

The U.P. Fire Prevention And Fire Safety Act, 2005

UTTAR PRADESH

India

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Act 5 of 2005

- Published on 18 March 2005
- Commenced on 18 March 2005
- [This is the version of this document from 18 March 2005.]
- [Note: The original publication document is not available and this content could not be verified.]

The U.P. Fire Prevention And Fire Safety Act, 2005(U.P. Act No. 5 of 2005)Statement Of Objects And Reasons - The United Provinces Fire Service Act, 1944 (U P. Act No. 3 of 1944) was enacted to provide for the constitution and maintenance of a Provincial Fire Service for fire fighting in the State but there was no enactment for fire prevention and fire safety in the State. The provisions with respect to fire prevention and fire safety under various Acts and rules etc., were not sufficient for providing effective measures of fire prevention and fire safety in certain buildings and premises in the State, it was, therefore, decided to make a law for making effective provisions for fire prevention and fire safety in certain buildings and premises in the State of Uttar Pradesh.Since the State Legislature was not in session and immediate legislative action was necessary to implement the aforesaid decision, the Uttar Pradesh Fire Prevention and Fire Safety Ordinance, 2005 (U.P. Ordinance No. 5 of 2005) was promulgated by the Governor on January 24, 2005.This Bill is introduced to replace the aforesaid Ordinance.(As passed by the Uttar Pradesh Legislature)Recorded the assent of the Governor on 17.03.2005 and published in the U.P. Gazette, Extraordinary, Part 2, Section (Ka), dated 18.03.2005.An Act to make more effective provisions for the fire prevention and fire safety measures in certain buildings and premises in the State of Uttar PradeshIt is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :-

1. Short title and commencement. -

(1)This Act may be called the Uttar Pradesh Fire Prevention and Fire Safety Act, 2005.(2)It shall be deemed to have come into force on January 24, 2005.

2. Definitions. -

In this Act, -(a)"building" means a house, outhouse, stable, latrine, urinal, shed, hut, wall (other than a boundary wall) or any other structure, whether of masonry, bricks, wood, mud, metal or other material;(b)"Chief Fire Officer" means the Chief Fire Officer under the United Provinces Fire Service Act, 1944;(c)"fire prevention and fire safety measures" means such measures as are

necessary under any law or rules for the time being in force for the prevention, control and fighting of fire and for ensuring the safety of life and property in case of fire;(d)"local authority" means a local authority as defined under the United Provinces Fire Service Act, 1944;(e)"Government" means Government of Uttar Pradesh;(f)"nominated authority" means any authority nominated by the Government;(g)"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.(h)"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 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 a tenant and also included :-(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;(i)"premises" means any land or any building or part of a building appurtenant thereto which is used for storing explosive substances and dangerously inflammable substances.Explanation. - In this clause "explosive", "explosive substances" and "dangerously inflammable substances" shall have the meaning respectively assigned to them in the Explosives 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).

3. Inspection of 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 any building having such height as may be prescribed 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 prevention 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.(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 sub-section (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-section (1), notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

4. Measures for prevention and fire safety. -

(1)The nominated authority shall, after the completion of the inspection of the building or premises under Section 3, record its views on the deviations from, or the contraventions of, the building bye-laws with regard to the fire prevention and fire safety measures and 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 premises 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 it under Section 3 to the District Magistrate.

5. Power to seal buildings or premises. -

(1)Where, on receipt of a report from the nominated authority under sub-section (2) of Section 4, it appears to the District Magistrate that the condition of any building or premises is dangerous to life or property, he shall without prejudice to any action taken under Section 8 by order, require the persons 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 subsection (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.

6. Provision regarding certain buildings 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 building.(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 3.(3)The Chief Fire Officer shall, after inspection of the building or premises under sub-section (1), and after taking into consideration -(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;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 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.

7. Permission for certain buildings. -

(1)Every building above 15 metres 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 purpose shall submit plan and obtain a permission from entity authorised by the State Government that safety from fire is reasonably attainable in practical and can be achieved.

8. Default powers of the Chief Fire Officer. -

(1)The Chief Fire Officer shall in the event of non-compliance of any notice issued under Section 4 or Section 6, take such steps as may be necessary for the compliance of such notice.(2)All expenses incurred by the Chief Fire Officer 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.

9. Appeals. -

(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 State Government within thirty days from the date of notice or order appealed against:Provided that the State Government 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 State Government under sub-section (1) shall be made in such form and shall be accompanied by a copy of the notice or order appealed against and by such fees as may be prescribed.

10. Bar of jurisdiction of Courts. -

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 order shall be called in question otherwise than by preferring an appeal under this Act.

11. Penalties. -

Whoever contravenes any provision of this Act shall, without prejudice to any other action taken against him under Section 8, be punishable with imprisonment for a term which may extend to ten years, or with fine which may extend to one lakh rupees, or with both and where the offence is a continuing one, with a further fine which may extend to five thousand rupees for every day after the first during which such offence continues.

12. 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, 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 to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.Explanation. - For the purposes of this section, -(a)"company" means a body corporate and includes a firm or other association of individuals; and(b)"director", in relation to a firm, means a partner in the firm.

13. Sanction 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.

14. Jurisdiction. -

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

15. Protection of action taken in good faith. -

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

16. Officer to be public servant. -

Every officer acting under the provisions of this Act shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860 (45 of 1860).

17. Power to make rules. -

(1)The State Government may, by notification, make rules for carrying out the provisions of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for -(a)the height of the building under sub-section (1) of Section 3;(b)the minimum standards for the fire prevention and fire safety measures;(c)the form in which an appeal shall be made and the fees that shall accompany such appeal under sub-section (2) of Section 9;(d)any other matter which is required to be, or may be, provided by rules.

18. Repeal and saving. -

(1)The Uttar Pradesh Fire Prevention and Fire Safety Ordinance, 2005 (U.P. Ordinance No. 5 of 2005) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the provisions of the Ordinance referred to in sub-section (1) shall be deemed to have been done or

taken under this Act as if the provisions of this Act were in force at all material times.