

FIRE SERVICES ACT, 1985

No. 28



of 1985

ARRANGEMENT OF SECTIONS

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An Act to make provision for fire services in Botswana and for purposes connected therewith.

Date of Assent: 23.12.85

Date of Commencement: 27.12.85

ENACTED by the Parliament of Botswana.

PART I — *Provision of Fire Services*

Short title
Estab-
lishment
of fire
authorities
Cap. 40:01
Cap. 40:02
(Sub. Leg.)
Provision
of fire
services

1. This Act may be cited as the Fire Services Act, 1985.

2. A council established either under the Local Government (District Council) Act or under the Town Council Regulations shall be the fire authority for the area of the council.

3. (1) Every fire authority shall make provision for the extinction of fires and the protection of life and property in case of fire (hereinafter in this Act referred to as "fire-fighting purposes").

(2) In making provision for fire-fighting purposes, a fire authority shall —

(a) secure the services for its area of such a fire brigade and of such fire engines, appliances and equipment as may be necessary to meet efficiently all normal requirements;

(b) ensure the efficient training of members of the brigade;

(c) make efficient arrangement for —

(i) dealing with calls for the assistance of the fire brigade in case of fire and for summoning members of the fire brigade,

(ii) obtaining, by inspection or otherwise, information required for fire-fighting purposes with respect to the character of the buildings and other property in the area of the fire authority, the available water supplies and the means of access, and other local circumstances,

(iii) ensuring that reasonable steps are taken to prevent or mitigate damage to property resulting from measures taken in dealing with fires in the area of the fire authority,

(iv) the giving, when requested, of advice in respect of buildings and other property in the area of the fire authority as to fire prevention, restricting the spread of fires, and means of escape in case of fire.

(3) A fire authority may secure local fire services for its council by itself providing and maintaining, either wholly or in part, such fire services or by entering into arrangements for the provision and maintenance, either wholly or in part, of such fire services by other fire authorities or persons.

(4) An officer of a fire authority authorized in writing by the authority may enter any premises at a reasonable hour for the purpose of carrying out any arrangements referred to in subsection (2) (c) (ii).

4. (1) A fire authority may, so far as practicable, join other fire authorities in the making of schemes (hereinafter in this section referred to as "reinforcement schemes") for securing the rendering of mutual assistance for the purpose of dealing with fires occurring in the areas of authorities participating in a reinforcement scheme where either —

Arrange-
ments for
mutual
assistance

(a) it is necessary to supplement the services provided under section 3 by the authority in whose area the fire occurs; or

(b) reinforcements at any fire can be more readily obtained from the resources of other authorities participating in the scheme than from those of the authority in whose area the fire occurs.

(2) Any reinforcement scheme made under subsection (1) and the variation or revocation of such scheme shall be notified to the Minister.

(3) Where a fire authority cannot obtain the agreement of another fire authority or other fire authorities to the making, variation or revocation of a reinforcement scheme, the Minister may, at the request of the authority and after giving all the authorities concerned an opportunity to make representations to him, direct that a scheme or variation as may be specified in the direction shall be made by the authorities or that the scheme shall be revoked, as the case may be.

(4) A reinforcement scheme may make provision for apportioning between the fire authorities concerned, in such proportions as may be specified by or under the scheme, expenses incurred in taking measures to ensure the efficient operation of the scheme.

(5) A reinforcement scheme may contain such provisions requiring uniformity of equipment as appear to the Minister to be necessary for the purpose of ensuring that the fire brigades affected will be able to render efficient assistance in pursuance of the scheme.

(6) Where a reinforcement scheme has come into operation, it shall be the duty of the fire authorities to whom the scheme applied to carry it into effect.

(7) A fire authority may enter into arrangements with persons (not being other fire authorities) who maintain fire brigades to secure, on such terms as to payment or otherwise as may be provided by or under the arrangements, the provision by those persons of assistance for the purpose of dealing with fires occurring in the area of the authority where either —

- (a) it is necessary to supplement the services provided by the authority under section 3, or;
 - (b) reinforcements at any fire occurring in the area of the authority can be more readily obtained from the resources of the said persons than from the resources of the authority.
- (8) The Minister may, for the purposes of his functions under this section, hold such public enquiries as he thinks fit.

Supple-
mentary
powers
of fire
authorities

5. (1) The powers of the fire authority shall include power —

- (a) to provide accommodation for the fire brigade for its area and its equipment, including housing and other accommodation for members of the brigade and furniture reasonably required for such accommodation;
- (b) to pay persons, not being members of a fire brigade maintained in pursuance of this Act, who render services for fire-fighting purposes such reward as the authority thinks fit;
- (c) to employ the fire brigade maintained by it, or use any equipment so maintained, outside its area;
- (d) to employ the fire brigade maintained by it, or use any equipment so maintained, for purposes other than fire-fighting purposes for which it appears to the authority to be suitable and, if it thinks fit, to make such charge as it may determine for any services rendered in the course of such employment or use.

(2) Except as expressly provided in this Act, a fire authority shall not make any charge for services rendered by the authority.

Combination
of fire
authorities

6. (1) If it appears to any two or more fire authorities that it is expedient that their areas should be combined for fire-fighting purposes, they may submit to the Minister a scheme in that behalf (hereinafter in this Act referred to as a “combination scheme”) and the Minister may by order approve any combination scheme submitted to him.

(2) A combination scheme approved by an order under subsection (1) may provide for the constitution of any authority as the fire authority for the combined area.

(3) A fire authority constituted by a combination scheme shall consist of such representatives of each of the constituent areas as may be prescribed by the scheme, and every such authority shall be a body corporate by such name as may be prescribed with perpetual succession and a common seal.

(4) Regulations may provide for the making by a combination scheme such provisions as may be considered necessary for applying in relation to the constitution and proceedings of the fire authority thereby constituted, and in relation to the officers of that authority.

(5) For the purposes of the discharge of its functions under a

combination scheme, the fire authority constituted by the scheme shall have such powers in relation to the borrowing of money for fire service purposes as may be prescribed.

(6) Regulations may provide that the accounts of every fire authority constituted by a combination scheme shall be audited by such person as may be prescribed.

(7) A fire authority constituted by a combination scheme may, if so authorized by the scheme, make arrangements with any constituent authority for the use by the fire authority of the services of officers and servants of the constituent authority and for the making of contracts and payment on behalf of the fire authority by the constituent authority.

(8) The Pensions Act shall have effect as if a fire authority constituted by a combination scheme were included among the Unified Local Government Service specified in the Pensions (Determination of Service with Specified Organizations as Public Service) Order, 1980.

Cap. 27:01

S.I. 116 of 1980

7. (1) A fire authority may make arrangements with any other fire authority or other persons who maintain a fire brigade so as to secure, by the provision of services by the other fire authority or persons, the discharge of all or any of the functions under this Act in respect of all or any part of the area of the fire authority making the arrangements.

Discharge of functions of fire authorities through other fire authorities or persons

(2) Arrangements made under this section may make provision with respect to the terms as to payments or otherwise on which the services in question are to be provided.

(3) Where it appears to the Minister expedient with a view to securing greater efficiency that it is for consideration whether arrangements made under this section should be entered into with any other authority, he may give notice to the authorities accordingly.

PART II — *Supply of Water for Fire-Fighting*

8. A fire authority shall take all reasonable measures for ensuring the provision of an adequate supply of water, and for securing that it will be available for use in case of fire.

Duty to ensure supply of water for fire-fighting

9. (1) For the purposes of section 8, a fire authority may enter into an agreement with a Water Authority appointed under section 4 of the Waterworks Act for the taking by the Water Authority on such terms as to payment or otherwise as may be specified in the agreement of such measures as may be so specified for securing that an adequate supply of water will be available in case of fire, and the Water Authority shall not unreasonably refuse to enter into any agreement proposed by a fire authority under this subsection.

Supply of water by Water Authority appointed under section 4 of Cap. 34:03

(2) Any question whether the Water Authority has unrea-

sonably refused to enter into an agreement under this section shall be determined by the Minister.

(3) Without prejudice to the preceding provisions of this section, a fire authority, if satisfied that the existing supply of water provided by a Water Authority for domestic and industrial purposes would be likely to be inadequate in case of fire, may enter into an agreement with the Water Authority under subsection (1) for the provision of such additional supply of water as may be specified in the agreement.

Water
Authority
to fix and
maintain
fire-hydrants
on pipes

10 A Water Authority shall, at the request of a fire authority —

- (a) fix fire hydrants on their mains at such places as may be most convenient for affording a supply of water for extinguishing any fire which may break out within the limits of supply, and shall keep in good order and from time to time renew every such hydrant;
- (b) cause the situation of every fire hydrant provided by the Water Authority to be plainly indicated by a notice or distinguishing mark, which may be placed on any wall or fence adjoining a street or public place.

Cost of
supplying,
fixing
and
maintaining
hydrants

11. (1) Where an area is to be developed, the cost of supplying and fixing hydrants under section 10 shall be defrayed by the body responsible for the development.

(2) The cost of maintaining any hydrant under section 10 shall be defrayed by the fire authority.

(3) Where any hydrant is damaged as the result of any use made of it, with the consent of the Water Authority, not being a use for fire-fighting purposes or for any other purposes of a fire brigade maintained in pursuance of this Act, the fire authority shall not be liable for the cost of repairing or replacing the hydrant incurred as the result of the damage.

Penalty for
unauthorized
use of
hydrants

12. Any person who uses a fire hydrant, otherwise than for fire-fighting purposes or for any other purposes of a fire brigade maintained in pursuance of this Act or for any purpose authorized by a Water Authority or other persons to whom the hydrant belongs, or who damages or obstructs any fire-hydrant, otherwise than in consequence of its use for any such purpose shall be liable on summary conviction to a fine not exceeding P100.

Provision
for
uniformity
of fire-
hydrants
by Water
Authority
Provision
of water
supply
otherwise
than by
Water
Authority

13. Regulations may provide for uniformity in fire hydrants provided by Water Authorities.

14. (1) A fire authority shall for the purposes of section 9 have power by agreement —

- (a) to secure the use, in case of fire, of water under the control of any person other than a Water Authority;

(b) .to improve access to any such water;

(c) to lay and maintain pipes and to carry out other works in connection with the use of such water in case of fire.

(2) Subject to any agreement under subsection (1), a fire authority may use for fire-fighting purposes any convenient and suitable supply of water, but shall be liable to pay reasonable compensation therefor.

15. (1) Where a person proposes to carry out any works for the purpose of supplying water to any part of the area of a fire authority, he shall give notice in writing thereof to the fire authority, and the notice shall be given not less than four weeks before the works are begun.

Notice to
be given
of proposed
works
affecting
water supply
and
fire hydrants

(2) At least seven days before any works which affect any fire hydrant are begun, the authority or person by whom the works are to be executed shall give notice in writing to the fire authority:

Provided that where in a case of emergency it is not practicable for notice to be given at the time required by the provisions of this subsection, those provisions shall be deemed to have been complied with if the notice is given as early as may be.

PART III — *Administrative Provisions*

16. (1) Regulations may provide for the creation of a fire brigade by a fire authority constituted either under section 1 or a combination scheme under section 6.

Creation
of fire
brigades

(2) Regulations creating a fire brigade may provide for the appointment of a Chief Officer of a fire brigade.

(3) Regulations creating a fire brigade may provide for the establishment of members of a fire brigade of different descriptions and ranks, and of fire stations and equipment of different descriptions to be maintained by a fire authority in accordance with the provisions made by the authority (hereinafter in this Act referred to as an "establishment scheme").

(4) An establishment scheme shall provide that the chief officer of the fire brigade to which the scheme relates shall be directly responsible to the fire authority maintaining the brigade or to a committee thereof.

(5) An establishment scheme shall be submitted to the Minister and shall come into force when approved by him, either as submitted or subjected to such modifications as he may direct.

(6) Where there is no establishment scheme for an area of a fire authority and the Minister considers that it is necessary to have an established scheme in that area or where it appears to him that an establishment scheme in force in an area is not satisfactory, he may, after affording to the fire authority an opportunity of making representations to him, make a scheme.

(7) The Minister may, for the purposes of his functions under this section, hold such public inquiries as he thinks fit.

**Regulation
of
conditions
of service**

- 17. Regulations or administrative instructions may provide —**
- (a) for the determination, subject to the regulations made under section 16, of the salary payable to members of a fire brigade;**
 - (b) for regulating the award of increments of salary, and the payment of allowances and other additional remuneration;**
 - (c) for regulating hours of work and the granting of leave with or without pay or allowance;**
 - (d) for regulating the maintenance of discipline;**
 - (e) for regulating the presentation of petitions; and**
 - (f) for other matters relating to the conditions of members of the fire brigade.**

**Appoint-
ment
procedure**

- 18. Regulations may provide for —**
- (a) the method of appointment of chief officers of fire brigades maintained in pursuance of this Act;**
 - (b) the procedure for the appointment by a fire authority of members, other than the chief officer, of any such brigade;**
 - (c) the qualifications for appointment to any such brigade or to any rank therein and for promotion into any such rank; and**
 - (d) the procedure for such promotion.**

**Standards
of training
and
equipment**

- 19. Regulations may provide for the observance by fire authorities of such requirements with respect to —**
- (a) standards of training for members of fire brigades maintained in pursuance of this Act;**
 - (b) design or performance of equipment for such brigades, as may be considered necessary to secure efficient services.**

**Training
centres**

20. For the purpose of providing courses of instruction in matters relating to fire services, regulations may provide for the establishment and maintenance of a central training institution and one or more local training centres.

**Appoint-
ment of
inspector
of fire
brigades**

21. (1) Regulations may provide for the appointment of an inspector for the purpose of obtaining information as to the manner in which fire authorities are performing their functions under this Act.

(2) Regulations appointing an inspector shall specify the remuneration to be paid to the person appointed inspector.

PART IV — *Miscellaneous and General*

**Powers of
firemen
and police
in extin-
guishing fires**

22. (1) Any member of a fire brigade maintained in pursuance of this Act who is on duty, any member of any other fire brigade who is acting in pursuance of any arrangements made under this Act, or any police officer, may enter and if necessary break into premises or place in which a fire has or is reasonably believed to have broken out, or any premises or place which it is necessary to enter for the purposes of extinguishing a fire or of protecting the premises or place from acts done for fire-fighting purposes,

without the consent of the owner or occupier thereof, and may do all such things as he may deem necessary for extinguishing the fire or for protecting from fire, or from acts done as aforesaid, any such premises or place or for rescuing any person or property therein.

(2) Any person who wilfully obstructs or interferes with any member of a fire brigade maintained in pursuance of this Act who is engaged in operations for fire-fighting purposes shall be liable on summary conviction to a fine not exceeding P100.

(3) At any fire the senior fire brigade officer present shall have the sole charge and control of all operations for the extinction of the fire, including the fixing of the positions of fire engines and apparatus, the attaching of hose to any water pipes or the use of any water supply, and the selection of the parts of the premises, object or place where the fire is, or of adjoining premises, objects or places, against which the water is directed.

(4) The Water Authority shall, on being required by any senior officer referred to in subsection (3) to provide a greater supply and pressure of water for extinguishing a fire, take all necessary steps to enable them to comply with such requirement and may for that purpose shut off water from the mains and pipes in any area; and no authority or person shall be liable to any penalty or claim by reason of the interruption of the supply of water occasioned only by compliance of the the Water Authority with such requirement.

(5) The most senior police officer present at any fire, or in the absence of any police officer, the senior fire brigade officer present, may close to traffic any street or may stop or regulate the traffic in any street whenever in the opinion of that officer it is necessary or desirable to do so for fire-fighting purposes.

(6) In this section the expression "senior fire brigade officer present" in relation to any fire, means the senior officer present of the fire brigade maintained in pursuance of this Act in the area in which the fire originates, or, if any arrangements or reinforcement scheme made under this Act provide that any other person shall have charge of the operations for the extinction of the fire, that other person.

23. Any person who knowingly gives or causes to be given a false alarm of fire to any fire brigade maintained in pursuance of this Act or to any member of such a brigade shall be liable on summary conviction to a fine not exceeding P100 or to imprisonment for a term not exceeding three months or to both.

False
alarms
of fire

24. The Minister may hold a public local inquiry into the manner in which any fire authority is performing its functions under this Act, or into the circumstances of, or the steps taken to deal with, any particular fire.

Inquiries

25. The Minister may by statutory instrument make regu-

Regulations

lations providing for any matter which under this Act is to be provided for by regulations or which otherwise relates to the administration of fire services and generally for giving effect to the provisions of this Act.

PASSED by the National Assembly this 5th day of December, 1985.

C.G. MOKOBI,
Clerk of the National Assembly.