



The Assam Fire Service Act, 1985

Act 13 of 1985

Keyword(s):

Inspector General of Police, Fire Fighting Property, Fire Station, Force, Office-in-Charge, Warehouse, Place, Work-shop

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THE
ASSAM FIRE SERVICE ACT, 1985

AND

ASSAM FIRE SERVICE RULES, 1989

STATE FIRE SERVICE ORGANISATION, ASSAM
GUWAHATI

THE ASSAM FIRE SERVICE ACT, 1985

(ASSAM ACT XIII OF 1985)

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THE ASSAM FIRE SERVICE ACT, 1985
(ASSAM ACT NO XIII OF 1985)

(Received the assent of the President on 20th September, 1985) [Published in the Assam Gazette, Extraordinary Dt. 1st October, 1985]

An
Act

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

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

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

PRELIMINARY

1. **Short title, extent and commencement-** (1) This Act may be called the Assam Fire Service Act, 1985.

(2) It extended to the whole of Assam

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

2. **Definitions:** - In this Act, unless there is anything repugnant in the subject or context –

(a) “Inspector General of Police” Means the Inspector general of Police, Assam who has been appointed as Inspector General of Police, Assam under Section 4 of the Police Act, 1861 (Act V of 1861).

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

(c) “Fire fighting property” includes-

(i) Lands and buildings directly or indirectly connected with fire fighting.

(ii) Fire engines, equipments, tools, implements and things whatsoever used for fire fighting.

(iii) Motor vehicles and other means of transport used in connection with fire fighting.

(iv) Uniform and badges or rank;

(d) ‘Fire Station’ means any post or place declared generally or specifically by the state Government to be a Fire Station ;

(e) ‘Force’ means the Assam Fire Service Force maintained under this Act.

(f) ‘Office-in-Charge’ of a Fire Station includes the Fire officer next in the Officer-in-Charge of Fire Station or any other officer holding charge of the fire station in absence of the Officer-in-Charge ;

(g) “Prescribed” means prescribed by rules made under this Act by the State Government.

(h) “Warehouse” means any building or place used whether temporarily or permanently for storing, keeping, or otherwise dealing in any manner of such articles which in the opinion of the State Government are considered as inflammable.

Explanation: - Godowns, Factories, Workshop, Shops etc. dealing in any manner with prescribed inflammable articles will be regarded as “Warehouse” for purposes of this Act ;

- (i) “Place” means either enclosed or covered or open land having buildings or premises within 75 ft. on any side of its surroundings ;
- (j) “Work-shop” means any building or place where the processing of any article is arrived on for purpose of trade or business, if such processing of such articles which in the opinion of the State Government are considered as inflammable and are considered as inflammable and are prescribed in this respect.

Explanation: - The expression “processing” means making, altering, treating or otherwise dealing with any article by means of steam, electricity or other mechanical power ;

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

MAINTENANCE OF THE FIRE SERVICE FORCE

3. **Maintenance of Fire Service Force:** - There shall be maintained by the State Government a Fire Force to be called the Assam Service Force.
4. **Appointment of Director of Fire Service:** - The State Government may appoint a person to be Director of Assam Fire Service Force who shall be an Officer of the rank of Deputy Inspector General of police, Assam.
5. **Superintendence and control of the force:** -(1) The superintendence and control of the Force shall vest in the Director under the general control and supervision of the Inspector general of police, Assam and shall be carried on by him in accordance with the provisions of this Act and rules made there under.
(2) The State Government may create such posts and appoint such officers as it may deem fit to assist the Director in the discharge of his duties.
(3) The Director may with the approval of the State Government delegates any of his powers, functions and duties under this Act to such subordinate officers as he may deem fit.
6. **Appointment of members of the Force:** - (1) The Director or such other officer of the force as the State Government may authorized in this

behalf, shall appoint the members of the Assam Fire Service Force in accordance with the rules made under this Act.

(2) Subject to the provisions of article 311 of the Constitution of India and the rules prescribed by the State Government, the Director may, at any time dismiss, suspend or reduce in rank or award any of the punishment to any member of the subordinate ranks whom he shall think responsible for remiss or negligence in the discharge of his duty or considered unfit for the same. The Director may also award any one or more punishment as provided in the Assam Service (Discipline and Appeal) Rules, 1964. The provision of the said rules shall apply, *mutatis mutandis*, with regard to procedure of awarding punishment and other disciplinary actions, provided that Inspector-General of Police, Assam, reserves the right to revision of hearing of appeal in case of natural injustice or fragrant irregularities in the case.

7. **Issue of certificate to the member of the Force:** - (1) Every person shall, on appointment to the force, receive a certificate in the prescribed form under the seal of the Director or an officer authorized, in this behalf by the State Government, and thereupon such person shall have the powers, functions and privileges of a member of the force under this Act.
(2) The certificate referred to in Sub-section (1) shall cease to have effect when the person named therein ceases for any reason to be member of the force, and on his cease to be such member, he shall forthwith surrender the certificate to any officer empowered to receive the same.
(3) During any period of suspension, the powers, functions and privileges vested in any member of the force shall be in abeyance but such member shall continue to be subject to the same discipline and penalties as he would have been if he had not been suspended.
8. **Auxiliary Fire Force:** - Whenever it appears to the State Government that it is necessary to augment the force, it may raise an auxiliary force by enrolment of volunteers for such areas and on such term and conditions as it may deem fit.
9. **Powers of State Government to make orders:** - The State Government may, from time to time, make such general or special orders as it thinks fit-
- (a) For providing the force with such appliances and equipments as it deem proper ;
 - (b) For providing adequate supply of water and for securing that it shall be available for use ;

- (c) For constructing or providing station of hiring places for accommodating the members of the force and its fire fighting appliances ;
- (d) For giving rewards to the persons who have given notice of fires and to those who have rendered effective service to the force on the occasion of fire ;
- (e) For the training, discipline and good conduct of the member of the force ;
- (f) For deciding and determining the cadre or terms and conditions of service of the members of the force and also member of other staff or creating such additional ranks and framing rules in respect of service conditions and conduct rules as it may deem fit ;
- (g) For the speedy attendance of members of the force with necessary appliances and equipment on the occasion of any alarm of fire ;
- (h) For sending members of the force with appliances and equipments beyond the limits of any area in which this Act is in force for purpose of fire fighting in the neighborhood of such limits on such terms and conditions and under such exigencies of situation as it deems proper ;
- (i) For the employment of members of the force in any rescue, salvage or other special type of jobs ;
- (j) For enforcing discipline and imposing punishment on any member of the force who may violate orders ;
- (k) For regulating and controlling the powers, duties and functions of the Director and other members of the force; and
- (l) Generally for the maintenance of the force in due state of efficiency.

10. **Powers of members of the force on the occasion of fire** : - On the occasion of fire in any area in which this Act is in force, any member of the force who is in-charge of fire fighting operations on the spot may : -
- (a) Remove, detain or order any other member of the force to remove any person who by his presence interferes with or impedes the operation for extinguishing the fire or for saving life or property ;
 - (b) Close any street or passage in or near which a fire is burning ;
 - (c) For the purpose of extinguishing fire, break into or through or pull down, any premises for the passage of those engaged in fire fighting or appliances or cause them to be broken into or through or pulled down doing as little damage as possible;
 - (d) Require the authority-in-charge of water supply in the area to regulate the water-machine so as to provide water at a specified pressure at the place where fire has broken out and utilize the water of any stream, cistern, well or tank or of any available source of water, public or private, for the purpose of extinguishing or limiting the spread of such fire; provided that in cases of any damage done to any source of water,

stream, cistern, well or tank belonging to a member of the public or association or body corporate while utilizing water in accordance with the provisions of this section under this Act the State Government may entertain at its discretion claim for compensation preferred by any affected person or party or body corporate as the case may be on merit of each case ;

- (e) Exercise the same powers for dispersing an assembly of persons likely to obstruct the fire fighting operations as if he were an Officer-in-Charge of a police station and as if such an assembly were an unlawful assembly and be entitled to the same immunities and protection as such an officer, in respect of the exercise of such powers ;
- (f) Generally take such as may appear to him to be necessary for extinguishing the fire or for the protection of life or property and for which no member of the force working under his order or instructions will be civilly or criminally prosecuted in the court of law.

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

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

13. Preventive measures and Licences: - (1) No building or place shall be used as a warehouse or as a workshop unless the owner or occupier thereof shall have previously obtained under this Act, a licence for such use and that no license to use any building or place as a warehouse shall be granted unless such buildings or place confirms to such precautionary measures taken by the owner or occupier thereof as may be directed by the licensing authority.

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

(3) A license granted under this Act may be withdrawn or suspended by such authority who granted it.

(4) Where on application, a license or renewal of a license is refused, withdrawn or suspended; the licensing authority shall record in writing the reasons for such refusal with intimation to the applicant.

(5) Every license granted under sub-section (2) above shall be required to be renewed annually. Application for renewal shall be made to the licensing authority; who shall refer the case to the Director and the licensing authority shall grant or refuse renewal as may be recommended by the Director.

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

15. Power to seize, remove or destroy goods etc. : - In case a warehouse is detected using it without a license, it shall be lawful for the Director or any officer authorized by the State Government in this behalf, to direct removal of prescribed article likely to cause a risk of fire, to a place of safety; and on failure of the owner or occupier to do so, the Director or such officer may seize, detain, remove, dispose or destroy such objects or goods in such manner as may be prescribed by the State Government. Director or such officer as may be authorized will not be liable to pay any compensation in any manner to any person in this respect.

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

17. Fire Work: - No building or place shall be used for purpose of manufacturing, making or otherwise dealing in any manner, in respect of fireworks without previously obtaining a license for the same from the licensing authority or such officer as may be authorized.

18.Place of public gathering for entertainment. : - (1) No building or structure of any kind shall be used for public gathering for amusement, entertainment or any other purposes where public may assemble, unless the owner, or occupier thereof shall have previously obtained a license; application for such license shall be made to the licensing authority who shall refer the case to the Director and the Licensing Authority shall grant or refuse such license as may be recommended by the Director.

(2) (i) No license shall be granted unless the building or structure conforms to such rules and conditions as may be prescribed for purposes of public safety; and

(ii) Advance payment of such fees as may be prescribed is made.

Explanation: - Theatres, Cinemas, Circus, Fairs, Mellas and such other like matters come under the provision of this section

19.Temporary structure of pandals: - A person who intends to erect a temporary structure or pental with roof or wall made of straw, hay, ulugrass, galpata, hogla, darma, mat, canvas or other like materials for use as a place where members of public may assemble shall apply to the licensing authority for permission to erect such structure or pandal and such permission may be granted for stipulated period; provided that:-

(i) it confirms to such conditions as may be prescribed by the directors;

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

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

20.Conditions for granting license for warehouses and workshops, etc: - For carrying out the purposes of any or all the provisions of Sections 13, 14, 15, 16, 17, 18 and 19 of this Act, the State Government may prescribed conditions in respect of –

(i) the minimum and maximum quantity of such inflammable articles that may be stored, used or otherwise dealt with in a particular warehouse or workshop;

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

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

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

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

EXPENDITURE ON MAINTENANCE OF FORCE

22. **Expenditure on the force:** - The entire expenditure in connection with the force be met out of the Consolidate Fund of the State of Assam, provided that the State Government may recover from any local authority of any area in which this Act is in force, such contribution towards the cost of the portion of the force maintained in that area as the State Government may direct from time to time.
23. **Levy of fire tax:** - (1) There may be levied a fire tax on lands and buildings which are situated in any area in which this Act is in force and on which property tax by whatever name called is levied by any local authority in that area.
(2) The fire tax shall be levied in the form of a surcharge (add on) on the property tax at such rate not exceeding ten percent of such property tax as the State Government may, by notification, in the official Gazette, determine.
24. **Mode of assessment collection, etc., of Fire Tax:** - (1) The authorities for the time being empowered to assess, collect and enforce payment of property tax under the law authorizing the local authority of the area to levy such tax shall, on behalf of the State Government and subject to any rules made under this Act, assess, collect and enforce payment of the fire tax in the same manner as the property tax is assessed, paid and collected; and for this purpose, they may exercise all or any of the powers they have under the law aforesaid and the provisions of such law including provisions relating to returns, appeals, reviews, revisions, references and penalties shall apply accordingly.
(2) Such portion of the total proceeds of the fire tax as the State Government may determine shall be deducted to meet the cost of collection of the tax.
(3) The proceeds of the fire tax collected under this Act reduced by the cost of collection shall be paid to the State Government in such manner and at such intervals as may be prescribed.
25. **Fixation of fees and procedure for payment:** - (1) The State Government may prescribed such fees and such procedure for payment of fees as it may deem fit, for granting any license under any of the provisions of this Act.
(2) The State Government may prescribe such fees and charges and such conditions as it deem fir for purpose of different types of special jobs that may be undertaken by the Assam Fire Service Force and that the authority on whose request such job is undertaken will be bound to make such payment.

(3) Where member of the force are sent beyond the limits of any area in which this Act is in force, in order to extinguish a fire in the neighborhood of such limits, the owner or occupier of the premises where the fire occurred or spread shall be liable to pay such charges or fees as may be prescribed in this behalf.

(4) The fee referred to in sub-section (1), (2) and (3) shall be payable within one month of the service of a notice of demand by the Director on the owner or occupier and if not paid within that period, it shall be recoverable as an arrear of land revenue.

ACQUISITION OF FIRE FIGHTING PROPERTY

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

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

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

28. Principles and methods of determining compensation. :- (1) The amount of compensation payable in respect of any fire fighting property acquired under this Act shall be the market value of such property on the date of issue of the notice referred to in section 27 that is, the price which it would have fetched in the open market if it had been sold on that date ;

(2) the amount of compensation shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say –

(a) when the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached the State Government shall appoint as Arbitrator, a person who is, or has been or is qualified for appointment, as a judge of a High Court;

(c) the State Government may in any particular case nominate a person having expert knowledge as to the nature of the property acquired to assist Arbitrators and where such nomination is made, the authority concerned may also nominate an assessor for the same purpose;

(d) at the commencement of the proceedings before the Arbitrator, the State Government and the local authority shall state what is their respective opinion is a fair amount of compensation;

(e) the Arbitrator shall after hearing the dispute make an award determining the amount of compensation which appears to him to be just; and in making the award he shall have due regard to the circumstances of each case and the provision of this section;

(f) nothing in the Arbitration Act, 1940 shall apply to arbitrations under this Section.

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

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

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

31. Penalties for violation of preventive measures. - (1) Any person who violates any of the provisions under Sections 13, 17, 18, 19 and 20 of this Act, shall be punishable, on conviction before a magistrate with imprisonment which may extend to two years or with fine which may extend to five thousand rupees or with both,
(2) Any person who uses any warehouse or any workshop in respect of which a license has been refused or after the license in respect thereof has been withdrawn during the time for which such license has been suspended shall be punishable, on conviction before a Magistrate with

imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

(3) Any holder of a license who breaks any of the conditions under which a license is held in respect of any warehouse or workshop shall be punishable, on conviction before a magistrate, with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(4) If there be a change in occupation of any warehouse, the person entering into occupation fails to give a notice and to pay the fees required under Section 16 or if a license is not renewed timely as required under Section 13 (5) such person or the owner or occupier of such warehouse shall be punishable on conviction before a magistrate, with fine which may extend to twenty rupees per day.

(5) Any person who willfully obstructs or offers any resistance to or impedes or otherwise interferes with the Director or any Officer exercising powers under Section 15, or any assistant accompanying the Director or such Officer while exercising such powers, shall be punishable, on conviction before a magistrate with imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both.

(6) Any person who willfully obstructs or interferes with any member or the force, who engaged in fire fighting operations, shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both.

32. **False Report.** – Any person who knowingly gives or cause to be given false report of outbreak of a fire to any person authorized to receive such report by means of a statement, message or otherwise shall be punishable with imprisonment for three months or with fine not exceeding five hundred rupees or with both.

33. **Transfer to other area:** - The Director or any officer authorized by the State Government in this behalf may, on the occasion of a fire or other emergency in any neighboring area in which this Act is not in force, order the dispatch of the members of the force with the appliances and equipment to carry on fire fighting operations in such neighboring area and thereupon all the provisions of this Act and the rules made there under shall apply to such area during period of fire or emergency or during such period as the Director may specify.

34. **Employment on other duties:** - It shall be lawful the State Government or any officer authorized by it in this behalf to employ the force in any rescue, salvage or other work for which it is suitable by reason of its

training, appliances and equipment. It shall also be the duty of the Fire Service Force to provide appropriate services and relief to the people in distress situation.

35. **Enquiry into the origin of fire and report to Magistrate.** – Where any fire has occurred within any area in which this Act is in force, the senior most officer in rank among the members of the force in that area, shall ascertain the facts as to the origin and cause of such fire and shall make report thereon to the Magistrate having jurisdiction in the place in which such fire occurs; and the said magistrate shall, in any case where he may deem fit, summon, witnesses and take evidence in order to further ascertain such facts. Such magistrate will submit his findings to the Government provided that copies of all reports and of all evidences recorded under this section shall be furnished on application to any Fire Assurance Company or other persons interested on payment for such copies.
36. **Power to obtain information.**- Any officer of the force not below the rank of officer-in-charge of a fire station may for the purpose of discharging his duties under this Act require the owner or occupier of any building or other property to supply information with respect to the character of such building or other property, the available water supplies and means of access thereto and other material particulars, and such owner or occupier shall furnish all the information in his possession.
37. **Power to entry.** – (1) The Director or any member of the force authorized by him in this behalf may enter any building, warehouse, workshop, cinema halls or place for purpose of any enquiry under this Act, and for determining whether any inflammable articles are stored illegally whether precautions against fire required to be taken on such place have been so taken.
(2) No claim shall lie against any person for compensation for any damage necessary caused by any entry made under sub-section (1).
38. **Consumption of water.** – No charge shall be made by any local authority for water consumed in fire fighting operations by the force.
39. **No compensation for interruption of water supply.** – No authority in-charge of water supply in an area shall be liable to any claim for compensation for damage by reason of any interruption of supply of water occasioned only by compliance of such authority with the requirement specified in clause (d) of Section 10.

40. **Police Officers to aid.** – Police Officers of all grades shall be authorized and bound to aid the fire service in execution of its duties. They may close any street in or near where a fire is burning and they may on their own motion or on the request of the Director or any member of the force, remove or detain, any person who interfere by their presence with the operations of the fire fighting.
41. **Indemnity.** – No officer of the Police and no member of the fire service shall be liable to damage on account of any act done by him in the bonafide belief that such act was required for proper execution of his duties under this Act.
42. **Failure to give information.** – Any person who without just cause fails to communicate information in his possession regarding outbreak of fire shall be deemed to have committed an offence punishable under the first part of Section 176 of the Indian Penal Code (IPC).
43. **Bar to other employment.** – No member of the force shall engage in any employment or office whatsoever other than his duties under this Act unless expressly permitted to do so by the Director.
44. **Restrictions respecting rights to form association, freedom of speech etc.** – No member of the Assam Fire Service Force under this Act shall, without the previous sanction in writing of the State Government or of the prescribed authority-
- (a) Be a member of, or associated in any way with any trade union, labour, political association or with any class of trade unions.
 - (b) Be member of, or associated in any way with any society, institution, association or organization not recognized as part of the force or is not a purely social, recreational and or religious nature or cause to be published any book, letter or other document except where such communication or publication is of a purely literary , artistic or scientific character or is of a prescribed nature; or
 - (c) communicate with the press or publish or cause to be published any book, letter or other documents except where such communications or publication is of a purely literary, artistic or scientific character or is of a prescribed nature.

Explanation: - If any question arises as to whether any society, institution, association or organization is of purely social, recreational or religious nature under clause (b) of this sub-section the decision of the State Government or the prescribed authority shall be final.

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

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

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

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

(a) is found of guilty of any violation of duty or willful breach of any provision of this Act or rules or order made there under, or

(b) is found to be guilty of cowardice, or

(c) withdraws from the duties of his office without permission or without having given previous notice of at least two months, or

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

(e) accept any other employment or office in contravention of the provisions of Section 43 of this Act,

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

Provided that not such prosecution, civil or criminal, shall be instituted except with the previous sanction of the State Government or of the authority prescribed in this behalf by the State Government if the act is done or purported to be done in the discharge of this official duty.

47. Protection of acts of members of the force.—

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

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

48. Power to make rules.-(1) The State Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for-

- (a) the number and grades of officers and members of the force.
- (b) the manner of appointment of members of the force.
- (c) the form of the certificate to be issued to the members of the force under Section 7(1) of this Act.
- (d) the conditions of the service of the members of the Force including their rank, pay, allowances, house rent and leave, maintenance of discipline and removal from service.
- (e) the circumstance in which and conditions (including the levy of fee) subject to which members of the force carry on fire fighting operations in neighbouring areas.
- (f) the conditions subject to which members of the force may be employed on rescue, salvage or other work.
- (g) adoption of precautionary measures for premises in any area or of any place used for purposes which in the opinion of the State Government are likely to cause a risk of fire,
- (h) the manner in which and the intervals at which the proceeds of the fire tax levied under this act, shall be paid to the State Government, the conditions under which a license may be granted and the fees to be levied thereof, the authority to which appeals against refusal, withdrawal, suspension of license shall lie and the manner in which such appeal shall be filed and the fees to be paid thereof,
- (i) the manner of service of notice under this Act,
- (j) the procedure to be followed in arbitration proceeding under Sections 29 and 30 of the Act
- (k) the payment of rewards to persons, not being members of the force who renders services for firefighting purposes.
- (l) the compensation payable to members of the force in case of accidents or to their dependents in case of death while engaged on duty.
- (m) for the employment of members of the force or use of any equipment outside the area or on special services and the fee payable thereof.
- (n) any other matter which is to be or may be prescribed.

(3) All rules under this section shall be laid for a total period of not less than fourteen days before the State Legislature as soon as possible after

they are made and shall be subjected to such modifications as the State Legislative Assembly may make during the session in which they are laid or the session immediately following.

49. Repeal and Savings:-

(1) Immediately on coming in to force of the act , all existing laws or rules in force in any area stand repealed . But such repeal shall not debar.-

(a) to provide and maintain such water supply and fire hydrants for firefighting purposes as may be directed by the State Government from time to time.

(b) to frame bye –laws for the regulation of dangerous treads.

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

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

(2) Notwithstanding such repeal,

(a) Any repeal, application, enquiry or investigation pending shall be disposed of continued, held or made, as case may be in accordance with the corresponding provisions of this Act.

(b) All notifications , orders issued , powers conferred , forms prescribed ,local jurisdiction, defined , punishment awarded, sentences passed under any Act which was in force before commencement of this Act, shall be deemed to have been issued, conferred ,prescribed ,passed or defined under the corresponding provisions of this Act.

50. Public Servants: - All members of the Assam Fire Service Force under this Act shall be deemed to be public servants as defined under Section 21 of the Indian Penal Code (Act No XIV of 1986.)

THE ASSAM FIRE SERVICE RULES, 1989

The 4th October- 1989

No. HMB, 261/87/6;- In exercise of the power conferred by Section 48 of the Assam Fire Service Act , 1985 (Assam Act, No. XIII of 1985) the Governor of Assam is pleased to make the following rules, namely:-

(1) Short title, extent and commencement:-

- (i) These rules may be called the Assam Fire Service Rules, 1989.
- (ii) It extends to the whole of the state of Assam.
- (iii) They shall come into force on the date of publication in the official Gazette.

(2) Definition: - In these rules, unless the context otherwise requires: -

- (i) 'Act' means the Assam Fire Service Act, 1985.
 - (ii) 'Form' means forms appended to this rules.
 - (iii) 'Building' means a house, out house, stable, latrine, urinal, shed hut, wall (other than a boundary wall) or any other structure of masonry, bricks, wood, mud, metal or other material.
 - (iv) 'National Building Code of India, 1983, means the book containing fire prevention and safety measures to be implemented in the buildings, places, premises, workshop, warehouses and Industries published by the Indian Standards Institution.
 - (v) 'Fire Prevention and Fire Safety measures' means such measures as are necessary in accordance with the requirement laid down in chapter-IV of the National Building Code of India, 1983 for the prevention, control and fighting of fire for ensuring the safety of life and property in case of fire ;
 - (vi) 'Nominated authority' means an officer not below the rank of a Station Officer nominated by the Director of Fire Service, Assam ;
 - (vii) '**Occupier**' includes: -
 - (a) Any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable.
 - (b) An owner in occupation of or otherwise using his land or building;
 - (c) A rent free tenant of any land or building.
 - (d) A licensee in occupation of any land or building, and
 - (e) Any person who is liable to pay to the owner for damage for use and occupation of any land or building,
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(viii) Owner includes a person, who for the time being is receiving or is entitled to receive the rent of any land or building whether on his own account or on account of himself and others or as another agent, trustee guarding or receiver or any other person or who should so receive the rent or be entitled to receive it if the land or building or part thereof was let out to a tenant,

(ix) Premises means any land any building or part of a building appurtenant thereto which is used for storing explosives, explosive substance and dangerously inflammable substance Explanation:- EXPLOSIVE SUBSTANCE AND DANGEROUSLY INFAMMABLE SUBSTANCE. Shall have the meaning respectively assigned to them in the explosive Act, 1984, the Explosive Substance Act, 1908 and the Inflammable Substance Act, 1952.

(x) APPELLATE AUTHORITY means the commissioner of the Division.

(xi) The words and expression used and not defined in these rules shall have the same meaning as assigned to them in the Assam Fire Service Act, 1985.

3. **Nominated Authority:** - Appointment of any person as nominated authority shall be made by the Director of Fire Service who shall also prescribe the jurisdiction within which such person shall function.
4. **Minimum Standards**-The minimum standards for fire prevention and fire safety measures specified of buildings, warehouse, workshop, places of public entertainment or any other place shall be such as are provided in the chapter- IV of the National Building Code of India, 1983 or as may be revised from time to time.
5. **Inspection of buildings, Premise etc-** (1) The nominated authority may, after giving three hours of notice to the occupier, or if there be no occupier, to the owner of any building or premise enter, inspect the said building or premise at any time between sun-rise and sun-set where such inspection appears necessary for ascertaining the adequacy or contravention of Fire Prevention and safety measures. Provided that the nominated authority may enter into inspect any building or premises at any other time if it appears to it to be expedient and necessary to do so in order to ensure safety of life and property, (2)The nominated authority shall be provided with all possible assistance by the owner or occupier, as the case may be, of the building or premises for carrying out the inspection under Sub-Rule (1)
 - (3) When any building or premises used as a human dwelling is entered under Sub-Rule (1), due regard shall be paid to the social and

religious sentiments of the occupiers, and before any apartment in the actual occupancy of any woman, who, according to the custom does not appear in public, is entered under sub rule (1), notice shall be given to her she is at liberty to withdraw and every reasonable facility shall be afforded to her for withdrawing.

6. Measures for fire prevention and fire safety- (1) The nominated authority shall, after the completion of the inspection of the building or premises under Rule- 5, record its views on the deviation from, or the contravention of requirements laid down in chapter-IV of the National Building Code of India, 1983, with regard to the fire prevention and fire safety measures and the inadequacy of such measures provided therein with reference to the height of the building or the nature of activities carried on in such building or premises and issue a notice to the owner or occupier of such building or premise directing him to undertake such measures as may be specified in the notice.

(2) The nominated authority shall also give a report of any inspection made by him under Rule 5 to the Director of Fire Service, Assam.

7. Power to Seal Building or premises: - (1) Where, on receipt of a report from the nominated authority under Sub-rule (2) of rule 6 it appears to the Director of Fire Service that the condition of any building or premises is dangerous to life or property he shall, without prejudice to any action taken under Rule 6, by order, require the persons in possession or occupation of such building or premises to take forthwith such measures as may specified in order.

(2) If an order made by the Director of Fire Service under Sub-rule (1) is not complied with, the Director of Fire Service may direct any Police Officer having jurisdiction in the area to remove such persons from building or premises and such officer shall comply with such directions.

(3) After taking action under sub-rule (1) or the removal of the persons under sub-rule (2) as the case may be , Director of Fire Service shall seal the building or premises.

(4) No persons shall remove such seal except under an order made by the Director of Fire Service.

8. Provision regarding certain buildings and premises: - (1) The Director of Fire service may for taking action under the rule enter into and inspect any building, the construction of which was completed on or before the date on which these rules has been published in the Gazette or any building which was under construction on such date, if

such action appears necessary for ascertaining the adequacy of fire prevention and fire safety measures in such building.

(2) The entry and inspection under sub-rule (1) shall be done by the Director of Fire Service or the nominated authority in the manner laid down in Rule 5.

(3) The Director of Fire Service shall or the nominated authority after inspection of the building or premises under sub-rule (1) and after taking into consideration:-

- (a) The provision laid down in chapter-IV of the Indian Building Code, 1983, in accordance with which the plan of the said building or premises was sanctioned.
- (b) The conditions imposed, if any by the local authority at the time of section of the plan of the said building or premises.
- (c) The minimum standards for fire prevention and fire safety measures specified for such building or premises as may be specified by rules framed under the Assam Fire Service Act, 1985

Issue a notice to the owner or occupier of such building or premises stating therein the inadequacy in regard to the fire prevention and fire safety measures in the direct the owner or occupier to undertake measures for rectifying the said inadequacy within such period as he may consider just and reasonable.

9. Time for completion of measures under sub-rule (1) of rule 6:-

Director of Fire Service or the nominated authority shall indicate the time within which fire safety and fire prevention measures should be provided as per requirement of sub-rule (1) of rule 6.

10. Format of Notice: - (1) The notice required to be given under sub-rule (1) of rule 5 shall be in the Form 'A'

(2) The notice required to be given under sub-rule (1) of rule 6 shall be in Form 'B'

(3) The notice required to be given under sub-rule (2) of rule 8, shall be in Form 'C'

(4) The notice required to be given under sub-rule (3) of rule 8 shall be in Form 'D'

11. Power of the Director of Fire Service in case of Default:- (1) The

Director of Fire Service , or his nominated authorities in the event of non-compliance of any notice issued under Rule 6 or Rule 8 may take such steps as may be necessary for the compliance of such notice.

(2)The expenditure incurred in relation to any steps taken by him under sub-rule (1) shall be recoverable from the occupier irrespective of the

fact whether he is the owner of the premises or not unless the owner , in these cases where occupier is different from the owner, agrees to pay in full or in part the expenses thus incurred by the Director of Fire Service.

12. **Liability:** - (1) where any building or premises is owned or occupied by more than one person, the responsibility for providing the fire safety and fire preventive measures as per the directions of the nominated authority of the Director of Fire Service in the whole building shall be shared in proportion to the area occupied or owned by individual owner or occupier as the case may be.
(2) The expenditure incurred by the Director of fire service or the nominated authority as referred to in rule 11(2) shall be recoverable from the occupier irrespective of the fact whether he is the owner of the premises or not unless the owner, in these cases where occupier is different from the owner, agrees to pay in full or in part the expenses thus incurred by the Director of Fire Service.
 13. **Procedure of sealing of building or premise:** - The Director of Fire Service shall follow the following procedure in regard to sealing of any building or premises required to be sealed under sub-rule (3) of rule 7.
 - (a) He shall require to the person in possession or occupation of the building or premises to the seal to remove themselves from there forthwith.
 - (b) In case non compliance of the said order he shall direct any police officer having jurisdiction in the area to remove such persons from such building or premises.
 - (c) After the removal of persons in occupation from such building or premises, he shall seal the building or premises in the manner he deems fit.
 - (d) The seal used to seal the premises shall remain in custody of the Director of Fire Service.
 - (e) If the building or premises required to be seal on receipt of the report of the nominated authority is found to be locked or inaccessible, Director of Fire Service Assam may break open the locks, enter the premises and after taking all necessary steps required to be taken under rule 7, relock and seal the premises, provided if any buildings or premises is force opened under this rule and inventory of the material found in the premises shall be prepared in the presence of two independent witnesses and a copy thereof shall be delivered to owner or occupiers, if present at the site.
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(f) He shall inform about sealing writing to the police station of the area in which such building or premises are situated.

(g) He shall report in writing to the police station concerned if the seal fixed under the rules on any building or premises is found to be broken or tampered with.

14. Appeals:- (1) Any person aggrieved by any notice or order of the nominated authority or the Director of Fire Service may prefer and appeal against the such notice or order to the appellate authority within thirty days from the date of the notice or order appealed against.

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

(2) An appeal shall lie to the Government of Assam against the order of the Appellate Authority confirming, modifying or annulling a notice or and order issued or made under these rules within thirty days from the date of the order of the Appellate Authority.

Provided that the Government of Assam may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing the appeal within the period.

(3) An appeal to the Appellate Authority or the Government of Assam may be made in such form and shall be accompanied by a copy of the notice or order appealed against and such fees as may be specified under this.

15. Formate of appeal and Fees:- (1) An appeal to the Appellate Authority under Sub-Rule (1) of Rule 14 of these rules shall be preferred in Form "E" and shall be accompanied by a fee of Rs. 500/ (Rupees Five hundred) only

(2) An appeal to the Government of Assam under sub-rule (2) of rule 14 of these rules shall be preferred in Form "F" and shall be accompanied by a Fee of Rs. 1000/- (Rupees one thousand) only.

16. Sanction of Prosecution :- No court shall proceed to the trial of an offence under these rules except on the complaint of or upon information received from the Director of Fire Service, Assam or the nominated authority.

17. Protection of Action taken in good faith:- No suit, prosecution or other legal proceeding shall lie against any person for anything which is good faith done or intended to be done under these rules.

18. No objection certificate :- (1) The Deputy Commissioner or such officer as may be authorized by the state Government shall issue Trade License for warehouse, workshop, place of public entertainment or any other place "place" in the respective jurisdiction

only on receipt of 'No objection certificate' from the Director of Fire Service.

(2) The Director of Fire service on being satisfied about provision of fire prevention and safety measures , obtained in a place shall issue 'No objection certificate' Form "C" under sub-rule (1)

19. (1) I the event of Fire incident being attended by the members of Assam Fire Service Force, the Director or an officer authorized by him shall issue a Fire Attendance Certificate to the owners of property so affected by the fire on receipt of a proper application.

(2) The Fire Attendance Certificate under sub-rule (1) shall be issued in Form "H".
