

THE ODISHA FIRE SERVICE (AMENDMENT) BILL, 2022

A

BILL

TO AMEND THE ODISHA FIRE SERVICE ACT, 1993.

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

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

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

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

“An Act to provide for fire prevention and fire safety measures and providing emergency services in the State and for the constitution of

Odisha
Act, 30
of 1993

Short title and
commencement.

Amendment of
Long title.

State Fire and Emergency Service to carry out firefighting and emergent service measures and for the matters connected therewith or incidental thereto."

Amendment of section 1.

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

Amendment of section 2.

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

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

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

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

"(c-1) "Disaster" means as defined in the Disaster Management Act, 2005.

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

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

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

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

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

Amendment of
section 3.

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

Amendment of
section 4.

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

(a) for the existing marginal heading, the following marginal heading shall be substituted, namely:—
"Appointment of Director General, officers and other members and their powers and functions.";

(b) the word "Director", wherever it occurs, the words "Director General" shall be substituted,

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

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

"(2) The State Government may appoint any person not below the rank of Additional Director General of Police to be the Director General of Fire and Emergency Service who shall, subject to superintendence and control of the State Government, exercise such powers and discharge such functions as are or may be conferred or imposed by or under the provisions of this Act and the rules made thereunder.

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

(a) keep liaison with the State Government for the development of fire and emergency service;

(b) frame the policies in relation to the development of fire and emergency service in the state and on approval by the State Government, take steps to implement the same;

(c) prepare and submit plans and proposals to the State Government with regards to the periodical review of fire equipment, fire property and fire manpower for effective

implementation of fire and emergency service by the authorities;

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

Omission of section 7.

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

Amendment of section 8.

8. In the principal Act, in section 8,—

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

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

(b) in clause (ii), for the words "firefighting appliances", the words "firefighting, rescue and restoration

- appliances", shall be substituted;
- (c) in clause (iii), for the words "Fire Service on the occasion of fires", the words and comma "Fire and Emergency Service on the occasion of fires and emergency services," shall be substituted;
- (d) for clause (v), the following clause shall be substituted, namely:—

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

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

Insertion of
new section
8A.

"Delegation
of power.

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

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

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

Amendment of
section 9.

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

(i) in sub-section(1),—

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

- (b) in clause (i), for the words "fire or", the words "fire or dealing with emergency services" shall be substituted;
- (c) for clause (iii), the following clause shall be substituted, namely:—

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

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

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

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

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

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

Amendment of
section 10.

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

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

(4) In order to ensure effective fire prevention and life safety measures of any premises, the owners or occupiers of such premises, which are likely to cause risk of fire, as may be prescribed in this behalf, shall appoint a Fire Safety Supervisor having such qualification as may be prescribed and the fire safety supervisor so appointed shall be issued with an enrolment certificate by the Director General or any officer authorised in this behalf under his signature and seal of the office in the prescribed format".

Amendment of
section 12

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

Amendment of
section 14.

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

Amendment of
Chapter IV

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

Amendment of
section 17.

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

Amendment of
section 18

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

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

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

Amendment of
section 19

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

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

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

"Penalty for
non-
appointment of
fire safety
supervisor

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

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

Compounding
of offences.

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

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

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

Offence by
Companies.

19C. (1) Where an offence under this Act has been committed by a company, every person who, at the time, the offence was committed, was in-charge of, and was responsible to the company for the conduct of the

business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

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

Explanation:— for the purpose of this section,—

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

Cognizance of offence.

Jurisdiction.

Insertion of new Chapter IVA.

Appeal.

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

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

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

"CHAPTER IVA APPEALS

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

Appellate Authority, within thirty days from the date of receipt of the notice or order, as the case may be:

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

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

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

Amendment of section 27.

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

Insertion of new section 27A.

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

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

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

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

General Amendment.

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

STATEMENT OF OBJECTS AND REASONS

The Odisha Fire Service Act, 1993 was enacted to provide for the fire prevention and fire safety measures in the State. Over the years the role, scope and sphere of Fire Service has been widened. Fire service is now the first responder of any disaster like natural and manmade. In the present scenario, the Odisha Fire Service Act, 1993 needs to be amended to keep pace with the changing circumstances. The Government of India have also circulated a revised model bill with a request to the States to amend their Acts and Rules accordingly. In view of above, a draft Bill i.e. the Odisha Fire Service (Amendment) Bill, 2022 has been prepared for amendment of the Odisha Fire Service Act, 1993 with the following provisions:

In the amended Bill, the nomenclature of "Fire Service" has been proposed to be changed as "Fire and Emergency Service". It has been proposed to delegate power and function exercisable by State Government to the Director General, Fire Services to strengthen the Fire and Emergency Service Organization and the Director General can delegate/authorize any of his powers to the subordinate Officers under his jurisdiction for effective implementation of the provisions of this Act.

It has also been proposed for imposition of penalty in case of non-appointment of Fire Safety Supervisors as per Rules. The penal provisions in the existing Odisha Fire Service Act, 1993 in respect of failure to take precautions, wilful obstruction of fire fighting operation and false report on outbreak of fire, have been proposed for revision since the monetary fines fixed is very meagre in the present context.

To bring the companies under the ambit of fire and life safety under provisions of the Odisha Fire Service Act, it has been proposed in the amendment Bill to require Companies to adopt fire precautionary measures and possess Fire Safety Certificate and on failure to do so shall be liable to be proceeded against and punished accordingly.

It is proposed to insert a new provision of compounding of offences in the proposed amendment Bill provided no offence shall be compounded which is committed by failure to comply with a notice or order or requisition issued by the Director General or any other Officer authorized under this Act and Rules made thereunder. It is proposed that no court other than a judicial Magistrate First Class shall try an offence punishable under this Act. Besides no court shall take cognizance of an offence under this Act except on a complaint made by the Director General or the officer authorized by him in writing in this behalf.

For hassle-free disposal of grievances arising out of implementation of provisions of this Act, it has been proposed to insert a new provision under the head Appeals in this Act having provision of First Appellate Authority and Second Appellate Authority to redress the grievances within the prescribed time line.

The Bill seeks to achieve the above objectives.

NAVEEN PATNAIK
MEMBER -IN -CHARGE

ANNEXURE

[Extract from the Odisha Fire Service Act, 1993 (Odisha Act, 30 of 1993)]

AN ACT TO PROVIDE FOR THE FIRE PREVENTION AND FIRE SAFETY MEASURES IN THE STATE AND FOR THE CONSTITUTION OF A STATE FIRE SERVICE TO CARRY OUT FIREFIGHTING MEASURES

Short title, Extent and commencement	1. (1) This Act may be called the Orissa Fire Service Act, 1993.						
Definitions	2. (a) X X X X X						
	X						
	(b) X X X X X X X						
	(c) "Director" means the Director of Fire Service appointed under section 4;						
	(d) X X X X X X X						
	(e) X X X X X X X						
	(f) "Fire Service" means the Orissa Fire Service constituted under section 3;						
	(g) X X X X X X X						
	(h) "local area" means any area over which a local authority has jurisdiction;						
Constitution Orissa Fire Service	3. (1) On and from the appointed day, there shall be constituted and maintained for the purpose of providing smooth and efficient fire fighting services in the State a fire force to be called the Orissa Fire Service, of which the entire fire fighting personnel forming the existing Fire Service Branch of the Orissa Police shall be deemed to be the members.						
Appointment of Director, officers and other members	4. (1) The Fire Service shall consist of a Director and such other officers and staff as its members, as may be prescribed from time to time. (2) The State Government may appoint any person not below the rank of an Inspector-General of Police to be the Director of Fire Service who shall exercise such powers and discharge such functions as are or may be conferred or imposed by or under the provisions of this Act and the rules.						
	5. X X X X X X X						
	X						
	6. X X X X X X X						
	X						
Control and superintendence	7. The general superintendence and control of the Fire Service throughout the State shall vest in the Director.						

Powers of State
Government to
make orders with
respect to Fire
Service

8. The State Government may from time to time make such general or special orders as it thinks fit --

- (i) for equipping the members with such firefighting appliances as it deems proper;
- (ii) for building or providing Fire Stations, or hiring places, or accommodating the members and keeping its fire fighting appliances;
- (iii) for giving rewards to persons who have given notice of fires and to those who have rendered effective service to the Fire Service on the occasion of fires in case of their accidents while rendering such service, or to their dependants where such accidents result in the death of such persons;
- (iv) for the speedy attendance of members with necessary fire-fighting appliances on the occasion of any alarm of fire;
- (v) for sending the members with necessary fire-fighting appliances beyond the limits of any area in which this Act is in force in order to extinguish fire in the neighbourhood of such limits on such terms and conditions as it deems proper;
- (vi) for the employment of the members, on such terms and conditions as it deems proper any work not connected with extinguishing fire, for which the Fire Service may, in its opinion, be usefully and appropriately employed.

Powers
exercisable on
occasion of fire

9. (1) On the occasion of fire, the Director or any officer or member-in-charge of a Fire Station on the spot, may-

- (i) remove, or may order any member to remove, any person who, by his presence, interferes with, or impedes, the operation for extinguishing the fire for saving life or property;
- (ii) Close any street or passage in or near which a fire is burning;
- (iii) for the purpose of extinguishing fire, enter, break into or through or pull down any premises for the passage of fire-fighting appliances or cause them to be broken into or through or pulled down, doing as little damage as possible;
- (iv) cause the mains and pipes of any area to be shut off so as to give better pressure of water in the place where fire has occurred or broken out;
- (v) cause the water of any stream, cistern, tank, well or other available source of water-supply, public or private, to be utilized for the purpose of extinguishing, or limiting the spread of fire;
- (vi) exercise the same powers for dispersing any assembly of persons likely to obstruct the fire-fighting operation, as if he were an officer-in-charge of a Police Station and as if such an assembly were an unlawful assembly and shall be entitled to the same immunities and protection as such an officer, in respect of the exercise such powers; and
- (vii) generally take such measures as may appear necessary for extinguishing, the fire or for the preservation of life and property.

(2) Any damagedone on the occasion of fire by the members of fire service in the due discharge of their duties shall be deemed to be damaged by fire within the meaning of a policy of insurance against fire.

70
10 Prevention
measures. 10. (1) X X X X X
X

(2) On the issue of the notification under sub-section (1), it shall be lawful for the Director or any member authorized by the State Government in this behalf to direct the removal of objects or goods likely to cause risk of fire to a place of safety and, on failure or the owner or occupier to do so, the Director or the member so authorised may, after giving the owner or occupier a reasonable opportunity of making representation, seize, detain or remove such objects or goods or cause the same to be seized, detained or removed.

11. X X X X X
X

9
Despatch of fire-
fighting
personnel to
other areas. 12. The Director or any officer authorised by the State Government in this behalf may, on the occasion of a fire or other emergency in any area in which this Act is not in force, order the despatch of the members with necessary fire-fighting appliances to carry on fire-fighting operations in such other area and thereupon all the provisions of this Act and the rules made thereunder shall apply to such area during the period of fire or emergency, as the case may be, or during such period as the Director or the officer so authorized may specify.

13. X X X X X
X

14. It shall be lawful for the State Government or any officer authorized by it in this behalf to employ the members upon any rescue, salvage works for which the members are suitable by reason of their experience and the fire-fighting appliances

Employment on
other duties

CHAPTER IV
PENALTIES

15. Any member who--
(a) is found to be guilty of violation of any duty or wilful breach of any provision of this Act or any rules or order made thereunder; or
(b) is found to be guilty of cowardice; or
(c) withdraws from the duties of his office without permission or without having given previous notice of at least two months; or

Penalty for
violation of duty

(d) being absent on leave, fails without reasonable cause to report himself for duty on the expiration of such leaves,

Shall, on conviction, be punishable with imprisonment which may extend to three months, or with fine which may extend to an amount not exceeding three months' pay of such member, or with both.

Failure to give information

16. Any person who, without just cause, fails to communicate the information in his possession regarding outbreak of fire, shall on conviction be punishable with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Failure to take precaution

17. Any person who fails, without reasonable cause, to comply with the requirements specified in a notification issued under sub-section (1) of Section 10 or of a direction issued under sub-section (2) of that section shall, on conviction, be punishable with a fine which may extend to five hundred rupees.

Willful obstruction of fire-fighting operation

18. Any person who willfully obstructs or interferes with any member engaged in fire-fighting operations shall, on conviction, be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Penalty for false report

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

X	X	X	X	X	X
X	X	X	X	X	X
X	X	X	X	X	X
X	X	X	X	X	X

Saving

27. Nothing in this Act shall be deemed to limit, modify or derogate from the general responsibility of any local or other authority under any law for time being in force in the matter of fire-fighting or fire prevention.