

# ***The West Bengal Fire Services Act, 1950***

## ***West Bengal Act 18 of 1950***

WB345

[30th March, 1950.]

Assent of the President was first published in the *Calcutta Gazette, Extraordinary*, dated the 30th March, 1950.

An Act to provide for the maintenance of a fire brigade, for the licensing of warehouses and for certain other matters.

Whereas it is expedient to provide for the maintenance of a fire brigade, for the licensing of warehouses and for certain other matters;

It is hereby enacted as follows :-

### **CHAPTER I**

#### ***Preliminary***

**1. Short title, extent and commencement.** - (1) This Act may be called the West Bengal Fire Services Act, 1950.

(2) It extends to the whole of West Bengal.

(3) It shall come into force [in such local or other areas] and on such dates as the State Government may, by notification from time to time in the *Official Gazette*, direct; and the State Government may by like notification withdraw this Act [from any such area :]

[Provided that when the fire brigade is sent to any place outside any such area this Act shall be deemed to be in force in such place for all purposes connected with service therein.]

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

(a) "Additional Director-General" means the Additional Director General of Fire Services immediately below the rank of Director-General, appointed as such by the State Government by notification;

(aa) the expression "building" has the same meaning as assigned to it in the relevant municipal law in force in a local area;

(aaa) the expression "building rules" means the building rules, building regulations, or building bye-laws, made under the relevant municipal law and in force in a local area, and includes any other building rules or regulations, or any development control rules or regulations, by whatever name called, made under any other law for the time being in force and in force in any local area;]

(b) "the Collector" means, in relation to Calcutta, the Collector of Stamp Revenue and in relation to any other [area] the Collector of the district within which the [area] is comprised;

(c) "the Commissioner" in relation to the Collector means the Divisional Commissioner to whom the Collector is subordinate :

[\* \* \* \* \*]

[(e) "Director" means the Director of Fire Services immediately below the rank of Additional Director-General, appointed as such by the State Government by notification;]

[(ee) "Director-General" means the Director-General of Fire Services, appointed as such by the State Government by notification by deputation of an officer of the Indian Police Service holding immediately before such deputation a post of Additional Director-General of Police, or equivalent post, in the Indian Police Service.]

*Explanation.* - "Indian Police Service" shall mean the Indian Police Service referred to in section 2 of the All-India Services Act, 1951;

[(eee) "District Magistrate" means the Executive Magistrate appointed to be the District Magistrate under sub-section (1) of section 20 of the Code of Criminal Procedure, 1973, and includes an Additional District Magistrate;]

(f) "the fire brigade" means the fire brigade maintained by the State Government under section 3 [\* \* \* \* \*]

(g) "fire-fighting appliances" mean fire-engines, fire-escapes, accoutrements, equipments, tools, implements and things whatsoever used for fire-fighting and include motor cars, motor cycles, trailers and other means of transport;

[(gg) the expression "fire prevention and fire safety measures" means such measures as may be provided in the building rules or in any other law for the time being in force, or as may be prescribed, for the prevention, control and fighting of fire and for ensuring the safety of life and property in the case of fire;]

[(h) "hazardous substance" means -

- (i) such explosive within the meaning of the Indian Explosives Act, 1884, or
- (ii) such explosive substance within the meaning of the Explosive Substances Act, 1908, or
- (iii) such dangerously inflammable substance within the meaning of the Inflammable Substances Act, 1952, or
- (iv) such combustible substance, or
- (v) such toxic substance,

as the State Government may, by notification, specify;

(ha) "high-rise building" means a building the height of which is fourteen and a half metres or more.

*Explanation.* - For the purposes of this Act, the height in relation to a building shall mean the vertical distance measured from the average level of the centre line of the street or passage to which the plot of land on which the building is situated abuts to the highest point of the building, whether with flat roof or with sloped roof;

(hb) "high-risk building" means a high-rise building or a building with such occupancy within the meaning of the relevant municipal law in force in a local area, or such other occupancy, or such building, or such class or classes of buildings, as the State Government may, by notification, specify;

(hc) "licensed agency" means a person or association of persons to whom a licence has been granted by the Director in the manner prescribed for undertaking or executing fire prevention and fire safety measure or for performing such other related activities required to be carried out under this Act in such area as may be specified by the Director;]

[(hh) "local area" means the area over which a local authority has jurisdiction [or any other area defined by boundaries for the purposes of this Act;];

[(hhh) "local authority" means a municipal authority or Industrial Township Authority within the meaning of the relevant municipal law or a *Gram Panchayat, Panchayat Samiti, Zilla Parishad, or Mahakuma Parishad*, constituted under the West Bengal Panchayat Act, 1973;]

[\* \* \* \* \*]

[(ia) "members of the fire brigade" includes persons employed in the West Bengal Fire Service and also volunteers or other persons enrolled in an auxiliary fire brigade;]

[(ib) "nominated authority" means an officer, not below the rank of station officer, as may be nominated by the Director, or such officer as may be nominated by the State Government;]

(ic) "notification" means a notification published in the *Official Gazette*;

(id) "occupier" means a person living in, or otherwise using, any land or building owned by him, or a person who, for the time being, is paying, or is liable to pay, to the owner the rent or fee, or is making, or is liable to make, contractual payment to the owner for adjustment of rent or fee, or damages, or any portion thereof, on account of occupation of any land or building, and includes a rent-free tenant;

(ie) "owner" means a person who, for the time being, is receiving the rent of any land or building or any part of any land or building, either on his own account or as an agent of a person, or trustee for a society for any religious or charitable purpose, or as a receiver who would receive such rent if the land or the building or any part thereof were let to a tenant;]

(j) "person" includes an undivided Hindu family, and a firm or company or association of individuals whether incorporated or not;

(k) "prescribed" means prescribed by rules made by the State Government under this Act;

**[l] "premises" means a land or building or hut or part of a land or building or hut, and includes -**

- (i) the garden, ground or out-house, if any, appertaining thereto; or
- (ii) any fittings or fixtures affixed to a building or hut or part of a building or hut for the more beneficial enjoyment thereof;

(la) "processing" means making, altering, repairing, treating or otherwise dealing with any article by means of steam, electricity or other power;

(lb) "the relevant municipal law" means -

- (i) the Howrah Municipal Corporation Act, 1980, or
- (ii) the Calcutta Municipal Corporation Act, 1980, or
- (iii) the Siliguri Municipal Corporation Act, 1990, or
- (iv) the Asansol Municipal Corporation Act, 1990, or
- (v) the Chandernagore Municipal Corporation Act, 1990, or
- (vi) the West Bengal Municipal Act, 1993;

(lc) "requisition for fire safety" means the statement showing the requirements of fire prevention and fire safety measures to be provided in a premises;

(ld) "superior nominated authority" means such officer, not below the rank of Divisional Fire Officer, as may be nominated by the Director, or such officer as may be nominated by the State Government.]

[\* \* \* \* \*]

## **CHAPTER II**

### ***Fire Brigade***

**[3. Maintenance, constitution, etc., of fire brigade.]** - (1) The State Government shall maintain a fire brigade [for the purposes of extinguishing fire and protecting life and property in the case of fire and for rescue services and such other services as the State Government may, by notification, specify, in the local area or any other area] in which this Act is in force and may, if it thinks fit, send the fire brigade to any place outside any such area [for such purposes or services.]

(2) The fire brigade shall consist of such number of members and shall be otherwise constituted in such manner [and shall consist of such organisational set up] as the State Government may think fit.

[(3) The fire brigade shall be under the direction, supervision and control of the Director-General who shall, with the approval of the State Government, take all the policy decisions required for the fire brigade, and may -

- (a) exercise all the powers of the Director under this Act;
- (b) delegate, by order, any power or powers of the Director under this Act to the Additional Director-General, subject to the approval of the State Government;
- (c) make, with the previous sanction of the State Government and subject to the orders or the rules, if any, made by the State Government under this Act, such regulations as he thinks fit relating to -
  - (i) the general administration and control of the fire brigade;
  - (ii) the equipments, clothing and accoutrement of the members of the fire brigade, their classification and duties and distribution of work among them;
  - (iii) the place at which, or the limits of the area within which, the members, or any class of members of the fire brigade shall ordinarily reside, for ensuring that the services of the members, or such class of members, of the fire brigade may be readily available;
  - (iv) all other matters which he considers necessary for rendering the fire brigade an efficient fire-fighting force.]

[(4) (a) Appointment to the post of Additional Director-General shall be made by promotion of the Director in such manner as may be prescribed :  
Provided that until the manner as aforesaid is prescribed, it shall be competent for the State Government to make the appointment to the post of Additional Director-General by promotion of the Director in such manner as the State Government thinks fit.

- (b) The Additional Director-General shall perform his duties, and discharge his functions, in exercise of such powers as may be delegated to him under clause (b) of sub-section (3) and in accordance with such directions as may be given to him by the Director-General from time to time.

(5) Subject to supervision of the Director-General, the Director shall be in charge of operational matters of the fire brigade, and shall perform his duties in accordance with such directions as may be given to him by the Director-General from time to time and, if so directed by the Director-General, by the Additional Director-General in exercise of such powers as may be delegated to him by the Director-General under clause (b) of sub-section (3).

(6) The manner of appointment of the post of Director-General by deputation shall be such as may be prescribed;  
Provided that until the manner as aforesaid is prescribed, it shall be competent for the State Government to make the appointment to the post of Director-General by deputation in such manner as the State Government thinks fit.

(7) The terms and conditions of service, and the conduct, discipline and control, of the Director-General, the Additional Director-General, and the Director shall be such as may be prescribed.]

**[3A. Auxiliary fire brigade. -** The State Government may allow raising of an auxiliary fire brigade for the purposes of extinguishing fire and protecting life and property in the case of

fire and for such other services as may be determined by the State Government in any local area or any other area in which this Act is not in force, by the local authority for that area, or any organisation or institution, on such terms and conditions as may be determined by the State Government, and may provide such assistance as may be necessary for raising of such fire brigade and allow enrolment of volunteers and other persons as members of such fire brigade on such terms and conditions as the local authority, with the prior approval of the State Government, may determine.]

**[3AA. Fire prevention wing.]** - (1) There shall be a fire prevention wing in the West Bengal Fire Service which shall consist of such number of inspecting officers and other staff as the State Government may determine.

(2) The Director shall be responsible for the smooth and efficient operation of the fire prevention wing.

(3) The inspecting officers and other staff shall be appointed by the Director in such manner and shall receive such salary and allowances as may be prescribed.

(4) The functions of the inspecting officers shall be as follows :-

- (a) to inspect buildings, cinema houses, theatres and other places of public entertainment to see whether fire prevention measures have been taken and to test periodically the fire extinguisher, fire installation and other fire fighting appliances in such buildings, cinema houses, theatres or other places;
- (b) to determine the method of maintenance of water supply for fire fighting purposes in any building or place;
- (c) to inspect means of escape in any building or place and to suggest creation of means of escape and fire prevention measures;
- (d) to render assistance to any statutory authority when so requested by it in matters connected with fire prevention or fire protection;
- (e) such other functions as may be prescribed.]

**[3B. Powers of members of auxiliary fire brigade.]** - The members of the auxiliary fire brigade raised under section 3A may be given such of the powers exercised by the members of the fire brigade employed in the West Bengal Fire Service as the State Government may determine.]

**4. Power of State Government to make orders with respect to the fire brigade.** - The State Government may from time to time make such general or special orders [and make such rules,] as it thinks fit -

for furnishing the fire brigade with such fire-fighting appliances as it deems proper;  
for building or providing stations, or hiring places, for accommodating the members of the fire brigade and keeping its fire-fighting appliances;  
for giving [rewards] to persons who have given notice of fires and to those who have rendered effective service to the fire brigade on the occasion of fires;  
for the training, discipline and good conduct of the members of the fire brigade;  
for the speedy attendance of members of the fire brigade with necessary fire-fighting appliances on the occasion of any alarm or fire;

for sending the members of the fire brigade with necessary fire-fighting appliances, beyond the limits of any [area] in which this Act is in force, in order to extinguish fire in the neighbourhood of such limits on such terms and conditions as it deems proper;

[for the employment of the members of the fire brigade on such terms and conditions as it deems proper in any work not connected with extinguishing fire, for which the fire brigade may, in its opinion, be usefully and appropriately employed;]

for enforcing discipline and imposing punishment on any member of the fire brigade who may infringe orders [or for giving awards to any member of the fire brigade, whose performance is commendable];

for regulating and controlling the powers, duties and functions of the Director [and the other members of the fire brigade]; and

generally, for the maintenance of the fire brigade in a due state of efficiency [for recruitment against various categories of posts under the fire brigade and for regulating the terms and conditions of service of the members of the fire brigade].

**[4A. Fees payable for extinguishing fire in areas where the Act is not in force.]** - (1)

Where [the fire brigade is sent beyond [(its jurisdiction to an area)]] in which this Act is in force, in order to extinguish fire [in a premises which otherwise would have required a 'Fire Safety Certificate' under section 11C or a license under section 12,] shall be liable to pay such fee as may be prescribed in this behalf.

(2) The fee referred to in sub-section (1) shall be payable within one month of the service of a notice of demand by the Director on the occupier and if it is not paid within such period, it shall be recoverable as a public demand.

**4B. [\* \* \* \* \*]**

**4C. [\* \* \* \* \*]**

**5. Powers exercisable on the occasion of a fire.** - (1) On the occasion of a fire, the Director or the officer in charge of the members of the fire brigade on the spot, may -

(a) remove or may order any member of the fire brigade to remove, any persons who by their presence interfere with the due operations of the fire brigade;

(b) by himself or by members of the fire brigade, break into or through, or pull down, any premises for the purpose of putting an end to the fire, doing as little damage as possible;

(c) cause the mains and pipes of any area to be shut off so as to [ensure] greater pressure of water in the place where the fire has occurred;

[(cc) cause the water of any stream, cistern, tank, well or other available source of water supply, public or private, to be utilised for the purpose of extinguishing, or limiting the spread of, such fire;]

(d) exercise the same powers for dispersing any assembly of persons likely to obstruct the operation of the fire brigade, as if he were an officer in charge of a police-station and as if such an assembly were an unlawful assembly and shall be entitled to the same immunities and protection as such an officer, in respect of the exercise of [such powers;]

- (e) generally take such measures as may appear necessary for the preservation of life and property;
- [(f) require an electric supply company or a gas supply company to disconnect supplies and to remain as stand-by for duty until the fire is fully extinguished;
- (g) require the Calcutta Tramways Company (1978) Limited or a Railway company, telecom company or electric company to remove overhead lines to facilitate movement of fire-fighting appliances during fire-fighting operations;
- (h) require the local authorities to give prior notice about blocking of roads within the local area so that routing of fire appliances may be planned; and
- (i) require telecom companies to assist in tracing and recording fire calls.]

(2) The Director or the officer in charge of the members of the fire brigade on the spot, may verbally nominate and depute one or more member or members of the fire brigade to act at a distance; and such member or members shall have for the time being the like powers as the Director or such officer himself possesses under this section.

**[5A. Local authority or other agency to secure supply of water.]** - The local authority or any other agency responsible for water supply in an area or owning a source of water or reservoir, shall secure adequate supply of water to the members of the fire brigade or the auxiliary fire brigade raised under section 3A for fire fighting operations on no-charge basis, and shall ensure that such supplies are available at all material times for such purpose.]

**[5B. Person or authority to provide all assistance to deal with fire and rescue service.]** - The Director or the superior nominated authority may require any person or authority maintaining any firefighting arrangements to provide all assistance to deal with fire or rescue service.]

**[5C. All vehicles to give way to fire brigade vehicles, etc., proceeding to a fire.]** - Whenever any vehicle of the fire brigade [proceeds] to a fire [sounding its] fire alarms, all other vehicles, [other than] police vehicles or ambulances, shall give way to such vehicle of the fire brigade.]]

**[5D. Penalty for malicious call to summon fire brigade.]** - Any person who makes a malicious call to summon the fire brigade to any place where there is no fire or apprehension of fire or need for rescue work, shall be punishable, on conviction, with fine not exceeding fifty thousand rupees or with imprisonment for a term which may extend to six months or with both.]

**[5E. Penalty for causing obstruction to fire brigade to draw water for fire-fighting purposes.]** - Any person or agency causing obstruction to fire brigade to draw water for fire-fighting purposes from any reservoir or source located in any premises shall be punishable, on conviction, with fine not exceeding fifty thousand rupees or with imprisonment for a term which may extend to six months or with both.]

**6. Police-officers to aid the fire brigade in execution of its duties.** - Police-officers of all grades shall be authorised and bound to aid the fire brigade in the execution of its duties. They may close any street in or near which a fire is burning; and they may, on their own motion or on the request of the Director or any member of the fire brigade, remove any persons who interfere by their presence with the operations of the fire brigade.

**7. Non-liability of police-officer, etc., to damages.** - No officer of the police and no member of the fire brigade shall be held liable to damages on account of any act done by him in the *bona fide* belief that such act was required for the proper execution of his duties.

**8. Enquiry into origin of fire and report to Magistrate.** - (1) In the case of any fire occurring within any [area] in which this Act is in force, the seniormost officer in rank among the members of the fire brigade in that [area] [or where members of the fire brigade are sent beyond the limits of any [area] in which this Act is in force to extinguish fire in the neighbourhood of such limits, the seniormost officer in rank among the members so sent], shall ascertain the facts as to the origin and cause of such fire and shall make a report thereon to the [District Magistrate] having jurisdiction in the place in which such fire [has] occurred [\* \* \* \* \*].

[(1A) The District Magistrate on receiving the report under sub-section (1) may, if he deems fit, cause, either by himself or by any other Magistrate not below the rank of Sub-Divisional Magistrate, an enquiry, summon witnesses and take evidence about the cause of fire and effectiveness of the fire-fighting operations and recommend actions as may be required to be taken to prevent recurrence of similar fire incidents. The District Magistrate shall submit his findings along with his recommendations to the State Government under intimation to the Director. The Director shall take such measures as he may deem fit and necessary on the basis of the said findings and recommendations, and inform the State Government accordingly :]

Provided that the State Government may require any fire incident to be enquired into by a committee specially constituted for the purpose in addition to, or in place of, the enquiry as aforesaid.

[(2) Copies of the report referred to in sub-section (1) may be furnished by the District Magistrate to a fire assurance company or other person interested, on payment of such fees and in such manner as may be prescribed.]

## CHAPTER III

### *Fire-works, etc.*

**[9. License for letting off rockets, etc.]** - No person shall let off rockets or send up fire-balloons or sell fire-works within any area in which this Act is in force, without a license. A license for letting off rockets or sending up fire balloons shall, in any area, be subject to the provisions of clause (11) of section 66 of the Calcutta Police Act, 1866, or of clause (10) of section 40 of the Calcutta Suburban Police Act, 1866, or of any other law on the subject, for the time being in force in such area, and shall indicate the place from which, the time at which and the conditions subject to which, the rockets are to be let off or the fire-balloons sent up, as the case may be, and a license for selling fire-works shall require prescribed conditions specified in the license to be complied with.]

**[10. Who may grant license; fee for license.]** - (1) The power of granting a license under section 9 shall be exercised by the Collector.

[(1A) The Collector shall grant or refuse a licence under section 9 on the basis of a report from the Director or the nominated authority.]

(2)(a) The fee for a license to let off rockets or to send up fire-balloons for any particular occasion shall be [such as may be prescribed.]

(b) The annual fee for a license to sell fire-works shall be [such as may be prescribed and shall be] payable in advance.]

**[11. Power to withdraw or suspend license.]** - A license granted under section 9 may, without prejudice to any other action that may be taken against the licensee, be suspended or withdrawn by the Collector after giving the licensee an opportunity of being heard, if in the opinion of the Collector it is necessary to do so in the public interest or, in the case of a license to sell fire-works, if there has been a breach of any prescribed condition.]

### **[CHAPTER IIIA]**

#### ***Fire Prevention and Fire Safety***

**[11A. General public to take preventive measures for safety from fire etc.]** - Subject to the provisions of the relevant municipal law, a local authority may require the general public residing in an area within its jurisdiction to take such preventive measures as may be required for safety from fire and other similar hazards.]

**[11B. Owner or occupier of building to make or carry out arrangements necessary for fire prevention etc.]** - Subject to the provisions of the relevant municipal law and the building rules in force and in consultation with the Director, a local authority may, by general or special order, require the owner or occupier of any building of any or all categories to make or carry out such arrangements as may be necessary for fire prevention and fire safety in that area.]

**[11C. Owner or occupier of high-risk building to provide fire prevention and fire safety measures.]** - (1) The owner or, where the owner is not traceable, the occupier of a high-risk building or part thereof shall provide fire prevention and fire safety measures in such building or part thereof and the occupier shall maintain the fire prevention and fire safety measures in good repair and in efficient condition at all times in accordance with the provisions of this Chapter or the rules made thereunder :

Provided that in the case of such building or part thereof, the construction of which has been completed on any date before the date on which this Chapter comes into force, the occupier and, in the case of such building or part thereof which is under construction on the date immediately before the date on which this Chapter comes into force, the owner shall undertake and carry out such additional fire prevention and fire safety measures as are specified in the notice served on him under section 35.

(2) The owner or occupier of a high-risk building, as the case may be, shall furnish to the Director or the nominated authority a 'Fire Safety Certificate' in the prescribed form issued by a licensed agency in the manner prescribed.

(3) The State Government may require compulsory endorsement of 'Fire Safety Certificate' by the Director or by a superior nominated authority in respect of any class or classes of high-risk buildings as may be notified by the State Government from time to time :

Provided that the Director or a superior nominated authority shall not endorse any 'Fire Safety Certificate' unless he or it is satisfied about the fire prevention and fire safety measures including safety of electrical installations and provision of supply of adequate quantity of water for fighting purposes made by the owner or occupier of such building.

(4) The occupiers of all high-risk buildings shall carry out a mock fire drill involving the watch and ward staff of such buildings every year under intimation to the Director or the nominated authority in such manner as may be prescribed and a certificate of performance of such drill shall be furnished to the Director or the nominated authority, as the case may be.

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

**[11D. 'No objection' required under any other law.]** - A fire safety certificate duly endorsed under sub-section (3) of section 11C shall be the 'no objection' regarding fire prevention and fire safety measures for a building or installation under the Indian Explosives Act, 1884, or the Explosive Substances Act, 1908, or the Petroleum Act, 1934, or the Inflammable Substances Act, 1952, or the Cinematograph Act, 1952, or the rules made thereunder, or under any other law for the time being in force, as required from the Director.]

**[11E. Special fee.]** - (1) With effect from such date as the State Government may, by notification, appoint in this behalf, there shall be levied a special fee for the purposes of this Act on the owners of such class or classes of high-risk buildings within a local area in which this Act is in force as may be prescribed :

Provided that no special fee shall be levied on any such building or part thereof, which by virtue of its being used for any of the purposes referred to in section 12, requires a licence under that section.

(2) (a) The State Government shall prescribe by rules the rate of special fee for different classes of high-risk buildings on the basis of the total floor area of all the floors of a building as shown in the approved building plan ;

Provided that the rate of such special fee may be different for different local areas.

(b) The manner of imposition, assessment and collection of such special fee shall be such as may be prescribed.

(3) The special fee referred to in sub-section (1) shall be payable by the owner of a high-risk building at the time of submission of application to a local authority for approval of the building plan under the building rules :

Provided that in the case of every high-risk building referred to in sub-section (1), the construction of which has been completed on any date before the date of coming into force of this Chapter or, in the case of any such building the construction of which has been completed on or after the date of coming into force of this Chapter, the special fee, unless it has already been paid in accordance with the provisions of any other law in force on the date immediately before the date appointed under sub-section (1), shall be payable, -

(a) in the former case, by the owner or, if the owner is not traceable, the occupier, and

(b) in the latter case, by the owner,

of the building within three months from the date of receipt by the owner or occupier, as the case may be, of the notice of demand in this behalf.

(4) The State Government may also levy annually a further special fee referred to in sub-section (1) with a view to defraying the expenses for regular checking and inspection and other incidental expenses so as to require and cause the occupier of a high-risk building to keep the necessary installations in fit condition, and such special fee shall be payable by the occupier, in the case of a building existing on the date immediately before the date appointed under sub-section (1), from the date appointed under sub-section (1), and, in the case of a building the construction of which has been completed on or after the date appointed under sub-section (1), from the date of occupancy of the building as may be certified by the local authority, and in

advance annually at the time of submission of the 'Fire Safety Certificate' under sub-section (2) of section 11C :

Provided that the liability of the occupier to pay the special fee under this sub-section shall be only to the extent of the special fee payable in respect of the floor area of the building under his occupation including his share of the area comprising common facilities in such building or part thereof.

*Explanation. - Notwithstanding anything contained elsewhere in this Act, for the purposes of this section and section 11C, "owner" shall include a promoter as defined in the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993, or a co-operative society, or a company or an owner of an apartment as defined in the West Bengal Apartment Ownership Act, 1972.]*

**[11F. Grant of license to act as licensed agency.]** - (1) The Director may, from time to time and in accordance with such qualifications, experience or other matter in this behalf as may be prescribed in respect of such classes of buildings as may be prescribed, grant any person or association of persons, a license to act as licensed agency for the purposes of this Act.

(2) Every such license shall be renewed every three years.

(3) The State Government may, from time to time, prescribe a scale of fee for licensed agencies in respect of any class of building, if there is no written contract in this behalf to the contrary.

(4) Where the Director has reason to believe that any person to whom a license has been granted under sub-section (1) has contravened any provisions of this Act or the rules made thereunder or has failed to comply with the conditions of the license or is unfit to hold the license by reason of incompetence, misconduct or any other reasons, the Director may, after giving the person a reasonable opportunity to show cause, suspend or cancel the license, after recording the reasons in writing.]

**[11G. Bar to carry out work of providing fire prevention etc.]** - No person, other than a licensed agency, shall carry out, in the manner prescribed, the work of providing fire prevention and fire safety measures or performing such other related activities required to be carried out in any high-risk building or part thereof under this Act.]

**[11H. Bar to compromise fire safety.]** - Where the wilful default on the part of a licensed agency in respect of fire safety of any building or premises is compromised, such licensed agency shall be liable to criminal prosecution and, in the event of any fire accident in such building or premises, shall make good all damages on account of such fire accident.]

**[11I. Appeal against order of Director.]** - (1) Any person aggrieved by an order of the Director under this Chapter may, within thirty days of the service of the order, prefer an appeal to such authority as may be prescribed.

(2) The manner in which an appeal shall be filed and the manner of deciding the appeal shall be such as may be prescribed.]

**[11J. Penalty for contravention of provisions of Chapter IIIA.]** - Whoever contravenes any provision of Chapter IIIA or the rules made thereunder or fails to comply with any requisition lawfully made to him under any provision of Chapter IIIA or the rules made thereunder shall, without prejudice to any other action that may be taken against him under section 36 or section 37, be punishable with imprisonment for a term of three years which may extend to five years or with fine of twenty thousand rupees which may extend to five lakh rupees or with both and, where the offence is a continuing one, with a further fine of one thousand rupees which may extend to ten thousand rupees for every day during which such offence continues after the conviction for the first such offence.]

**[11K. Penalty for furnishing false 'Fire Safety Certificate']** - Any person associated with a licensed agency for any of the purposes of Chapter IIIA, who knowingly furnishes a false 'Fire Safety Certificate', shall be punishable with imprisonment for a term of three years which may extend to five years or with fine of twenty thousand rupees which may extend to five lakh rupees or with both.]

## CHAPTER IV

### **[License for Storing Hazardous Substances.]**

**[12. Bar to use of premises for storing or processing hazardous substances without license.]** - No premises in any area where this Act is in force shall be used for the purpose of storing or processing at any material point of time hazardous substances beyond such quantity as may be prescribed unless the owner or occupier thereof shall have previously been granted a license by the Collector.]

**[13. Premises to conform to prescribed conditions.]** - No license to use any premises for the purpose referred to in section 12 shall be granted unless such premises conforms to such conditions as may be prescribed.]

**14. Issue of license.** - An application for license referred to in section 12 shall be made to the Collector in the prescribed form along with an authenticated copy of the requisition for fire safety issued by a licensed agency and duly endorsed, in such manner as may be prescribed, by the Director or superior nominated authority, and such other documents as may be prescribed. The Collector shall, on scrutiny of the application, the requisition for fire safety and other documents, compute the annual fee payable by the applicant and shall, on payment of such fee in advance, issue the licence to the applicant on such terms and conditions as may be prescribed :

Provided that any owner or occupier of any premises which requires a license under section 12 and who holds a valid license under this Act on the day immediately before the date of coming into force of the West Bengal Fire Services (Amendment) Act, 1996, shall not be required to apply for a license but shall, at the time of renewal, make an application for a fresh license under this Act :

Provided further that where any owner or occupier of any premises which requires a license under section 12 has made an application for a license under this Act before the coming into force of the West Bengal Fire Services (Amendment) Act, 1996, but has not been granted a license till the date immediately before the date of coming into force of that Act, such owner or occupier shall be required to make an application for such license in accordance with the provisions of this Act.

**15. [Conditions of grant of license.]** - [(1) Non-fulfilment of any fire prevention and fire safety measures as may be referred to in the 'Fire Safety Certificate' shall be a breach of a condition of license.]

[(2) Every license granted under section 12 shall be required to be renewed annually; application for renewal of license along with duly endorsed 'Fire Safety Certificate' and such other documents as may be prescribed shall be made to the Collector, who shall renew the license on such scrutiny as he may consider necessary and on payment of the prescribed annual fees :]

Provided that if an applicant so desires, he may renew the license for three years at a time on payment of the prescribed fees.

[(3) The annual fee shall be payable in advance in respect of the period commencing from the date from which the premises is used for the purpose referred to in section 12 in the case of new license, and from the date following the date of expiry of the license in the case of the renewal of license.]

[(3a) When a license is granted under this section or on application under section 14 accompanied by a plan in duplicate of such building or place or when a license is renewed on application submitted with a plan in duplicate under proviso (b) to section 14, a copy of the plan authenticated by the Collector in the manner prescribed shall be returned to the licensee. [Such authenticated copy shall be preserved in good condition by the licensee and he shall produce it before an inspecting officer for scrutiny whenever demanded].

[(3b) Every license granted under sub-section (2) shall have effect from the date on which the license is granted and the renewal of every license renewed under sub-section (3) shall have effect from the date following the date of expiry of the license which is renewed :] Provided that where for any reason no order either granting or refusing a license is made under sub-section (2) within a period of thirty days from the date of receipt by the Collector of the application for the license, the applicant may, on the expiry of such period and for so long as the license is not refused, use the building or place concerned for the purpose for which the license is applied for, and if the license is subsequently granted, the license shall have effect, from the date following the date of expiry of such period.

[(4) A license or renewal of a license, for which an application has been duly made under [section 14] shall not be granted if the Collector is satisfied that the area in which the [premises] proposed to be used or continued to be [used for the purpose referred to in section 12 is] unsuitable for the purpose. Where any such license or renewal of license is refused, the Collector shall record in writing the reasons for such refusal and shall communicate his order of refusal to the applicant.]

(5) An appeal shall lie to the Commissioner [against] an order refusing a license or the renewal of a license. [The period of limitation for presenting such appeal shall be thirty days from the date of receipt of the communication referred to in sub-section (4) ; Provided that no appeal shall be entertained unless the memorandum of appeal bears [(such court-fee stamp as may be prescribed.)].]

**16. Period for disposal of application for license.** - Every application for a license under section 14 [\* \* \* \* \*] shall be disposed of within [sixty] days from the date of its receipt by the Collector and if it is not disposed of within that period, the applicant shall not be liable to any penalties under this Act, [for the use of the premises for the purposes referred to in section 12,] after the said period of [sixty] days, so long as such application is not refused by the Collector.

17. [\* \* \* \* \*]

**18. Annual fee.** - (1) The annual fee for any premises, which requires a license under section 12, shall be such as may be prescribed:

Provided that the State Government may by rules prescribe different rates of annual fee for different hazardous substances and for different local areas.

(2) A rebate in annual fee at such rate as may be determined by the State Government shall be allowed in the prescribed manner in respect of the premises where the owner or occupier maintains his own fire services, employing qualified and full-time fire personnel supported by adequate fire-fighting appliances :

Provided that a monthly return of the fire-fighting appliances, fire personnel and such other details as may be prescribed shall be furnished to the Director or the superior nominated authority and such fire services shall be subject to inspection by the Director or the superior nominated authority :

Provided further that in case the fire cover provided is sound to be inadequate, such rebate may be withdrawn and the annual fee for the period commencing from the date on which the fire cover became inadequate, may be required to be paid.

by W.B. Act 7 of 1996. Previous Section 18 was as under :-

The annual fee in respect of a license under section 14 or sub-section (2) of section 15 shall be payable in advance.

renewal of a license under sub-section (3) of section 15 shall make his application before the date of expiry of the license and shall, at the time of application, deposit an amount equal to the fee he had last paid for the license and, if so required, shall also deposit, by such date as may be fixed in this behalf by the Collector, the difference between the amount already deposited and the amount of fee assessed for the renewal.

shall be payable -

If an application made under section 14-from the date of coming into force of this Act or the date of publication of the notification of the case may be; and

If an application made under sub-section (1) or sub-section (3) of section 15-from the date from which the license or the renewal of the license, as the case may be, has effect.

shall be calculated at such rate not being less than ten *per cent*, nor more than twenty-five *per cent*, of the annual value of the building or place. The annual fee may be prescribed and different rates may be prescribed for different classes of warehouses according to the nature and quantity of the articles processed therein; and for different classes of workshops according to the nature of the processing carried on or the quantity or nature of the articles processed therein; and for no warehouse or workshop shall be less than ten rupees or more than such amount as may be prescribed, and different amounts may be prescribed for different classes of warehouses and for different classes of workshops as aforesaid :

If the owner or occupier of a warehouse or workshop maintains, within the warehouse or workshop or at a place within such distance thereof as may be prescribed, any fire-fighting appliances of such types as may be prescribed, then a rebate of such amount as may be prescribed in respect of such types of fire-fighting appliances or different combinations thereof, not being less than ten *per cent*, nor more than the amount of the annual fee determined under this sub-section shall be allowed to such owner or occupier.

In sub-section (2) the annual value of a building or place used as a warehouse or as a workshop shall be deemed -

and within a municipality, to be the annual value at which it is assessed for the payment of municipal taxes :

If a building or place forms part of any premises or holding assessed as a whole for the payment of municipal taxes, the annual value of such building or place shall be determined in this behalf by the Collector for such building or place separately having regard to the annual value as assessed for the payment of municipal taxes of each part of which such building or place forms parts and the annual fee referred to in sub-section (2) and the maximum for the annual fee referred to in sub-section (1) shall be calculated separately for such building or place and the annual fee so calculated shall be payable under sub-section (1) separately for such building or place.

outside a municipality, to be seven and half *per cent* of the current market value of the building (which expression shall include any land appurtenant to the building) or place as determined by the Collector, subject to revision by the Collector, and shall be final.'

**19. Change in occupation of warehouse or workshop to be notified.** - Whenever [\*\*\*] a change in the occupation of any [premises requiring a license under section 12] occurs, the person entering into occupation of the same shall, within two weeks of his so entering into occupation, give notice in writing to the Collector of such change of occupation, and shall thereupon pay [such fee as may be prescribed;] and his name shall accordingly be substituted in the license in respect of the [premises requiring a license under section 12] [in lieu of the name of the previous occupier.]

**[20. Suspension or withdrawal of license.]** - A license issued under section 14 may, without prejudice to any other action that may be taken against the licensee, be suspended or withdrawn by the Collector after giving the licensee an opportunity of being heard, if, in the opinion of the Collector, it is necessary to do so in the public interest or if there has been a breach of any prescribed condition.]

21. [\*\*\*\*\*]

22. **Delegation of powers by Collector.** - The Collector may delegate any of his powers, duties and functions under this Chapter to any officer or officers [not below the rank of Sub-Divisional Officer,] subordinate to him.

23. **Powers of State Government to direct delegation of powers.** - (1) The State Government may, by general or special order published in the *Official Gazette*, direct that such of the powers, duties and functions of the Collector under this Act as may be specified in the order, shall be exercised and [performed also by such other officer or officers as may be specified therein.]

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#### **[CHAPTER IVA]**

#### ***Temporary Structures and Pandals***

**[23A. Erection of temporary structures or pandals.]** - (1) A person who intends to erect a temporary structure or *pandal* with roof or walls made of straw, hay, *ulu* grass, *golpata*, *hogla*, *darma*, mat, canvas [tarpaulin, ploythene sheets and high density polythene] or other like material [in an area where this Act is in force], for use as a place where members of the public may assemble, shall apply to the Director [or the superior nominated authority along with the prescribed fees] for permission to erect such structure or *pandal* and such permission shall not be refused if the structure or *pandal* conforms to the conditions that may be prescribed in this behalf [and the fee as may be prescribed in this behalf is paid] : [Provided that the State Government may prescribe by rules the essential requirements of a 'Fire Safety Certificate' in respect of any class or classes of temporary structures or *pandals*.]

(2) No structure or *pandal* referred to in sub-section (1) shall be erected -

- (a) unless it conforms to the conditions referred to in sub-section (1) [and the fee referred to in sub-section (1) is paid]; and
- (b) unless permission of the Director [or the superior nominated authority] has been granted under sub-section (1) :

Provided that where no order granting or refusing the permission is made within such period as may be prescribed in this behalf, the structure or *pandal* may be erected if it conforms to the conditions referred to in sub-section (1).

*Explanation.* - For the purpose of the above proviso, different periods may be prescribed for different kinds of structures and *pandals*.

#### **CHAPTER V**

#### ***Penalties***

**[23B. Dismantling of temporary structure or pandal.]** - The Director or the superior nominated authority with the assistance of the local authority and under police protection shall dismantle a temporary structure or *pandal* erected in contravention of the provisions of sub-

section (1), and the cost of such dismantling shall be charged to the person who so erects the temporary structure or *pandal*, as the case may be.]

**[23C. Penalty for not giving way to fire brigade vehicles.]** - Any person who, being in charge of a vehicle, contravenes the provisions of section 5C shall be punishable, on conviction [\* \* \* \* \*] with fine which may extend to [two thousand] rupees.]

**24. Penalty for letting off rockets, etc.** - Any person who, within any [area] in which this Act is in force, lets off rockets or sends up fire-balloons or sells fire-works without obtaining a license, [or where a license to sell fire-works has been granted, breaks any of the prescribed conditions specified therein] shall be punishable, on conviction [\* \* \* \* \*], with fine which may extend to [five thousand] rupees for every such offence.

**25. Penalty on house-holders for allowing rockets, etc., to let off without license.** - If any rockets are let off or fire-balloons sent up from within the precincts of any private premises or compound without a license, the owner or occupier or person under whose immediate control the premises or compound is, shall, unless he can prove that the offence was committed without his knowledge, be punishable, on conviction [\* \* \* \* \*] with fine not exceeding [five thousand] rupees.

**26. Penalty for not taking out a license for a warehouse or workshop.** - Any person who without a license uses any [premises for the purpose referred to in section 12] shall be punishable, on conviction [\* \* \* \* \*] with fine not exceeding [five hundred rupees or with imprisonment for a term which may extend to two months or with both, and with further fine not exceeding one hundred rupees for each day during which he may continue to so use] such [premises.]

**27. Penalty for using warehouse or workshop after refusal, etc., of license.** - Any person who [, for the purpose referred to in section 12, uses any premises] in respect of which a license has been refused, or after the license in respect thereof has been cancelled or during the time for which such license has been suspended, shall be punishable, on conviction, [\* \* \* \* \*] with fine not exceeding [five hundred rupees or with imprisonment for a term which may extend to two months or with both, and with further fine not exceeding one hundred rupees for each day during which he may continue to so use such [(premises.)]]

**28. Penalty for breach of conditions.** - Any holder of a license who breaks any of the conditions under which a license is held in respect of any [premises] shall be punishable, on conviction [\* \* \* \* \*] with fine not exceeding one hundred rupees [or with imprisonment for a term which may extend to one month or with both] for any one such offence.

**29. Penalty for failing to notify change in occupation of warehouse or workshop.** - If [\* \* \* \* \*] there be a change in the occupation of [any premises referred to in section 12,] the person entering into occupation fails to give a notice and to pay the fees required by section 19 such person shall be punishable, on conviction [\* \* \* \* \* \*], with fine not exceeding [five thousand] rupees for each day during which he may so use or continue to use [such premises.]

**30. [\* \* \* \* \* \* \* \* \*]**

**31. [\* \* \* \* \* \* \* \* \*]**

**[32. Owner or occupier of building or premises to compensate person affected by fire.]** - Whenever on enquiry into an incident of fire by the District Magistrate or by the committee specially constituted by the State Government under sub-section (1A) of section 8 it is established that the incident of fire was due to wilful default or negligence on the part of the owner or occupier of any building or premises, such owner or occupier shall be liable to compensate every person affected by such fire for the loss sustained by him in addition to his being liable to criminal prosecution.]

**[33. 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 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.]

**[33A. Penalty for erecting structure, etc., in contravention of section 23A.]** - Any person who erects any structure or *pandal* in contravention of the provisions of sub-section (2) of section 23A, shall be punishable, on conviction [\* \* \* \*], [with fine not exceeding [(fifty thousand)] rupees or with imprisonment for a term which may extend to six months or with both, and with further fine not exceeding [(three thousand)] rupees for each day] during which such contravention continues.]

**[33B. Penalty for obstructing persons exercising powers under section 37A.]** - Any person who wilfully obstructs, or offers any resistance to, or impedes or otherwise interferes with the Director or any officer exercising powers under section 37A or any assistant accompanying the Director or such officer while exercising such powers, shall be punishable, on conviction [\* \* \* \*] with fine not exceeding [five thousand] rupees.]

**[33C. Offences bailable and cognizable.]** - All offences punishable under this Chapter shall be bailable and shall [\* \* \* \* \*] be cognizable.]

## CHAPTER VI

### *Miscellaneous*

**[34. Inspection of building or premises.]** - (1) The Director or the nominated authority may enter and inspect any building or part thereof or any premises at any time between sunrise and sunset where such inspection appears necessary for ascertaining the contravention, if any, of fire prevention and fire safety measures referred to in section 11C and of the conditions referred to in section 13 :

Provided that the Director or the nominated authority may enter into and inspect any such building or part thereof or premises at any time if it appears to him or it to be expedient and necessary to do so in order to ensure safety of life and property.

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

(3) When any such building or part thereof 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 flat or part or part of such building or premises 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) Where the inspection is carried out by the nominated authority under the foregoing provisions of this section, it shall give a report of any such inspection to the Director or the superior nominated authority.

*Explanation. - For the purposes of this section, "flat" shall have the meaning assigned to it in the West Bengal (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993.]*

**[35. Issue of notice to owner or occupier to undertake fire prevention and fire safety measures.]**

**[35. Issue of notice to owner or occupier to undertake fire prevention and fire safety measures.]** - The Director or the superior nominated authority, as the case may be, shall, after completion of the inspection of the building or part thereof or the premises referred to in section 34, record his or its views on the deviations from, or contravention of, the requirements with regard to the fire prevention and fire safety measures or the inadequacy of, or non-compliance with, such measures provided or to be provided therein with reference to the structure of the building or the premises or the nature of activities carried on in such building or part thereof or premises and issue a notice to the owner or occupier of such building or part thereof or premises directing him to undertake such measures, and within such time, as may be specified in the notice. Where the owner is not available, the occupier shall undertake such measures in the interest of public safety, notwithstanding anything contained in any other law for the time being in force.

**36. Compliance with notice issued under section 35.** - (1) The Director may, in the event of non-compliance with any notice issued under section 35, take such steps as may be necessary for the compliance with such notice.

(2) All expenses incurred by the Director in relation to any steps taken by him under sub-section (1) shall be payable, on demand, by the owner or occupier on whom such notice is served, and shall, if not paid within 30 days of such demand, be recoverable under the Bengal Public Demands Recovery Act, 1913.

**37. Recovery of fees.** - (1) The fees payable under this Act, if not paid within the time provided in this Act or the rules made thereunder, shall be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913.

(2) The State Government may remit payment of fees in such cases as may be recommended by the Collector.]

**37A. Director or superior nominated authority to seal building.** - (1) If the Director or the superior nominated authority is satisfied that owing to inadequacy of fire prevention and fire safety measures, the condition of any high-risk building or part thereof is in imminent danger to person or property, then, notwithstanding anything contained in this Act or in any other law for the time being in force, he or it shall, by order to be recorded in writing, require the persons in possession or occupation of such building or part thereof to remove themselves forthwith from such building or part thereof.

(2) If an order made by the Director or the superior nominated authority under sub-section (1) is not complied with, the Director or the superior nominated authority, as the case may

be, may direct any police officer having jurisdiction to remove such persons from such building or part thereof and such police officer shall comply with such direction.

(3) After the removal of the persons under sub-section (1) or sub-section (2), as the case may be, the Director or the superior nominated authority, as the case may be, shall seal such building or part thereof.

(4) No person shall remove such seal except under a written order made by the Director or the superior nominated authority *suo motu* or on application by the owner or occupier.

(5) Any person who contravenes the provisions of sub-section (4) shall be punishable with imprisonment for a term of three years which may extend to five years or with fine of twenty thousand rupees which may extend to five lakh rupees or with both.

**[37AA. Power of the Director to remove inflammable chemicals or articles.]** - (1)

Whenever any storage of inflammable chemicals or articles is made in any building or place in such manner as in the opinion of the Director is highly hazardous and is likely to endanger public safety, the Director may direct the owner or occupier of such building or place to remove such inflammable chemicals or articles within such time as may be specified in the direction. (2) If such inflammable chemicals or articles are not removed within the time specified in the direction, the Director may remove such inflammable chemicals or articles with the help of police and such chemicals or articles shall be forfeited to the Government.]

**[37B. Power of Collector to call for information relating to annual valuation.]** - (1) The Collector may call for all necessary information relating to the annual valuation of any building or place used as a warehouse or workshop from the [Commissioner of the Corporation of Calcutta or the Chairman of the Commissioners of any municipality in which this Act is in force or the Chief Executive Officer of the Municipal Corporation of Chandernagore, as the case may be,] for the purpose of calculation of fees in respect of licenses under section 18.

(2) The [Commissioner of the Corporation of Calcutta or the Chairman of the Commissioners of any municipality in which this Act is in force or the Chief Executive Officer of the Municipal Corporation of Chandernagore, as the case may be,] shall comply with such requisition and furnish such information to the Collector within the prescribed period.]

**[38. Appeal against order under section 35, section 36 or section 37.]** - (1) Any person aggrieved by an order under section 35, section 36 or section 37, may, within thirty days of the service of the order, prefer an appeal to such authority as may be prescribed for the purpose. (2) The manner in which an appeal shall be filed and the manner of deciding the appeal shall be such as may be prescribed.]

**[38A. Court not to entertain any suit, application or other proceeding.]** - No Court shall entertain any suit, application or other proceeding in respect of any notice under section 35 or any step taken under section 36 or any refusal to permit removal of seal under sub-section (4) of section 37, and no such notice or step or refusal shall be called in question otherwise than by preferring an appeal as provided in this Act.]

**[38B. Compounding of offences.]** - (1) The District Magistrate within whose jurisdiction a local area lies, or such other officer as may be prescribed for a local area, may, by general or special order, either before or after the institution of proceedings in this behalf, compound any offence punishable by or under this Act or the rules made thereunder or withdraw from such proceedings.

(2) When an offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged, and no further proceedings shall be taken against him in respect of the offence so compounded.]

**[38C. Court not to take cognizance of offence except on complaint.]** - Save in the case of cognizable offences under this Act, no court shall take cognizance of an offence under this Act or the rules made thereunder except on the complaint of, or upon the information received from, the Director or any other officer authorised by him in this behalf.]

**[38D. 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 the rules made thereunder.]

**[38E. Officers and other employees to be public servants.]** - Every officer and every other employee acting under the provisions of this Act or the rules made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.]

**39. Repeal of Bengal Act 1 of 1893.** - The Licensed Warehouse and Fire-Brigade Act, 1893, shall be deemed to be repealed on and from the date on which this Act comes into force in Calcutta; and on and from such date -

- (a) without prejudice to the application of section 8 of the Bengal General Clauses Act, 1899, all rules, orders, declarations, financial arrangements and appointments made under the Licensed Warehouse and Fire-Brigade Act, 1893, shall continue in force in so far as they are not inconsistent with the provisions of this Act, until varied or rescinded;
- (b) all assets held by the Commissioner of Police, Calcutta, for the use of and on behalf of the Fire Brigade, under the Licensed Warehouse and Fire-Brigade Act, 1893, shall pass to and be vested in the State.

**40. Power to make rules.** - (1) The State Government may, by notification [\* \* \* \* \*] make rules for carrying out the purposes of this Act.

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

**[(a1a) the manner of appointment to the post of the Additional Director-General under clause (a) of sub-section (4), and the manner of appointment to the post of Director-General under sub-section (6), of section 3;**

**(aa1a) the terms and conditions of service, and the conduct, discipline and control, of the Director-General, the Additional Director-General, and the Director under sub-section (7) of section 3;**

**(a1aa) the manner of appointment and salary and allowances of the inspecting officers and other staff, referred to in sub-section (3), and other functions of the inspecting officers referred to in clause (e) of sub-section (4), of section 3AA.]**

**[(1a) the determination of the fee referred to in section 4A;]**

**[(1b) the form of any license referred to in section 9 and the conditions to be specified in such license for selling fire-works;]**

**[\* \* \* \* \*]**

**[(aa) the manner of authentication referred to in sub-section (3a) of section 15;]**

[\* \* \* \* \*]

[(b) the annual fee referred to in sub-section (1) of section 18;]

[\* \* \* \* \*]

[(cc) the manner of allowing rebate in annual fee under sub-section (2) of section 18;]

[\* \* \* \* \*]

[(e) the conditions [and the determination of the fee] referred to in sub-section (1) of section 23A and the period of time referred to in the proviso to sub-section (2) of section 23A;]

(f) the minimum standards for fire prevention and fire safety measures;

(g) the qualifications, experience or other matter for granting licence to act as licensed agency under section 11F;

(h) the authority to whom appeal shall be preferred, the manner in which appeal shall be filed, and the manner of deciding appeal, under section 38;

(i) any other matter which may be, or is required to be, provided by rules.]

**[41. Regulation to be approved by State Government.]** - No regulation made by the Director under sub-section (3) of section 3 shall be valid unless it is approved by the State Government.

**[42. Act to have overriding effect.]** - (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act. (2) Subject to the provisions of sub-section (1), the provisions of this Act shall be in addition to, and, save as otherwise expressly provided in this Act, shall not be in derogation of, the provisions of any relevant municipal law in force in any area in which this Act comes into force.]

#### **[Schedule]**

(See section 36.)

#### **License under the West Bengal Fire Services Act, 1950**

No. of 19

License is hereby granted to.....under the West Bengal Fire Services Act, 1950, -  
to use the building or place being No. (a).....as a warehouse for storing or pressing or keeping

(b).....

.....

.....

to use the building or place being No. (a).....as a workshop, subject to the conditions noted on the back and such other conditions as may be prescribed. It is hereby acknowledged that a sum of Rupees.....being the license fee due by the

said..... for the period from.....  
to..... [in respect of the aforesaid license has been received].

.....  
*Name of owner.*

.....  
*Name of occupier.*

.....  
*Collector of Stamp Revenue, Calcutta*

.....  
*Collector of the district of*

.....  
*Executive Officer of the Corporation of Calcutta.*

.....  
*Chairman of the Commissioners of Municipality of.....*  
*The.....day of.....*

(a) Here insert the location.

(b) Here insert the name of the article.

(On the back of the license)

**Conditions**

- (1) The warehouse/the workshop shall at all times be open to inspection by such officer or officers, being member or members of the fire brigade, as may be appointed by the Director of Fire Services.
- (2) The warehouse/the workshop shall conform to the conditions prescribed under section 13 of the West Bengal Fire Services Act, 1950.
- (3) No article referred to in clause (1) of section 2 of the West Bengal Fire Services Act, 1950, shall be made, prepared, dried or treated in any manner on the top or roof of any building constituting or forming part of a warehouse.
- (4) (In case the warehouse is used for the pressing or screwing of jute or cotton.) No person shall be allowed to use as residence any part of the warehouse or to bring into the warehouse any match-boxes or match-sticks or any artificial light not duly and thoroughly protected or to smoke within the warehouse, while jute or cotton is stored therein.