

Uttarakhand Fire and Emergency Service, Fire Prevention and Fire Safety Act, 2016

UTTARAKHAND

India

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Act 37 of 2016

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Uttarakhand Fire and Emergency Service, Fire Prevention and Fire Safety Act, 2016(Uttarakhand Act No. 37 of 2016)An Act to provide for the maintenance of effective fire fighting service and for matters incidental thereto in the State of UttarakhandBe it enacted by the Legislature of State of Uttarakhand in the Sixty seventh Year of the Republic of India, as follows -

1. Short title, extent and commencement.

(1)This Act may be called the Uttarakhand Fire and Emergency Service, Fire Prevention and Fire Safety Act, 2016.(2)It extends to the whole of the State of Uttarakhand.(3)It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas and for different provisions of this Act.

2. Definitions.

- In this Act, unless the context otherwise requires -(a)"Appellate Authority" means the Appellate Authority appointed by the Government;(b)"Building" means any structure whether of masonry bricks, woods, mud, metal or other materials and includes a house, out-house, basement, underground parking stable, latrine, urinal, shed, hut or wall (other than boundary wall);(c)"Building bye-laws" means the bye-laws made by the Government by publication in the Official Gazette relating to building in the State;(d)"State Government" means the Government of Uttarakhand;(e)"Chief Fire Officer" means the Chief Fire Officer appointed under this Act;(f)"Fire Prevention and Fire Safety measures" means such measures as are necessary in accordance with the building bye-law/National Building Code of India for the containment, control and extinguishing of fire and for ensuring the safety of life and property in case of fire and as may be prescribed in the rules made in this behalf;(g)"Fire Safety Officer" means the person appointed under Section 16 of

this Act as Fire Safety Officer by the owners and occupier of certain premises and buildings as specified in this behalf to ensure fire prevention and fire safety measures installed in such premises and buildings;(h)"Deputy Director" means the Deputy Director "Technical" Uttarakhand Fire and Emergency Service appointed by Uttarakhand Government;(i)"Fire and Emergency Service" means the Uttarakhand Fire and Emergency Service, Fire Prevention and Fire Safety Service;(j)"Fire station" means a building erected to house the fire fighting equipment, appliances and staff declared generally or specially by the Government to be a fire station for the purposes of this Act;(k)"Inspector General" means the Inspector General, Uttarakhand Fire and Emergency Service;(l)"Local authority" means the Executive Officer or C.E.O. of Municipal Corporation, Municipalities, Nagar Panchayat and Cantonment Board;(m)"Multi-storied building" means a building with such minimum height as may be prescribed under the rules in this behalf;(n)"Nominated authority" means nominated authority by the Government [not below the rank of fire station officer] [As corrected by Corrigendum Notification No. 92/XXXVI(3)/2017/61(1)/2016, dated 31.3.2017];(o)"Occupier" includes -(i)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;(ii)an owner in occupation of, or otherwise using his land or building;(iii)a rent free tenant of any land or building;(iv)a licensee in occupation of any land or building; and(v)any person who is liable to pay to the owner damages for the use and occupation of any land or building;(p)"Operational member" of the Fire and Emergency Service means any member of the Fire and Emergency Service who is required to drive or operate a Fire Fighting Vehicle, fire fighting equipment and appliance at the site of fire and participate in the actual extinction of fire;(q)"Owner" includes a person who, for the time being, is receiving or is entitled to receive, the rent of any land or building, on his own account or on account of himself and others or as an agent, trustee, guardian 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 were let to tenant and also includes -(i)the custodian of evacuee property in respect of evacuee property vested in him under the Administration of Evacuee Property Act, 1950 (Act No. 31 of 1950);(ii)any authority or institution under State Law and the head of a Government Department, in respect of properties under their respective control;(r)"Premises" means any land or any building or part of building appurtenant thereto which is used for storing explosive substance and dangerously inflammable substance;Explanation. - In this clause, "explosive", "explosive substance" and "dangerously inflammable substance" shall have the meaning respectively, assigned to them in the Explosive Act, 1884 (Act No. 4 of 1884), the Explosive Substances Act, 1908 (Act No. 6 of 1908) and the inflammable Substances Act, 1952 (Act No. 20 of 1952);(s)"Subordinate operation staff" includes every member of the Fire and Emergency Service of the rank of Fire Station Officer, Fire Station Second Officer, Leading Firemen, Driver, Firemen and any other equivalent rank officer;(t)"Fire Station Officer" means an officer in charge of the fire station, Fire and Emergency Service appointed by the Government;(u)"District Magistrate" means an officer of the Government appointed as District Magistrate/Chairperson of District Disaster Management Authority.

3. Name of the services.

- The entire fire fighting personnel in the area to which this Act applies for the time being shall for the purpose of this Act, be deemed to be one force to be styled the Uttarakhand Fire and Emergency

Service and shall consist in order of seniority of the following ranks:(a)Deputy Director Technical;(b)Chief Fire Officer;(c)Fire Officer;(d)Fire Second Officer;(e)Leading Fireman and Driver; and(f)Firemen.

4. Superintendence powers and functions.

(1)The superintendence and control of the Uttarakhand Fire and Emergency Service shall vest in the Inspector General.(2)The State Government may appoint such Fire Officers as it may think fit to assist the Inspector General.(3)Subject to the provisions of sub-sections (1) and (2), Deputy Director (Technical) and the Chief Fire Officer shall exercise such administrative powers and perform such administrative functions as may be prescribed.

5. Punishment.

- The fire fighting personnel of Uttarakhand Fire and Emergency Service shall be punished for any sufficient reason by the law and rules of Uttarakhand Government for the time being in force.

6. Establishment of Fire and Emergency Service training institute.

(1)The Government may establish and maintain a training institute in Uttarakhand to be known as "The Uttarakhand Fire and Emergency Service Training Center" for providing courses of instruction in the prevention and extinguishment of fire of the Fire and Emergency Service personnel and private candidates from industries, hotels, multi-storied buildings and similar other government and Non-Government establishments as specified in Section 9.(2)The Government may extend the training facilities at the Training Center to be established under sub-section (1) to the Fire and emergency Service under the Control of Local Bodies and industrial undertakings as well as to the State Fire and Emergency Service of other States on payment of charges as may be prescribed.(3)Subject to the observance of the general rules applicable to other employees of the Government in relation to training the members of the Fire and Emergency Service may be given training in the field of scientific and modern techniques of fire protection and fire safety measures.

7. Consumption of water by the Fire and Emergency Service.

- No charge shall be made by any local authority for water consumed by the Uttarakhand Fire and emergency Service in fire fighting, training, filling static water tanks or such other purposes.

8. Powers of the Fire and emergency Service and other persons for the suppression of fire.

- On the occasion of a fire in any town or area to which this Act applies, any member of the Uttarakhand Fire and emergency Service not below the rank of leading fireman, any Magistrate and any Police Officer not below the rank of head constable may -(a)remove, or order the removal of, any person who by his presence, interferes with, or impedes, the operation for extinguishing the fire

or for saving life property;(b)close any street or passage in, or near, which a fire is burning;(c)for the purpose of extinguishing the fire, enter, breaking or through, or pull down any premises for the passage of hose or appliance or cause them to be broken into or through or pulled down without the consent of the owner or occupier;(d)cause mains and pipes to be shut off so as to give greater pressure or volume of water, in, or near, the place where the fire is occurring;(e)make use of any available source of water, public or private;(f)generally take such measure as he considers necessary for the preservation of life or property.

9. Appointment of Fire Safety Officer.

(1)Every owner and occupier or an association of such owners and occupiers of the following classes of buildings or premises shall appoint a Fire Safety Officer, who shall ensure the compliance of all fire prevention and fire safety measures and effective operation thereof as provided in this Act and the rules made thereunder, namely -(a)cinema houses and multiplexes with seating capacity of more than 1000 persons and commercial complex with built-up area more than 10,000 sq. mtr.:(b)hotels and hostel with 100 rooms and above;(c)multi-storied residential buildings of 500 residential flats or more than that;(d)oil refineries, LPG bottling plants and similar other institutions;(e)open stadium with seating capacity more than 50,000 persons and indoor stadium with seating capacity more than 25,000 persons;(f)hospitals and nursing homes with more than 250 beds;(g)industries where more than 1000 are employed;(h)public and semi-public buildings like large surface and sub-surface railway stations, interstate bus terminuses, airports, amusement parks and other similar buildings:Provided that the Government may, by notification in the Official Gazette, from time to time, include any other public and private premises which, in its opinion, require appointment or removal of Fire Safety Officers.(2)The owner/occupier of the buildings or Campus or his Institutions with apply in First Terminal of the every calendar year on 50 per cent or more than of capacity/number fixed for the categorised buildings/campus in Section 9 (1). The Chief Fire Officer/Fire Officer as the case may be shall bound get No-Objection Certificate in relation of effective operations of fire and safety measures. The Chief Fire Officer/Fire Officer of the concerning district as the case may be not received the application on last date of the month of March shall inquire buildings/campus of category by himself and do procedure in relation of No Objection Certificate and shall impose fine also at the rate of as fixed in Section 10(2) which recovery shall be made as per provision Section 10(3).

10. Penalty in case of default of non-appointment of fire Safety officer.

(1)If any owner or occupier or an association of such owners and occupiers of a building or premises fails to appoint under Section 16, Fire Safety Officer within thirty days, of the receipt of a notice given in this behalf by the Chief Fire Officer or the nominated authority, as the case may be, each one of them shall be deemed to be in default jointly and severally.(2)When the person liable for appointment such Fire Safety Officer is deemed to be in default, such sum not less than [Rs. 10 per square meter] [As corrected by Corrigendum Notification No. 92/XXXVI(3)/2017/61(1)/2016, dated 31.3.2017] and not exceeding [Rs. 50 per square meter] [As corrected by Corrigendum Notification No. 92/XXXVI(3)/2017/61(1)/2016, dated 31.3.2017] of area owned or occupied by him including in the common areas in the premises as determined by the Chief Fire Officer, may be recovered from

him by way of penalty for each month of default or part thereof.(3)The amount due as penalty under sub-section (2) shall be recovered as an arrears of land revenue.(4)The person liable for appointing the Fire Safety Officer is deemed not taking any action within three months after awarded punishment under sub-section (2) shall be liable to double money charges as determined by the Chief Fire Officer.

11. Liability of property owner to pay compensation.

(1)Any person whose property catches fire on account of any act of his own or of his agent done deliberately or negligently shall be liable to pay compensation to any other person suffering damage to his property on account of any action taken under clauses (c) and (e) of Section 8 of this Act by any officer mentioned therein or any person acting under the authority of such officer.(2)All claims under sub-section (1) of this section shall be preferred to the District Magistrate within one week from the date when the damage was caused. The District Magistrate shall summarily determine the amount of compensation due and shall pass an order stating the amount of compensation to be paid and the person liable for the same, and the orders so passed shall have the force of a civil court decree.

12. Power of State Government to make compensation.

- If a fire is caused in any place by any reason other than those specified in Section 9 of the Act, the State Government may at its discretion within maximum limit of damage, make compensation out of the State Revenues to any persons suffering any damage to property on account of any action taken under clauses (c) and (e) of Section 8 of this Act.

13. Restrictions on suits for compensation.

(1)No order passed under Section 12 of this Act shall be called in question in any court.(2)Any person dissatisfied with any order passed sub-section (2) of under Section 11 may, within six months from the date of such order institute a suit in a civil court of competent jurisdiction to establish his claim. Subject to the result of such suit the order passed sub-section (2) of under Section 11 shall be final.

14. Power to obtain information.

(1)Chief Fire Officer or authorised by him in charge of a fire station may 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 the means of access thereto and other material local circumstances, and such owner or occupier shall furnish, within a reasonable time, all the information required of him.(2)If any information required under sub-section (1) of this section is not furnished within a reasonable time, or if the Chief Fire Officer or Officer in charge of a fire station, as the case may be, has reason to believe that any information furnished is inaccurate the said Chief Fire Officer or officer in charge of a fire station may, for the purpose of obtaining or

verifying the information, enter upon any such premises or property after giving such notice as, may be prescribed, to the owner or occupier.

15. Inspection of multi-storied buildings, premises, etc.

(1)The nominated authority may, after giving three hours notice to the occupier, or if there be no occupier, to the owner of multi-storied building having such height as may be specified by rules framed under this Act or premises, enter and inspect the said building or premises at any time between sunrise and sunset where such inspection appears necessary for ascertaining the adequacy or contravention of fire protection and fire safety measures:Provided that the nominated authority may enter into and inspect any building or premises at any time if it appears to it to be expedient and necessary to do so in order to ensure safety of life and property at any emergency.(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-section(1).(3)When any building or premises used as a human dwelling is entered under sun-sectioli (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 women who, according to the custom does not appear in public, is entered under sub-section (1), notice shall be given her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for with drawing.(4)All building plans in respect of building of 15 meters and above height, industrial unites/commercial [(covered area above "5000" sq. meter)] [As corrected by Corrigendum Notification No. 92/XXXVI(3)/2017/61(1)/2016, dated 31.3.2017] establishments dealing with or using explosive and highly inflammable substances shall require "No-Objection Certificate" from the Deputy Director (Technical) or Chief Fire Officer, as the case may be, on the basis of recommendation of Fire Station Officer or nominated authority. "No-Objection Certificate" shall be issued by the Chief Fire Officer after approval of Deputy Director (Technical).

16. Power to seal building or premises.

(1)Where, on receipt of a report from the nominated authority, it appears to the District Magistrate that the condition of any building or premises is dangerous to life of property, require the person in possession or occupation of such building or premises to remove themselves from such building or premises forthwith.(2)If an order made by the District Magistrate under sub-section (1) is not complied with, the District Magistrate may direct any police officer having such jurisdiction in the area to remove such persons from the building or premises and such 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 District Magistrate shall seal the building or premises.(4)No person shall remove such seal except under an order made by the District Magistrate.(5)Any person who removes such seal except under an order made by the District Magistrate, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to twenty five thousand rupees, or with both.

17. Provision regarding certain building and premises.

(1) Notwithstanding anything contained in any other law for the time being in force, the Chief Fire Officer may enter and inspect any building including a building under construction if such inspection appears necessary for ascertaining the adequacy of fire prevention and fire safety measures in such buildings. (2) The entry and inspection under sub-section (1) shall be done by the Chief Fire Officer in the manner laid down in relation to nominated authority in Section 15. (3) The Chief Fire Officer shall, after inspection of the building or premises under sub-section (1) and after taking into consideration, issue a notice to the power or occupier of such building or premises stating therein the inadequacy in regard to the fire prevention and fire safety measures in it and direct the owner or occupier to undertake measures for rectifying the said inadequacy within such period as he may consider just and reasonable. (a) the provisions of the building bye-laws 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 the sanction of the plan of the said building or premises; and (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 this Act,

18. Permission of certain buildings.

- Every building above 15 metre in height whether existing or to be erected or likely to be used for a purpose such as medical or other treatment or care of persons suffering from physical or mental illness, diseases or infirmity, case of infants, convalescents or aged persons or for penal or correctional detention in which the liberty of inmates is restricted shop, market, sleeping, accommodation, hotel or rooming house, educational institution, assembly building where group of people congregate or gather for amusement, recreation, social, religious, patriotic, civil travels or for a similar purposes shall submit plan and obtain a permission in entity authorised by the State Government that safety from fire is reasonable attainable in practical and can be achieved.

19. Powers of Deputy Director Technical in case of commit default.

(1) The Deputy Director Technical shall in the event of non-compliance of any notice issued under Section 17, take such steps as may be necessary for the compliance of such notice. (2) All expenses incurred by the Deputy Director Technical in relation to any steps taken by him under sub-section (1) shall be payable by the owner or the occupier on demand and shall, if not paid within ten days after such demand, be recoverable as arrears of land revenue.

20. Appeal.

(1) Any person aggrieved by any notice or order of the nominated authority or the Chief Fire Officer may prefer an appeal against such notice or order to the concerned District Magistrate within thirty days from the date of notice or order appealed against: Provided that District Magistrate 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 to the District Magistrate under

sub-section (1) shall be made in such form and shall accompanied by a copy of the notice of order appealed against and by such fees as may be prescribed.

21. Penalty.

- Whoever contravenes Section 15, Section 17 and Section 18 provision of this Act shall, without prejudice to be punishable with imprisonment for a term which may extend to 2 years, or with fine which may extend to one lac or with both and where the offence is a continuing one, with a further fine which may extend to five thousand for every day after the first during which such offence continues.

22. Offences by companies.

(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 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 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 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 of other association of individuals; and (b)"Director" in relation to a firm, means a partner in the firm.

23. Punishment for false report.

- Any person who wilfully makes a false report of the outbreak of a fire to the any member of the Uttarakhand Fire and Emergency Service authorised to receive such report shall be liable upon conviction before a magistrate to a fine not exceeding five thousand.

24. Employment of Fire and Emergency Service on other duties.

- It shall be lawful to depute by the permission of State Government that Uttarakhand Fire and Emergency Service upon any rescue salvage or other work for which its training, appliances or equipment render.

25. Procedure.

- The proceeding under Sections 5 and 22 of this Act shall, as far as possible, be governed by the provisions of the Code of Criminal Procedure, 1973, and the offences under these sections shall be bailable and non-cognizable.

26. Rule making powers.

- The State Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

27. Bar of jurisdiction of Court.

- No court shall entertain any suit, application or other proceeding in respect of any notice or order under this Act and no such notice or other shall be called in question otherwise than by preferring an appeal under this Act.

28. Cognizance of prosecution.

- No court shall proceed to the trial of an offence under this Act except on the complaint of, or upon information received from, the nominated authority.

29. Jurisdiction.

- No court inferior to that of a Chief Judicial Magistrate shall try an offence punishable under this Act.

30. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against any person for anything which is done in good faith or intended to be done under this Act or any rules made thereunder.

31. Power to remove difficulties.

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it be necessary or expedient for removing the difficulty: Provided that no such order shall be made after the expiry of two years from the commencement of this Act. (2) Every order made under this section shall be laid, as soon as may be after it is issued, before the Legislative Assembly of Uttarakhand.

32. Effect of the State and District Disaster Management.

- Notwithstanding anything contained in this Act, the conferred power related Fire Safety to the State District Disaster Management Authority shall be applicable.

33. Repeal and savings.

(1)The United Province Fire Disaster Service Act, 1944 (U.P. Act No. 3 of 1944) to the context of State of Uttarakhand is hereby repealed.(2)Notwithstanding such repeal anything done or any action taken under the said Act shall be deemed to have been done or taken under sub-section (1) of the corresponding provisions of this Act.