified in sub-section (1) or (2) shall, if the act is committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

40. Offences under sub-section (4) of section 21 and of removal of seal without an order under sub-section (4) of section 26 shall be cognizable and non-bailable.

Offences and penalties for removing seal.

41. Every police officer, Government and private agency or person shall be bound to assist the members of the Fire Service reasonably demanding his or its aid in the performance of their duties under this Act.

Assistance to fire Officers.

45 of 1860.

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 section 176 of the Indian Penal Code, 1860.

Failure to give information.

43. Any person who wilfully obstructs or interferes with any member of the Fire Service who is engaged in firefighting operations, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend, to five thousand rupees, or with both.

Penalty for wilfully obstructing firefighting rescue operations.

False report 44. 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 punished with imprisonment which may extend to three months or with fine which may extend to one thousand rupees, or with both.

Offence by a company. 45. (1) Where an offence punishable 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 punishable 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 also 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 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, and in relation to any association of persons or body of individuals, means any member controlling the affairs thereof.

CHAPTER XI MISCELLANEOUS

Officers and employees to be public servant.

46. Every officer or employee shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

47. In the event of a member of the Fire Service (other than a Gazetted Officer), dies while on active duty, the State Government shall pay, to the next of kin as funeral expenses, such amount as the State Government may by an order determine. **Death of member of Fire Service.**
48. It shall be lawful for the Government or any officer authorised by it in this behalf, to employ the Fire Service in any rescue, salvage or other works for which it is suitable by reason of its training, appliances and equipment. **Employment on other duties.**
49. (1) The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any other law. **Effect of inconsistency with other Act.**
- (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.
50. (1) The provisions of this Act shall have overriding effect notwithstanding anything contained in any other law for the time being in force, in so far as the provisions relating to fire prevention and life safety are concerned. **Act to have overriding effect and effect of other laws.**
- (2) Notwithstanding anything contained in any other law for the time being in force, when anything in relation to the fire prevention and life safety measures is required to be done or approved under this Act, any such thing shall not be deemed to have been unlawfully done or approved by reason only of the fact that permission, approval or sanction required under such other law therefor has not been obtained.
51. In order that the effective fire prevention and life safety measures are provided by the State Fire Service, the State Government may by an order, transfer all or any assets, rights and liabilities of any body owned or controlled by the State Government to the State Fire Service. **Transfer of assets, rights, etc. by State Government to State fire Services.**
52. (1) The State Government may, by notification in the *Official Gazette*, delegate any of its powers, except the power of making rules, exercisable by it under this Act or the rules made thereunder, to the Director in such matters and subject to such terms and conditions, if any, as may be specified in such notification. **Delegation of power.**
- (2) The Director may, with the prior approval of the State Government, by an order in writing, delegate any of its powers exercisable by him under this Act or the rules made thereunder to the Regional Fire Officer or the Chief Fire Officer subject to such terms and conditions, if any, as may be specified in such order.

Power to
issue
directions.

53. The Director may, for the purpose of performing functions under this Act and for reasons to be recorded in writing, issue such directions to a person to do or abstain from doing a specified thing within the affected areas in which the emergency relief measures are being undertaken and any person on receipt of such directions shall comply with the same.

Reporting
by Regional
Fire Officer
or Chief fire
Officers.

54. Every Regional Fire Officer or the Chief Fire Officer shall furnish to the Director such reports, returns and other information as the Director may, from time to time, require.

Power of
State
Government
to give
Directions.

55. The State Government may issue, from time to time, directions to the Director as it may deem fit for giving effect to the provisions of this Act and it shall be the duty of the Director to comply with such directions.

Decision of
State
Government
to be final

56. If any dispute arises with respect to the exercise of powers and discharge of functions by the Director or the Regional Fire Officer or the Chief Fire Officer under this Act, the same shall be referred to the State Government and the decision of the State Government thereon shall be final.

Power to
make rules.

57. (1) The State Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules, not inconsistent with this Act, for carrying out the purposes of this Act:

Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:-

- (a) prescribing number of fire sub-divisions of fire divisions and fire divisions of fire region under clause (j) and clause (l) respectively, under section (1);
- (b) prescribing qualifications for appointment of nominated officer under clause (u) of section 1;
- (c) prescribing rules governing the mode of recruitment of staff, grade of post, the qualifications, pay, allowances and other conditions of service of the officers and employees under sub-section (2) of section 5;

- (d) prescribing the qualifications for appointment and other conditions of service of the Regional Fire Officer under sub-clause (3) of section 8;
- (e) prescribing the qualifications for appointment and other conditions of service of the Regional Fire Officer, the Divisional Fire Officer and the Station Fire Officer under sub-section (2) of section 10;
- (f) prescribe other factors for the classification of the category of Chief Fire Officer for each Local Fire Service under clause (a) of sub-section (3) of section 10;
- (g) prescribing the norms and qualification of the each category of Chief Fire Officer under clause (b) of sub-section (3) of section 10;
- (h) prescribing the norms and qualification of the each category of Fire Safety Officer under sub-section (1) of section 12;
- (i) prescribing the form of enrolment certificate under sub-section (2) of section 12;
- (j) prescribing the manner in which and the extent to which compensation shall be paid for damage caused under clause (c) of sub-section (1) of section 14;
- (k) prescribing rates of water supply, for drawing the water during fire-fighting operations under section 15;
- (l) prescribing the terms of agreement with any person to maintain equipment for fire-fighting under section 16;
- (m) the fees payable for the training of personnel of any Fire Service and private services of industries, hotels, multi-storied buildings under sub-section (2) of section 17;
- (n) prescribing the fee and the procedure for providing a course of instruction under sub-section (3) of section 17;
- (o) prescribing the manner of service of notice under clause (b) of sub-section (1) of section 19;
- (p) prescribing the measure for fire prevention and life safety under of sub-section (2) of section 27;
- (q) prescribing the form of undertaking under sub-section (3) of section 27;
- (r) prescribing the manner of service of notice under sub-section (8) of section 27;
- (s) prescribing the form of appeal and fees under sub-section (11) of section 27;
- (t) prescribing the fee to be paid, the form of application and form of licence and manner under sub-section (2) of section 28;

- (u) prescribing the fee to be paid, the form and manner under sub-section (2) of section 28;
- (v) prescribing the manner and conditions for the expenses made from the fund under sub-section (4) of section 32;
- (w) prescribing the manner and fees for filing an appeal under clause (ii) of section 33;

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be they are made, and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make, during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Power to
make
regulations.

58. (1) The Director may, with the previous approval of the State Government, by notification in the *Official Gazette*, make regulations not inconsistent with the Act and the rules made there-under, for enabling it to perform its functions under this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may be made to provide for all or any of the matters expressly required or allowed by this Act to be specified by regulations.

Power to
remove
difficulty.

59. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion requires, by order do anything not inconsistent with the objects and purposes of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty :

Provided that, no order shall be made under this section after the expiry of three years from the date of coming into force of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before the State Legislature.

Removal of
doubt.

60. For the removal of doubt, it is hereby declared that fire prevention and life safety measures specified under this Act shall be without prejudice to any civil or the criminal liability to which a person may be subject to under any law for the time being in force.

Protection
of action
taken in
good faith.

61. 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 under this Act or the rules.

62. Any amount payable under this Act shall be recovered as an arrear of land revenue. Recovery of dues.

63. Every member of the fire service shall perform functions imposed by or under this Act in addition to and not in derogation of functions performed by the State Government or any of its officers in pursuance of the provisions of any law for the time being in force or in exercise of the executive powers of the State for the prevention of fire and life safety in the State or in relation thereto. Savings.

64. In order to assist any disaster, other than resulting due to fire, all Fire Services shall be considered as emergency services: Fire Services to be consider as Emergency Services.

Provided that, in case where the emergency services are not related only to fire, the decisions and directions of the authority in charge of the emergency service shall prevail.

STATEMENT OF OBJECTS AND REASONS

There has been rapid industrial as well as economic growth in the State of Gujarat and in turn demand for buildings for residential, commercial as well as industrial purposes is increasing day by day. At present, there are fire services being operated by different agencies in the State and mainly provisions relating to fire are a part of local laws. The National building code, building bye-laws and the regulations controlling the development of the buildings and premises provides for the fire prevention measures required to be installed. At present, the fire safety installations, as per the regulations controlling the development of buildings, are being provided. However, there is no effective provision which would ascertain that the owner or the occupier of the building or premises would carry out the maintenance of the fire safety devices and the consequences are that it is not sure that such installations would work when the fire erupts. Moreover, for effectively manage the fire extinguishing different resources viz. water; manpower machines available from different sources should be made available at the occasion. Also for smooth operations of fire extinguishing control of the situation, the personnel require assistance of police, and powers to prevent act which may be detrimental in the operations.

It is therefore considered to have a unified fire service for the whole State of Gujarat in order to prevent the eruption of fire as also to take effective steps in case of fire. It is also necessary to have all the fire agencies under one umbrella. It is, also, considered necessary to enact a law which would ascertain safety of life and property against fire.

This Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain, in brief, some of the important provisions of the Bill:-

Clause 1.- This clause provides for the short title, extent and commencement of the Act.

Clause 2.- This clause provides for certain terms used in the Bill.

Clause 3.- This clause provides for the single State Fire Service for whole of the State with officers and sub-ordinate ranks of the Fire Service. It also provides to exclude or include private fire services and such other local fire services as may be notified by the State Government. It further provides to declare by notification, the authorities whose services relating to fire shall be the part of the State Fire Services and matters regulating transfer of the assets, rights and liabilities of such local authorities to the State Fire Services.

Clause 4.- This clause provides for the overall control of the State Government of all fire services in the State.

Clause 5.- This clause provides for the constitution and classification of the Fire Services.

Clause 6.- This clause provides for appointment of the Director by the State Government.

Clause 7.- This provides for the powers, duties and functions of the Director.

- Clause 8.-** This clause provides for the constitution of regions defining the limits of the regions and appointment of the Regional Fire Officer. It also provides for the duties and functions of the Regional Fire Officer.
- Clause 9.-** This clause provides for the regions to be divided into fire divisions and further into fire stations.
- Clause 10.-** This clause provides for the Divisional Fire Officers for each division and the Station Fire Officer for each fire station as the case may be. It also provides to direct to the local authority to appoint the Chief Fire Officer.
- Clause 11.-** This clause provides the powers, duties and functions of the Regional Fire Officer.
- Clause 12.-** This clause provides for the appointment of Fire Safety Officer in premises and building specified in an order to be made by the State Government. It further provides for the Fire Safety Officer to be enrolled with the Regional Fire Officer or the Chief Fire Officer. In case of non-appointment of the Fire Safety Officer, the non-compliance shall be reported by the fire officer to the Labour Commissioner for appropriate action under relevant law.
- Clause 13.-** This clause provides for the powers to requisite property required for firefighting, and payment of compensation for such property.
- Clause 14.-** This clause provides for the functions of the Director, Regional Fire Officer or the Chief Fire Officer or any fire officer required at the time of fire.
- Clause 15.-** This clause provides to draw water from any source for the purpose of firefighting.
- Clause 16.-** This clause provides for the Regional Fire Officer or the Chief Fire Officer or any of the fire officer to make an agreement with any person who employs and maintains personnel or equipment or both for fire-fighting purposes, for assistance to deal with fires.
- Clause 17.-** This clause provides for training to fire personnel.
- Clause 18.-** This clause provides for the requirement of fire prevention life safety measures which the owner or the occupier individually or jointly has to provide in the building and premises and maintain the same.
- Clause 19.-** This clause specifies the stage of building construction and manner of providing the life safety and fire prevention measures.
- Clause 20.-** This clause provides for the suspension of the license in case of non-compliance of the directions issued under section 19.
- Clause 21.-** This clause provides for the issue of fire certificate.
- Clause 22.-** This clause provides for power of State Government to frame regulations to categorise of fire hazardous materials, trade and premises.
- Clause 23.-** This clause provides for the duty of the police officer to assist in firefighting operations and such other matters relating to seizure, detaining or removing any goods involving risk of fire.

Clause 24.- This clause empowers the Director and other fire officers to enter and inspect to enter a premises or a building to ascertain the adequacy or contravention of fire prevention and life safety measure.

Clause 25.- This clause empowers the Director and other fire officers to take steps such as sealing of building, disconnection of facilities of water or power or drainage, for the non-compliance of the notice issued under section 19 and recovery of expenses incurred by such authorities for the said purposes.

Clause 26.- This clause provides for removing the persons in case of condition of premises of building has eminent danger to person or property due to inadequacy of fire prevention and life safety measures. It also provides for consequential actions for non-compliance such as disconnection for supply of electricity or water and directions to police officer of the area to remove such persons from such place or building sealing of the building by such police officer and that such seal shall not be removed except under a written order of the Director or the Chief Fire Officer.

Clause 27.- This clause provides for classification by notification, of the structures and premises for temporary occupancy such as a mandap, shamiyana or tents or such seizure, detaining or removing such encroachment or objects or goods likely to cause a risk of fire or obstruction to firefighting for the non-compliance of measures to be taken by the erector for life safety and fire prevention. It also provides for the appeal to the Director or the Commissioner.

Clause 28.- This clause specifies the manner of granting and renewed of a license by the Director to a person or association of persons required to provide the compliance report with respect to facilities made for fire prevention and life safety.

Clause 29.- This clause provides that only the Licensed Agency shall carry out reporting of compliance of fire prevention and life safety facilities made in the buildings and premises.

Clause 30.- This clause provides for the of levy of fire fees, rate in terms of percentage of property tax as may be determined by the State Government, taking into consideration different areas and different local authorities.

Clause 31.- This clause provides the manner of assessment and collection of fire fees.

Clause 32.- This clause provides for the constitution of the "Fire Prevention and Life Safety Fund" to be held by the State Government for the purposes of augmentation, improvement or creation of facilities. It also provides the manner of deposit of proceeds.

Clauses 33 and 34.- These clauses provide for preferring an appeal.

Clauses 35, 36 and 37.- These clauses provide for the jurisdiction of the Court, bar of jurisdiction of the court and filing of complaint by the Regional Fire Officer or the Chief Fire Officer or any other authorized officers.

- Clause 38.-** This clause provides for the compounding of offences and withdrawal of proceedings.
- Clause 39.-** This clause provides for the different offences and punishments thereof for contravention of the provisions of the Act.
- Clause 40.-** This clause provides for the punishment for the removal of seal without a written order of the Director or other Fire authorities.
- Clause 41.-** This clause provides that every police officer, Government and private agency or person is bound to assist the members of the Fire Services.
- Clause 42.-** This clause provides for the consequences for failure to communicate by a person the information in his possession regarding an outbreak of fire.
- Clause 43.-** This clause provides for the punishment to any person who wilfully obstructs or interferes with any member of the Fire Service who is engaged in firefighting operations.
- Clause 44.-** This clause provides for the punishment to any person if he gives a false report knowingly about the outbreak of a fire.
- Clause 45.-** This clause provides for offences committed by a company and its officers, and the punishments therefore.
- Clause 46.-** This clause provides that, officers and employees of any fire service acting in pursuance of the provisions of this Act or rules or regulations made thereunder, shall be deemed to be the public servants within the meaning of section 21 of the Indian Penal Code.
- Clause 47.-** This clause provides for the assistance which shall be paid to the next of kin, in case of death of a member of State Fire Service while on active duty.
- Clause 48.-** This clause provides for the employment of the Fire Service in any rescue, salvage or other works, by the State Government.
- Clause 49.-** This clause provides that the provisions of this Act and the rules shall be in addition to and not in derogation to any other law for the time being in force in any area.
- Clause 50.-** This clause provides that the provisions of this Act shall have an overriding effect over other law for the time being in force with respect to Fire Prevention and Life Safety.
- Clause 51.-** This clause provides for the transfer of assets, rights and liabilities of any body owned or controlled by the State Government to the State Fire Service.
- Clause 52.-** This clause provides for the power of the State Government to delegate its powers to the Director, and powers of the Director to the Regional Fire Officer or Chief Fire Officer.
- Clause 53.-** This clause provides for the power of the Director to issue directions to any person to do or to abstain from doing a specified thing within the affected areas in which the emergency relief measures are being undertaken.

Clause 54.- This clause provides for furnishing reports, returns and other information to the Director by the Regional Fire Officer or the Chief Fire Officer.

Clause 55. - This clause provides for the power of the State Government to issue directions to the Director as it may deem fit for giving effect to the provisions of this Act.

Clause 56.- This clause provides that, in any dispute with respect to exercise of the powers of the Director, the Regional Fire Officer or the Chief Fire Officer, the decision of the State Government shall be final.

Clause 57.- This clause empowers the State Government to make rules by notification in the *Official Gazette*, to be in consistent with the Act, for enabling it to perform its functions under this Act.

Clause 58.- This clause empowers the Director, with the previous approval of the State Government, by notification in the *Official Gazette*, to make regulations consistent with the Act and the rules made there-under, for enabling it to perform its functions under this Act.

Clause 59.- This clause empowers the State Government to remove difficulty if the same arises within a period of three years in giving effect to the provisions of this Act which are necessary or expedient for the purpose of removing the difficulty.

Clause 60. - This clause provides that the fire prevention and life safety measures specified under the Act shall be without prejudice to any civil or the criminal liability under any law for the time being in force.

Clause 61.- This clause provides for usual indemnity for action taken in good faith.

Clause 62.- This clause provides that any amount payable under this Act shall be recovered as an arrears of land revenue.

Clause 63.- This clause provides that for every member of the fire service shall perform functions imposed by or under this Act in addition to and not in derogation of functions performed by the State Government or any of its officers in pursuance of the provisions of any law.

Clause 64.- This clause provides that, in order to assist any disaster, other than resulting due to fire, all Fire Services shall be considered as emergency services.

ANANDIBEN PATEL,

FINACIAL MEMORANDUM

Clause 5 of the Bill provides for constitution of State Fire Service consisting of such number of staff in several ranks. *Clause 6* provides for appointment of Director and such other officers and staff for State Fire Service. *Clauses 8 and 10* provide for appointment of Regional Fire Officers, Divisional Fire Officers and Station Fire Officers.

If the Bill is enacted and brought into force, it would involve expenditure from the Consolidated Fund of the State as follows:-

(a) Capital Expenditure (Non-recurring) : Rs. 163 crores,

(ii) Recurring Expenditure : Rs. 27.22 crores

Total Expenditure : Rs. 190.22 crores

ANANDIBEN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative powers in the following respects :-

Clause 1.- Sub-clause (3) empowers the State Government by notification in the *Official Gazette*, to appoint the date on which the Act shall come into force; and it also empowers the State Government to appoint different dates for different areas and for different provisions to bring the Act into force.

Clause 2.- (i) clause (j) empowers the State Government to prescribe by rules, such number of fire sub-divisions of fire divisions of the territory of State;

(ii) clause (l) empowers the State Government to prescribe by rules, such number of **fire regions of territory of State** comprising of such number of fire divisions;

(iii) clause (u) empowers the State Government to prescribe by rules, qualifications for appointment of nominated officer.

Clause 3.- (i) Proviso to sub-clause (1) of this clause empowers the State Government, by notification in the *Official Gazette*, to declare that any Fire Brigade or any other Local Fire Service of any local authority in the State which shall form or shall not form the part of the State Fire Service;

(ii) sub-clause (2) of this clause empowers the State Government, by notification in the *Official Gazette*, to declare that the services relating to any fire brigade or fire prevention shall form a part of State Fire Service with effect from such date as may be specified in the said notification.

Clause 5.- (i) Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the different posts of the State Fire Service, the mode of recruitment of staff, grade of post, the qualifications, pay, allowances and other conditions of service of the officers and other staff of the State Fire Service;

(ii) sub-clause (2) of this clause empowers the State Government, by notification in the *Official Gazette*, to review and modify the existing pattern of the existing different fire services in the State.

Clause 8.- (i) Sub-clause (2) of this clause empowers the State Government, to constitute by notification in the *Official Gazette*, fire regions for the purpose of securing fire prevention and life safety measures within the State;

(ii) sub-clause (3) of this clause empowers the State Government to prescribe by rules, the qualifications for appointment and other conditions of service of the Regional Fire Officer.

Clause 9.- This clause empowers the State Government, by notification in the *Official Gazette*, to divide each fire region into such fire divisions as may be specified in the said notification.

Clause 10.- (i) Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the qualifications for appointment and other conditions of service of the Regional Fire Officer, the Divisional Fire Officer and the Station Fire Officer.

(ii) clause (a) of sub-clause (3) of this clause empowers the State Government to prescribe by rules, such other factors for classification of the category of Chief Fire Officer taking into consideration the population and class of local authority or authority, for each Local Fire Services classify the category of Chief Fire Officer;

(iii) clause (b) of sub-clause (3) of this clause empowers the State Government to prescribe by rules, the norms and qualification of the each category of Chief Fire Officer.

Clause 12.- (i) clause (i) of sub-clause (1) of this clause empowers the State Government to prescribe by rules, the qualifications for appointment of Fire Safety Officer;

(ii) sub-clause (2) of this clause empowers the State Government to prescribe by rules, the forms in which the enrolment certificate shall be issued.

Clause 14.- Proviso to clause (c) of sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner in which and the extent to which compensation shall be paid for damage caused.

Clause 15.- This clause empowers the State Government to prescribe by rules, the rates of water supply, for drawing the water during fire-fighting operations.

Clause 16.- This clause empowers the State Government to prescribe by rules, the terms on which the Regional Fire Officer or the Chief Fire Officer of any authority or any other officer authorised in this behalf, may enter into agreement with any person who employs and maintains personnel or equipment for fire-fighting purposes dealing with fires occurring in any area.

Clause 17.- (i) Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the fees payable by personnel of any Fire Service and private services of industries, hotels, multi-storied buildings and such other Government and non-Government establishments for imparting training;

(ii) Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the fee and the procedure for providing a course of instruction in the prevention and extinguishment of fire.

Clause 18.- Sub-clause (1) of this clause empowers the Director to prescribe by regulations, the classification of buildings for providing fire prevention and life safety measures, minimum firefighting and life safety installations and manner and specification for maintenance of fire prevention and life safety measures in operational condition.

Clause 19.- Clause (b) of sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner in which the Regional Fire Officer or the Chief Fire Officer shall serve a notice on the owner or occupier to undertake and carryout fire prevention and life safety measures.

Clause 22.- Sub-clause (1) of this clause empowers the State Government to frame, by notification in the *Official Gazette*, the regulations in respect of categorization of fire hazardous materials, trade and premises used for such purposes.

Clause 27.- (i) Sub-clauses (1) and (2) of this clause empower the State Government to declare, by notification in the *Official Gazette*, any class of temporary occupancy such as a *mandap*, *shamiyana* or tents or such other temporary structures for hosting any event which is likely to cause a risk of fire; and also empowers the State Government to prescribe by rules, the measures for fire prevention and life safety;

(ii) Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the form of undertaking to be given by the promoter, organiser, owner or occupier for obtaining permission for the use of the temporary structures or *shamiyana* or tents or *mandap*;

(iii) sub-clause (8) of this clause empowers the State Government to prescribe by rules, the manner in which the Regional Fire Officer or the Chief Fire Officer shall serve a notice on the owner or occupier, stating that the objects or goods likely to cause a risk of fire or obstruction to firefighting shall be sold as if the same are not claimed within the time as specified in the notice;

(iii) sub-clause (11) of this clause empowers the State Government to prescribe by rules, the form of appeal and fee to be paid with such appeal.

Clause 28.- (i) Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the fee to be paid and the form and manner in which application shall be made for licence granted to act as a Licenced Agency;

(ii) Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the form of licence granted to act as Licensed Agency.

Clause 30.- Sub-clause (2) of this clause empowers the State Government to determine, by notification in the *Official Gazette*, the rates of surcharge on the property tax, levied as a fire fees.

Clause 32.- Sub-clause (4) of this clause empowers the State Government to prescribe by rules, the manner in which and the conditions subject to which amount in the Fire Prevention and Life Safety Fund shall be expended.

Clause 33.- Sub-clause (ii) of this clause empowers the State Government to prescribe by rules, the manner and the fee for filing an appeal to the Director.

Clause 52.- This clause empowers the State Government to delegate, by notification in the *Official Gazette*, any of its powers in such matters, except the power of making rules, to the Director and subject to such terms and conditions, as specified in such notification.

Clause 57.- This clause empowers the State Government to make, by notification in the *Official Gazette*, rules generally for carrying out the purposes of this Act and particularly for the matters specified therein.

Clause 58.- Sub-clause (1) of this clause empowers the Director with the previous approval of the State Government, to make, by notification in the *Official Gazette*, regulations not inconsistent with the Act and the rules made thereunder.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 19th March, 2013.

ANANDIBEN PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 21st March, 2013.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.