

**MAURITIUS FIRE AND RESCUE SERVICE ACT**

Act 13 of 2013 – 5 February 2014

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**MAURITIUS FIRE AND RESCUE SERVICE ACT**

**PART I – PRELIMINARY**

**1. Short title**

This Act may be cited as the Mauritius Fire and Rescue Service Act.

**2. Interpretation**

In this Act—

“alarm call” means a call indicating the occurrence of an emergency;

“authorised officer” means an officer of the Service delegated by the Chief Fire Officer to exercise a power under this Act;

“building” –

- (a) means a permanent or temporary structure, enclosed within exterior walls and a roof; and
- (b) includes—
  - (i) all attached apparatus, equipment and fixtures that cannot be removed without cutting into ceilings, floors or walls;
  - (ii) 2 or more buildings that, on completion of construction, extension or alteration works, are intended to be managed as a single building, with common use and set of ownership arrangements;

“emergency” means a serious, unexpected and potentially dangerous occurrence, such as a fire, a flood, a storm, an explosion, a landslide, a terrorist act, an accident, a sea surge on land, a leakage of harmful substances or an oil spill, which requires a significant and coordinated response and which—

- (a) endangers, or threatens to endanger, the safety or health of persons or animals; or
- (b) destroys or damages, or threatens to destroy or damage, property or the environment;

“environment” has the same meaning as in the Environment Protection Act;

“fire certificate” means a certificate issued by the Chief Fire Officer under section 19;

“fire safety plan” means a plan referred to in section 18;

“hazardous materials emergency” means a situation involving hazardous materials or suspected hazardous materials, that includes a loss of control or an imminent risk of loss of control of—

- (a) the materials; or
- (b) anything that may directly or indirectly cause harm to persons, animals, property or the environment;

“Minister” means the Minister to whom responsibility for the Service is assigned;

“National Disaster Risk Reduction and Management Centre” means the National Disaster Risk Reduction and Management Centre set up by Government to ensure timely disaster management response;

“occupier”, in relation to any premises, means the person in actual occupation or, if there is no such person, the owner;

“officer” means an officer of the Service;

“owner”, in relation to any premises—

- (a) means the person who, for the time being, owns or is entitled to receive the rent in respect of the premises on his own account, or as an agent or a trustee for any other person; and
- (b) includes an occupier or a property developer;

“premises” includes—

- (a) a building;
- (b) land, whether built on or not;
- (c) a tent;
- (d) a swimming pool;
- (e) a ship or vessel of any description, including a boathouse; and
- (f) any other moveable structure or vehicle;

“Service” means the Mauritius Fire and Rescue Service;

“Service vehicle” —

- (a) means a motor vehicle used by the Service; and
- (b) includes firefighting and rescue appliances such as water tenders, water carriers, ladder appliances, rescue vehicles, pumps and other utility vehicles, whether or not identified by beacons or sirens;

“supervising officer” means the supervising officer of the Ministry;

“volunteer fire brigade” means an association of persons formed for the purpose of the prevention and suppression of fires and composed, solely or principally, of volunteer members;

“working agreement” means an agreement referred to in section 6.

### **3. Application of Act**

This Act is in addition to, and not in derogation from, the Occupational Safety and Health Act, the Town and Country Planning Act and any other relevant enactment.

## **PART II – THE SERVICE**

### **4. Mauritius Fire and Rescue Service**

(1) There shall be a Mauritius Fire and Rescue Service which shall comprise of such number of public officers as may be prescribed.

(2) The Chief Fire Officer shall, subject to the general direction and control of the supervising officer, be responsible for the overall functioning and administration of the Service.

(3) Every officer shall, when on duty, wear the appropriate uniform and be provided with the personal protective clothing and equipment necessary for the effective discharge of his duties.

## **5. Duties and powers of Service**

(1) The Service shall be entrusted with the duty of taking all necessary steps for the prevention and suppression of fires and the protection of life, property and the environment in case of an emergency.

(2) The Service may, for the purpose of subsection (1), take any of the following measures—

- (a) prevent, fight, control and extinguish fires;
- (b) protect persons, animals, property and the environment against fire or any other emergency;
- (c) advise the public on prevention and protection measures in the event of a fire or any other emergency;
- (d) conduct training courses in relation to any aspect of fire safety and emergency preparedness;
- (e) organise community education and awareness programmes relating to fires and other emergencies;
- (f) assist the relevant authorities in promoting safety in buildings;
- (g) cooperate with any entity that provides a service in case of emergency, including intervention at sea;
- (h) provide rescue and extrication services to any person, animal or property endangered as a result of a road or other accident, including one which does not involve the risk or existence of a fire;
- (i) perform humanitarian services, including the protection of life and property, in the event of any calamity or natural disaster;
- (j) submit regular reports and returns to the Minister and such other information as he may require; and
- (k) perform such other functions as may be assigned to it under any other enactment.

(3) The Service shall participate in national schemes for the management, prevention, mitigation and reduction of disasters and assist the National Disaster Risk Reduction and Management Centre in the execution of its duties, and may for that purpose exercise any of its powers under this Act.

## **6. Working agreement**

(1) The Service may, with the approval of the Minister, enter into, vary or revoke a working agreement with any relevant organisation or stakeholder for mutual assistance in case of a specific emergency.

(2) A working agreement entered into under subsection (1) shall be in writing and shall take into account the need for efficiency, effectiveness and public safety.

(3) (a) The Service may enter into a working agreement with the Central Water Authority to provide, *inter alia*, that the Service shall ensure provision and maintenance of such fire hydrants and other water installations as are necessary for securing the best practical use of the available water supply in case of fire.

(b) The location of every such fire hydrant shall be clearly indicated by a notice or distinguishing mark placed conspicuously on a wall or other suitable location.

(c) Any person proposing to carry out any road work or any other work where the installation of a fire hydrant may be affected or where access to the fire hydrant may be hindered, shall inform the Service in writing at least 2 weeks before the commencement of the works.

(d) Any person carrying out any road work or any other work which affects a fire hydrant installation shall, after the completion of the said work, forthwith reinstate the affected fire hydrant installation to the standard specified by the Service.

(4) Subject to the Central Water Authority Act, no person shall—

- (a) use a fire hydrant otherwise than for the purpose of firefighting or for other purposes relevant to the functions of the Service;
- (b) damage a fire hydrant; or
- (c) obstruct or otherwise hinder access to a fire hydrant.

## 7. Operation of Service

(1) The Service shall use such equipment as may be required, in its Main Control Room, for the purpose of recording every alarm call and any related outgoing call.

(2) The Service may make use of any fire extinguishing material or other resources, either public or private, for the purpose of its functions.

(3) (a) Subject to paragraph (b), no person shall set fire to any premises except with the written authorisation of the Service.

(b) An application for authorisation shall be made in the prescribed form and shall be accompanied by such documents as may be prescribed.

(c) Paragraph (a) shall not apply in the case of a fire started for domestic purposes which is not likely to affect a neighbour or neighbouring premises.

(d) Where a person has applied for an authorisation under this subsection and the Chief Fire Officer is satisfied that the rights of no third party will be affected by the authorisation, the Service may, notwithstanding sections 346 to 348 of the Criminal Code or any other enactment, authorise the person to set fire to the premises.

(e) Every person to whom an authorisation has been granted under paragraph (d) shall comply with any condition that may be imposed by the Service.

(4) (a) In case of an emergency, an authorised officer may enter any premises without the consent of the owner or occupier and, if necessary, by force, for the purpose of firefighting and protecting life, property or the environment.

(b) In the exercise of a power of entry under paragraph (a), an authorised officer may—

- (i) be accompanied by such other competent person as he considers necessary;
- (ii) have in his possession any equipment he considers necessary;
- (iii) carry out such inspection, measurement or test, in relation to the premises or an article or substance found on the premises, as he considers necessary; or
- (iv) for the purpose of subparagraph (iii), remove any object or take a sample of any article or substance found on the premises.

(5) (a) An authorised officer may, subject to paragraph (b), with the authorisation of the owner, enter any premises at any reasonable time for the purpose of—

- (i) a fire safety inspection;
- (ii) the issue of a fire certificate; and
- (iii) ensuring compliance with this Act or any guidelines issued by the Chief Fire Officer for the purpose of this Act.

(b) The authorisation of the owner shall not be required in case of a surprise visit effected for the purpose of ensuring compliance with this Act.

(c) For the purpose of ensuring compliance with this Act or any guidelines issued by the Chief Fire Officer for the purpose of this Act, an authorised officer may carry out any search, inspect any record, book, document or thing, seize any equipment where he has reasonable ground to suspect that the equipment does not comply with this Act or any guidelines issued by the Chief Fire Officer for the purpose of this Act, and take such other measures as the circumstances may require.

(6) (a) An authorised officer shall not enter any dwelling house for the purpose of carrying out any of his functions or exercising any of his powers under this Act, unless he is authorised to do so by a warrant from a Magistrate.

(b) A Magistrate shall not grant a warrant under paragraph (a) unless he is satisfied that the authorised officer has reasonable grounds for requiring entry to the dwelling house.

(7) An authorised officer who seizes any equipment shall, as soon as is practicable, notify the person whom he reasonably suspects of having contravened this Act of the reason for the seizure.

## 8. Powers of Minister

(1) (a) The Minister shall be responsible for defining the broad policy to be followed by the Service.

(b) The Minister shall discharge his functions under paragraph (a) in the manner and to the extent that he considers necessary to promote—

- (i) public safety;
- (ii) the economy, efficiency and effectiveness of the Service; and
- (iii) economy, efficiency and effectiveness in connection with matters in relation to which the Service has functions.

(c) In defining the broad policy referred to in paragraph (a), the Minister may consult—

- (i) the Chief Fire Officer or his representative;
- (ii) persons considered by the Minister to represent employees of the Service;
- (iii) such other persons as he considers appropriate.

(d) The Service shall follow the broad policy referred to in paragraph (a) in carrying out its functions.

(e) Where the Minister considers that the Service is failing to act in accordance with the broad policy referred to in paragraph (a), he may direct the Service to take such action as he may specify in order to comply with that policy.

(f) The Minister shall not issue any direction under paragraph (e) unless he considers that such direction will promote—

- (i) public safety;
- (ii) the economy, efficiency and effectiveness of the Service; and
- (iii) economy, efficiency and effectiveness in connection with matters in relation to which the Service has functions.

(g) Before issuing any direction under paragraph (e), the Minister shall give the Chief Fire Officer an opportunity to make representations about the proposed direction.

(2) Without prejudice to subsection (1), the Minister may require the Service to respond to a particular type of emergency which is not specifically referred to in this Act.

## 9. Powers of Chief Fire Officer

(1) The Chief Fire Officer—

- (a) shall set out priorities and objectives for the Service, in line with the broad policy referred to in section 8 (1);
- (b) shall exercise general authority to respond to an emergency;
- (c) may, with the approval of the Minister, direct the performance of any act or thing, which is required to be done under this Act, to be made or done by such electronic or other technological means as may be approved by him.

(2) The Chief Fire Officer may issue guidelines—

- (a) with respect to operational effectiveness, efficiency and training of officers;
- (b) to depute an officer to exercise the powers of an authorised officer;
- (c) for the issue of uniforms and personal protective clothing and equipment to officers;
- (d) to define how the Service shall be organised or equipped, or shall respond to an emergency;
- (e) in matters of discipline, for the exercise of any power delegated to him by the Disciplined Forces Service Commission.

(3) The Chief Fire Officer may permit the Service to provide its resources for purposes not connected with an emergency, on payment of such fee as may be prescribed.

(4) (a) The Chief Fire Officer may, by notice in writing, request the owner of any premises to secure and maintain an adequate supply of water which can be used by the Service in case of an emergency.

(b) The Chief Fire Officer may, by notice in writing, request any other person who is able to do so to supply water in case of an emergency.

#### **10. Powers of authorised officers**

(1) An authorised officer may, in the case of an emergency, immediately take all steps which he thinks necessary and relevant to the particular circumstances, having regard to the duties of the Service—

- (a) where a fire has broken out or is about to break out;
- (b) where persons have been trapped in a vehicle or building; or
- (c) for the purpose of preventing or limiting damage to property resulting from action taken in accordance with paragraph (a) or (b).

(2) An authorised officer may, for the purpose of subsection (1)—

- (a) move or break into a vehicle without the consent of its owner;
- (b) in the absence of the police, regulate traffic and close any road or access, whether public or private;
- (c) restrict the access of persons to a particular place or premises;
- (d) remove from any place a person who fails to comply with a measure taken pursuant to paragraph (c) and use such force as is reasonably necessary for that purpose;
- (e) use water from any source, whether public or private;
- (f) use alternative fire extinguishing materials or resources from any source, whether public or private; or
- (g) cause to be shut off, or disconnected, the supply of gas, electricity or any other source of energy to any premises.



(3) In circumstances where there is no threat of fire, the authorised officer highest in rank present shall be responsible for the resources and operations of the Service in accordance with working agreements or fire safety plans.

#### **11. Command and control**

(1) On receipt of an alarm call, the Service shall mobilise such resources, including manpower and equipment, nearest to the site of the emergency, as the Service considers necessary having regard to the risk of having to respond to other alarm calls that may be received.

(2) Subject to section 12, on arrival at the site of the emergency, the authorised officer highest in rank—

- (a) shall immediately assume command, determine and apply strategies, tactics and required action to control the situation;
- (b) shall take all necessary measures to ensure the safety of officers and any other person at risk; and
- (c) may require any other person having responsibilities in relation to the emergency to provide every officer with such facilities and assistance, with respect to matters which are reasonably necessary, as will enable the authorised officer to exercise the powers conferred upon him by this Act.

(3) In the event of a multi-agency response, the authorised officer highest in rank on the site shall take command in accordance with any working agreement or emergency plan.

### **PART III – DUTIES OF OTHER BODIES AND PERSONS IN CASES OF EMERGENCY**

#### **12. Duties of police officers**

(1) Any police officer, on being informed of an outbreak of fire or any other emergency requiring the intervention of the Service, shall promptly inform the Main Control Room of the Service and the Police Information and Operations Room.

(2) The senior most police officer present at the scene of any fire or other emergency—

- (a) shall take such steps as may be laid down by the Commissioner of Police for ensuring the maintenance of order; and
- (b) may, for the purpose of extinguishing the fire or protecting life, property and the environment, authorise any police officer to—
  - (i) prevent the entry of persons or vehicles into any place, whether public or private;
  - (ii) enter any land or building without the consent of the owner; and
  - (iii) take such action as is reasonably required for the purposes of this section.

(3) Every police officer present at the scene of a fire or other emergency shall assist every officer in the execution of his duty.

(4) Any police officer may, of his own motion or at the request of an authorised officer—

- (a) close any road in the vicinity of the scene of any fire or emergency; and
- (b) order to withdraw, and, in the event of a failure or refusal to withdraw, remove, any person who interferes, by his presence or otherwise, with the operations of the Service or who is in or on any premises then on fire or threatened by fire.

### **13. Duties of Central Water Authority**

The Central Water Authority shall, as far as practicable—

- (a) make provision for the availability of an adequate supply of water for firefighting or other purposes related to the functions of the Service; and
- (b) take all reasonable measures to increase the water supply and pressure as may be required in case of an emergency.

### **14. Duties of Central Electricity Board**

(1) (a) The Central Electricity Board shall, on the occurrence of any fire on any premises and after having been so requested by the Chief Fire Officer, forthwith despatch a competent officer to disconnect the electricity supply to those premises and, if necessary, to other adjoining premises.

(b) The Central Electricity Board shall ensure that the area is safe from electrical hazards.

(2) The competent officer attending any case of fire shall ensure that it is safe for any officer to intervene.

### **15. Duties of suppliers and distributors of other energy sources**

(1) On the occurrence of any fire where energy sources other than electricity may be involved or present potential hazards, the supplier or distributor of the energy shall, after having been duly requested by the Chief Fire Officer, immediately send a technical officer to—

- (a) cut off the energy supply;
- (b) initiate action to render the area safe;
- (c) advise every officer on site on technical issues; and
- (d) ensure that adequate precautionary measures are taken to avoid any outbreak of fire or to avoid other type of emergency.

(2) The supplier or distributor, as the case may be, shall ensure that the area is safe from hazards associated with energy sources.

## 16. Duties of local authorities

In case of an emergency, the appropriate Municipal City or Town Council or District Council shall, as far as practicable, assist—

- (a) the Service by providing necessary resources and expertise; and
- (b) in cleaning up the environment after the emergency has been dealt with.

## PART IV – FIRE SAFETY AND PREVENTION

### 17. Fire prevention

(1) The Chief Fire Officer may require any owner of premises to take reasonable measures for the purpose of reducing the risk of a fire occurring on the premises or reducing potential danger to persons, animals, property or the environment in the event of a fire occurring within the premises.

(2) A requisition under subsection (1) shall be given to the owner through a written notice stating the reasons for the requisition.

(3) The owner may be required under subsection (1) to—

- (a) observe a high standard of housekeeping and cleanliness;
- (b) ensure that the means of escape from the premises in the event of a fire can be safely and effectively used at all material times;
- (c) ensure that the firefighting equipment and fire alarm system are in operational order at all material times;
- (d) make and maintain adequate firebreaks in accordance with directions contained in the requisition; or
- (e) take reasonable measures to ensure an adequate supply of water or any other fire extinguishing material that may be required.

(4) The Chief Fire Officer may, in consultation with the Conservator of Forests, declare any area under forestation to be a fire protected area to—

- (a) reduce the risk of fires; and
- (b) ensure effective firefighting, should an outbreak of fire occur.

(5) The Chief Fire Officer may, in consultation with the appropriate authorities and planters, develop strategies and plans to minimise the risk of fires and for effective firefighting in cultivated or uncultivated land.

(6) (a) Where a person is the owner of premises on which any hazardous material is stored or is to be stored, the Chief Fire Officer may issue a notice requiring the person to provide such information concerning the hazardous materials as may be specified in the notice.

(b) A person to whom a notice is given under paragraph (a) shall provide the information sought within the time specified in the notice.

## **18. Fire safety plans**

(1) The Chief Fire Officer may request the owner of such premises as may be prescribed to prepare a fire safety plan and submit a copy to him for approval.

(2) Any fire safety plan requested under subsection (1) shall be in such form as may be prescribed and may include—

- (a) a fire and evacuation plan;
- (b) an off-site plan for hazardous materials;
- (c) a forest fire plan; and
- (d) a fire safety management plan.

(3) Where a fire safety plan has been submitted, the Chief Fire Officer may—

- (a) approve the plan on payment of a prescribed fee or propose any amendment before approving the plan; and
- (b) on approval of the plan, impose such conditions as he considers appropriate.

(4) Any fire safety plan shall be updated, in such manner as may be directed by the Chief Fire Officer, where the owner proposes to—

- (a) make any material extension or structural alteration to the premises;
- (b) substantially increase the number of persons who have access to the premises; or
- (c) store or use explosive or highly flammable material on the premises.

## **19. Fire certificate**

(1) The owner of such premises as may be prescribed shall apply to the Chief Fire Officer for a fire certificate in relation to the premises, which certifies that all safety requirements have been met in relation to those premises.

(2) An application made under subsection (1) shall be made in such form and such manner as may be prescribed.

(3) After consideration of the application and any other relevant matter, the Chief Fire Officer may issue a fire certificate in such form and on such conditions, and on payment of such fee, as may be prescribed.

(4) The Chief Fire Officer shall determine every application made under subsection (1) within 21 working days of receipt of the application.

(5) No premises referred to in subsection (1) shall be occupied or used unless the owner has been issued with a fire certificate.

(6) (a) The person to whom a fire certificate has been issued shall comply with the conditions imposed in the certificate.

(b) The Service may revoke a fire certificate where the holder of the certificate fails to comply with any condition imposed in the certificate.

(7) The Service shall—

- (a) forward a copy of every fire certificate to the appropriate local authority; and
- (b) notify the local authority of the revocation of a fire certificate or any amendment made to it.

(8) Where a fire certificate is in force in respect of any premises, the Service may cause the premises to be inspected at any reasonable time for the purpose of ascertaining whether there has been any substantial change by reason of which any of the conditions specified in the fire certificate may be affected.

(9) Where there are reasonable grounds to believe that there has been a material change to the premises, the Service may—

- (a) revoke the fire certificate;
- (b) vary the conditions applicable to the fire certificate;
- (c) require the owner to submit a modified fire safety plan for approval; or
- (d) take such other action as it considers appropriate.

## **PART V – MISCELLANEOUS**

### **20. Exposure to hazardous materials**

(1) Where an authorised officer has reasonable cause to believe that a person is, may be or may have been affected by a chemical substance following a hazardous material accident, he may advise the person to undergo such appropriate first aid treatment as he considers necessary pending medical treatment.

(2) The authorised officer shall, in the public interest and for public safety, take such steps as he considers reasonably necessary for the purposes of subsection (1).

### **21. Volunteer fire brigades**

(1) The Chief Fire Officer may take measures to facilitate and approve the formation of volunteer fire brigades to assist the Service in the prevention and suppression of fires.

(2) Every volunteer fire brigade shall be set up in accordance with appropriate criteria and shall be made up of such number of volunteer fire fighters as may be determined by the Chief Fire Officer.

(3) The Service shall, in accordance with section 22, arrange, on a regular basis, for training of the members of a volunteer fire brigade in order to render them fit and efficient for service.

(4) A member of a volunteer fire brigade shall, when performing a duty under or related to this Act, be deemed to be an officer.

## **22. Training facilities**

(1) The Service may set up and maintain one or more training centres for providing education and training in matters relating to its functions.

(2) No person other than an officer shall provide training in fire safety unless he is registered as a trainer with the Service and the Mauritius Qualifications Authority in the field of fire safety and the course is approved by that Authority.

## **23. Firefighting or fire warning equipment**

No person shall import, sell, supply, install or maintain firefighting or fire warning equipment unless that equipment complies with such standards as may be prescribed.

## **24. Priority over vehicular traffic**

Notwithstanding any other enactment—

- (a) an instrument or apparatus for the emission of sound or light may be fitted to or carried on a Service vehicle to indicate to other road users that the vehicle is being used for purposes of firefighting or rescue;
- (b) any person who is driving a vehicle on a road shall, when the instrument or apparatus on a Service vehicle is operated, give way to the Service vehicle.

## **25. Notices**

Any notice required to be given under this Act to the owner of any premises may be given by—

- (a) delivering it personally to the owner; or
- (b) sending it through registered post to his last known address; or
- (c) leaving it affixed to a conspicuous part of the premises.

## **26. Offences**

(1) Any person who contravenes this Act shall commit an offence, and shall, on conviction, be liable to a fine not exceeding 75,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) Where a person is convicted of an offence under section 23, the Court may order that any firefighting or fire warning equipment which does not comply with this Act be forfeited and destroyed under the supervision of the Chief Fire Officer.

## **27. Regulations**

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Regulations made under subsection (1) may provide for—

- (a) the levying of fees and charges; and
- (b) prescribing anything that may be prescribed under this Act.

**28. – 31. –**

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